Indeed, politics in the Soviet Union does not exist in the sense in which we use the word. What impressed me in my conversations with English-speaking Soviet students was their political apathy, a quietism that suggested an acceptance of a regime which rewards the individual if he is conscientious and obedient, and is prepared to punish him if he dissents.

For example, I talked with two English-speaking undergraduates at a Soviet university, Natasha and Olga, one a student of English and the other of theater production. Both girls wanted to talk about plays, playwrights and American jazz—"Death of a Salesman," Tennessee Williams and Dave Brubeck—rather than politics, Soviet or American.

Natasha belonged to the Komsomol, or Young Communist League, but was obviously not much interested in its activities. Olga was not a Komsomol member: "I don't want to go to all those meetings," she said, "I want to be free."

The contrast between the political circumstances of the Latin American and Soviet students is so sharp that it helps considerably to define the political situation of the student in the United States. He has more choice than the Russian, less influence than the Latin American. Between these extremes, then, how does the American student behave politically?

I have indicated my quarrel with the view that conservatism stalks in lonely splendor across the American campus, and have contended that there has been a rise of interest on both ends of the political spectrum. I must add, by the way, that the spectrum is not nearly as broad in the United States as elsewhere. There is, after all, no serious Communist or Fascist movement in American universities today.

If the campus liberals direct their protests against the arms race and segregation, the new student conservatives seem chiefly motivated by a desire to fight communism and the Federal Government, which in some cases one feels they do not trouble to distinguish between. It is clear that both fighters for peace and fighters for Katanga want their voices heard, and if the cries of the student right are more shrill today, it is probably because they are still more displeased with the Kennedy administration than are their counterparts at the other end of the scale. If Mr. Nixon were now in the White House, I have little doubt that the more strident complaints would come from the flaming liberals of the campus.

Much more significant, it seems to me, than the relative degree of liberalism or conservatism of the American college student is his attitude toward politics itself. Most notably, the genuine concern which many young people feel about nuclear disarmament and civil rights, on the one hand, or international communism and the welfare state, on the other, has not led to any widespread commitment to activity within our two major political parties.

It is not unusual to hear students say they see no difference between the two parties. Although I would argue that differences—important ones—do exist, it is true that both parties have in recent years attempted to occupy the political center. This is one of the reasons that those students who are the most militant, self-proclaimed conservatives or liberals tend to move to extreme positions and regard the parties as too temperate.

But also it seems to me that many students do not understand the crucial function of political parties in a democracy. They regard any kind of adjustment of conflicting views on highly controversial issues—which after all is one of the chief purposes of our political parties—as only cynical.

"I suppose you must have to compromise a lot" is a remark querulously put to many a Congressman who talks seriously with college students about his job. There seems to be little understanding that, if there were no "compromise," a House of Representatives with 437 members would explode.

This is another way of saying that today's students who care—and care deeply—about issues are impatient with the give and take, the horse-trading, that is characteristic of, and indispensable to, the functioning of representative democracy.

On the crucial issues of disarmament and civil rights, many of the most politically and socially sensitive students reject any solution but their own. They seek simple answers to highly complex questions.

Here is a good example of what I mean. The college students from my own district who came to talk to me during the week of the peace marchers gave me a copy of their letter to President Kennedy opposing the resumption of nuclear testing. One paragraph of the letter said: "We do not pretend to be aware of all the complications of political decisionmaking, but we would remind statesmen that Government action must be based upon moral considerations and not merely upon expediency or precedent. In doing so, we do not wish to offend, but merely to present our views as honestly as possible."

The important problem to these concerned students apparently was not so much that a difficult decision should be made wisely but that they should present their "views as honestly as possible"—that stating what they thought "as honestly as possible" somehow discharged them of any responsibility for the difficult decision that had to be made.

Charles Burton Marshall, in his excellent little book "The Limits of Foreign Policy," might be speaking to this generation of college students when he writes:

"We Americans tend to make these things too simple. We admire Davy Crockett's terse formula: 'Be sure you're right; then go ahead.' That is much too facile for purposes of world politics. The best we can expect is some such paraphrase as this: Be as sure as you reasonably can of the rightness of your premises. Take care as best you can to see that the conclusions which you draw from them are tolerably right. Take adequate account of the legitimate interests and viewpoints of others. After you have done your best to meet these obligations, go ahead as far as the circumstances taken as a whole warrant, getting others to go along as far as you can."

Few students look at politics this way.

One result of their highly moralistic approach is that they now express themselves on a very limited range of issues—usually ones on which it is possible to take a simple, ethical uncomplicated position.

Last year at Harvard University, for example, I found many students anxious to tell me the iniquities of the House Un-American Activities Committee but none who showed the slightest interest in unemployment or housing, aid to education, medical care for the aging or even foreign trade policy, all of which issues, I suggest, affect the lives of Americans as deeply as the operations of the House Un-American Activities Committee. All these problems, however, are complex. To understand them requires more facts than even the intelligent college student will busy himself to learn.

I do not say that the best lack all conviction—only facts. Unfortunately, many American college students are short both of information on major political issues and, worse, of the curiosity to acquire it.

I do not mean to disparage what the freedom riders or the peace marchers are doing. They are genuinely concerned and, moreover, have the courage of their concern. Freedom riders and the students in the sit-in movement have already had a significant effect on our society.

So I heartily applaud the passionate intensity with which many university students are today responding to the terrible issues which confront us. But passionate concern is not enough. To be politically effective, the American college student must understand more clearly than he does today, first, that there are no simple answers to these complex problems; and, second, that political parties remain our primary instruments for dealing with political issues.

The fact that American parties are imperfect and that politicians have shortcomings must be obvious to the most casual observer. This is no reason, however, for young people to turn their backs on either party activity or a career in politics. I suggest it is essential that the universities and colleges turn out men and women at least some of whom are educated for political leadership. In our democracy this means leadership through parties.

The young men and women we must educate for citizenship in a democracy should be willing to consider another point of view without necessarily discarding their own. They must understand—and the schools and universities must do a better job of teaching them—the real nature of the political process. They must learn adjustment, negotiation, and compromise, which are the stuff of democratic politics.

They must learn that, with all its shortcomings, the two-party system has been an extraordinarily effective instrument for political change in our country.

Equipped with this understanding, they will realize that, as Pierre Mendes-France once said, "To govern is to choose." It is to make a decision between alternative courses of action and not simply to present one's views as "honestly as possible."

It is from among young men and women who have this understanding that America will find the political leadership we require in this world we never made.

HOUSE OF REPRESENTATIVES

WEDNESDAY, MAY 2, 1962

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D.D., offered the following prayer:

Psalms 146: 10: *The Lord shall reign forever unto all generations.*

Almighty God, the source of our life, and the guide of all our pilgrim days, as we now wait on thee in prayer, may we learn the wonder of Thy grace and goodness.

Beyond the dark clouds that often obscure our sight we know that the sun is still shining in all its splendor and that behind all the tangle of our human affairs Thy beneficent purposes are being fulfilled.

We penitently confess our many failures and broken resolutions but may we never cease from moral and spiritual strife, daring to hope and believe that Thou reignest and wilt cause peace and righteousness to prevail everywhere among men and nations.

Hear us in the name of the Prince of Peace. Amen.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

ALL-CHANNEL TELEVISION RECEIVERS

The SPEAKER. The unfinished business is the question on the passage of the bill (H.R. 8031) to amend the Communications Act of 1934 in order to give the Federal Communications Commission certain regulatory authority over television receiving apparatus, which the Clerk will report by title.

The Clerk read the title of the bill.

The SPEAKER. The question is on the passage of the bill.

The question was taken.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 279, nays 90, not voting 68, as follows:

[Roll No. 80]

YEAS—279

Abernethy	Davis, John W.	Ichord, Mo.
Adair	Davis, Tenn.	Jarman
Albert	Dawson	Joelson
Alford	Delaney	Johnson, Calif.
Anderson, Ill.	Derwinski	Johnson, Wis.
Anfuso	Dingell	Karsten
Arends	Dole	Karth
Aspinall	Donohue	Kastenmeier
Auchincloss	Dooley	Kearns
Avery	Downing	Keith
Ayres	Doyle	Kelly
Bailey	Dulski	Kilgore
Baker	Dwyer	King, Calif.
Barrett	Edmondson	King, Utah
Barry	Elliott	Kirwan
Bass, Tenn.	Everett	Kitchin
Bates	Evins	Kluczynski
Beckworth	Fallon	Kornegay
Belcher	Farbstein	Kowalski
Bennett, Fla.	Feighan	Kunkel
Bennett, Mich.	Fenton	Laird
Blatnik	Findley	Landrum
Boggs	Finnegan	Lane
Boland	Fino	Lankford
Bolling	Flynt	Lennon
Bolton	Ford	Lesinski
Bonner	Forrester	Libonati
Brademas	Frazier	Lindsay
Bray	Friedel	McDowell
Breeding	Fulton	McFall
Brewster	Gallagher	McIntire
Broomfield	Garmatz	McSween
Broyhill	Gary	Mack
Bruce	Gathings	Magnuson
Buckley	Giaimo	Mahon
Burke, Ky.	Gilbert	Mailliard
Burke, Mass.	Glenn	Marshall
Byrne, Pa.	Gonzalez	Mathias
Byrnes, Wis.	Green, Oreg.	Meader
Cahill	Green, Pa.	Merrow
Cannon	Griffin	Miller, Clem
Cederberg	Griffiths	Miller, George P.
Celler	Hagen, Calif.	Miller, N.Y.
Chamberlain	Haley	Mills
Chiperfield	Halleck	Minshall
Clancy	Halpern	Monagan
Clark	Harding	Moore
Cohelan	Hardy	Moorehead, Ohio
Colmer	Harris	Moorhead, Pa.
Conte	Harrison, Va.	Morgan
Cook	Harvey, Ind.	Morris
Cooley	Hays	Morse
Corbett	Hébert	Mosher
Corman	Hechler	Moss
Curtin	Hemphill	Moulder
Dague	Herlong	Multer
Daniels	Holland	Murphy
Davis, James C.	Hosmer	Natcher
	Hull	Nedzi
	Rogers, Colo.	Steed
	Rogers, Fla.	Stratton
	Rogers, Tex.	Stubblefield
	Rooney	Sullivan
	Roosevelt	Thomas
	Rosenthal	Thompson, La.
	Rostenkowski	Thompson, N.J.
	Roudebush	Thomson, Wis.
	Roush	Thornberry
	Rutherford	Toll
	Ryan, Mich.	Trimble
	Ryan, N.Y.	Tuck
	St. George	Tupper
	St. Germain	Udall, Morris K.
	Santangelo	Ullman
	Saylor	Vanik
	Schadeberg	Van Pelt
	Scherer	Van Zandt
	Schweiker	Vinson
	Schwengel	Wallhauser
	Scranton	Walter
	Seely-Brown	Watts
	Shelley	Weis
	Sheppard	Whalley
	Shipley	Whitener
	Shriver	Widnall
	Sibal	Williams
	Sikes	Willis
	Sisk	Winstead
	Slack	Wright
	Smith, Iowa	Yates
	Smith, Va.	Young
	Springer	Younger
	Stafford	Zablocki
	Staggers	Zelenko

NAYS—90

Abbitt	Fisher	Martin, Nebr.
Addabbo	Fountain	Mason
Alexander	Frelinghuysen	Michel
Alger	Garland	Moeller
Andersen, Minn.	Goodell	Norblad
	Goodling	Nygaard
Ashbrook	Gross	Olsen
Baldwin	Hagan, Ga.	Poage
Bass, N.H.	Hall	Quie
Battin	Harrison, Wyo.	Ray
Becker	Harsha	Reifel
Beermann	Harvey, Mich.	Rhodes, Ariz.
Bell	Henderson	Rivers, Alaska
Berry	Hiestand	Roberts, Tex.
Betts	Hoeven	Rousselot
Bow	Hoffman, Ill.	Schenck
Bromwell	Horan	Short
Brown	Jensen	Siler
Burleson	Johansen	Smith, Calif.
Chenoweth	Jonas	Stephens
Church	Jones, Mo.	Taber
Collier	Judd	Taylor
Cramer	King, N.Y.	Tollefson
Cunningham	Knox	Utt
Curtis, Mo.	Kyl	Waggonner
Denton	Langen	Westland
Derounian	Latta	Wharton
Devine	Lipscomb	Wilson, Calif.
Dominick	McCulloch	Wilson, Ind.
Dorn	McDonough	
Ellsworth	MacGregor	

NOT VOTING—68

Addonizio	Grant	Milliken
Andrews	Gray	Montoya
Ashley	Gubser	Morrison
Ashmore	Hansen	Murray
Baring	Healey	Patman
Blitch	Hoffman, Mich.	Pfost
Boykin	Holifield	Rains
Brooks, Tex.	Huddleston	Rivers, S.C.
Carey	Inouye	Roberts, Ala.
Casey	Jennings	Saund
Chelf	Johnson, Md.	Schneebeli
Coad	Jones, Ala.	Scott
Curtis, Mass.	Kee	Selden
Daddario	Keogh	Smith, Miss.
Dent	Kilburn	Spence
Diggs	Loser	Teague, Calif.
Dowdy	McMillan	Teague, Tex.
Durno	McVey	Thompson, Tex.
Fascell	Macdonald	Weaver
Flood	Madden	Whitten
Fogarty	Martin, Mass.	Wickersham
Gavin	Matthews	
Granahan	May	

So the bill was passed.

The Clerk announced the following pairs:

Mr. Rains with Mr. Curtis of Massachusetts.

Mr. Roberts of Alabama with Mr. Durno.

Mrs. Hansen with Mr. Teague of California.

Mr. Holifield with Mr. Martin of Massachusetts.

Mr. Boykin with Mr. Schneebeli.

Mr. Daddario with Mr. Hoffman of Michigan.

Mr. Brooks of Texas with Mr. Kilburn.

Mr. Morrison with Mr. Gubser.

Mr. Dent with Mr. McVey.

Mr. Dowdy with Mr. Milliken.

Mr. Ashmore with Mr. Weaver.

Mr. Addonizio with Mrs. May.

Mr. CONTE changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

MEDICAL CARE PROPOSALS

Mr. BOW. Mr. Speaker, I ask unanimous consent to extend my remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BOW. Mr. Speaker, if nothing else comes from the meeting yesterday between President Kennedy and the leaders of the American Medical Association, we have at least learned that the President insists upon Federal bureaucratic control of hospital services in the United States.

This is what he means when he says he can compromise and change details of his medical care proposals, but there will be no compromise on Social Security Administration control of the plan.

Anyone who has read the King bill carefully realizes that requirements for the certification of participating hospitals and for the establishment of fee schedules constitute the mechanics required for complete Federal control of the hospital services of the United States.

Anyone familiar with the disability benefits program of the Social Security Administration will recognize that this will require a horde of new Federal employees, endless redtape and delays for the old people who seek to take advantage of the benefits, and a bureaucratic overhead expense far greater than the estimates of the sponsors of this bill.

The American people will reject compulsion and Government control, if they understand that this is the real purpose and meaning of the administration hospitalization program.

Their reaction to my voluntary health insurance program for elderly people demonstrates that this is the approach that appeals to Americans. They want to take care of themselves. They will welcome Government incentives or assistance, but they will reject a program that adds unnecessarily to Government payrolls and requires them to conform with Government requirements if they wish health care.

An increasing volume of mail in my office and in the offices of other Representatives who have introduced the Bow bill establishes beyond any doubt that the voluntary, self-help insurance program is the program Americans want and will support.

COMMUNICATIONS SATELLITE

Mr. COLMER. Mr. Speaker, by direction of the Committee on Rules, I call up the resolution, House Resolution 622, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11040) to provide for the establishment, ownership, operation, and regulation of a commercial communications satellite system, and for other purposes, and all points of order against said bill are hereby waived. After general debate, which shall be confined to the bill, and shall continue not to exceed four hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the substitute amendment recommended by the Committee on Interstate and Foreign Commerce now in the bill, and such substitute for the purpose of amendment shall be considered under the five-minute rule as an original bill. At the conclusion of such consideration the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any member may demand a separate vote in the House on any of the amendments adopted in the Committee of the Whole to the bill or committee substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Mississippi [Mr. COLMER] is recognized for 1 hour.

Mr. COLMER. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Ohio [Mr. BROWN] and pending that, Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the reading of the resolution indicates, this resolution makes in order the bill, H.R. 11040, a bill to provide for the establishment, ownership, operation, and regulation of a commercial communications satellite system and for other purposes. The rule is an open rule providing for 4 hours of general debate, and waives all points of order against the bill.

Mr. Speaker, the testimony before the Committee on Rules indicated that there was very little opposition to the bill; there was no opposition to the rule; there was some indication that there might be one or more amendments offered. The testimony before the Committee on Rules further indicated that a substantial majority of all of those who are interested in this vital subject matter, the executive department, the private carriers, the labor unions, and practically everybody was in accord that a happy solution has been reached in this bill.

Mr. Speaker, the bill deals with matters in a rather technical field. It is an important matter. It is another case of whether the United States of America, the leader of the free world, will take precedence in the field of space communications or whether another, to wit, Soviet Russia, will get ahead in that field.

Mr. Speaker, as I stated on the outset of my brief remarks, this is a very important piece of legislation. The Committee on Interstate and Foreign Commerce have, in my opinion, done a remarkably splendid job in this pioneering field of legislation. It not only has the blessing of the President of the United States, but of free enterprise and labor. This within itself is a remarkable achievement.

I shall not detain this House by analyzing the bill in detail. However, I shall insert here a rather comprehensive and somewhat detailed analysis of the bill for the RECORD.

The analysis follows:

SUMMARY ANALYSIS, SECTION BY SECTION

TITLE I—POLICY AND PURPOSE

It is the policy of the United States and purpose of the Communications Satellite Act of 1962 to establish, in conjunction and in cooperation with other countries, as expeditiously as practicable a commercial communications satellite system, as part of an improved global communications network, which will contribute to world peace and understanding (secs. 101 and 102(a)).

In effectuating this program, care will be directed toward providing the new communications services "to economically less developed countries and areas as well as those more highly developed, toward efficient and economical use of the electromagnetic frequency spectrum, and toward the reflection of the benefits of this new technology in both quality of services and charges for such services" (sec. 102(b)).

In order to provide for the widest possible participation by private enterprise, U.S. "participation in the global system shall be in the form of a private corporation, subject to appropriate governmental regulation." All authorized users shall have nondiscriminatory access to the system; maximum competition shall be maintained in the provision of equipment and services utilized; and the corporation shall be so organized and operated as to maintain and strengthen competition in the provision of communications services to the public" (sec. 102(c)).

The creation of additional communications satellite systems, "if required to meet unique governmental needs or if otherwise required in the national interest, shall not be precluded" (sec. 102(d)).

Definitions

(1) the term "communications satellite system" refers to communications satellites in space whose purpose is to relay telecommunication information between satellite terminal stations, together with such associated equipment and facilities for tracking, guidance, control, and command functions as are not a part of the generalized launching, tracking, control, and command facilities for all space purposes;

(2) the term "satellite terminal station" refers to the complex of communication equipment located on the earth's surface which receives from or transmits to terrestrial communication systems for relay via communications satellites;

(3) the term "communications satellite" means an earth satellite which is intentionally used to relay telecommunication information;

(4) the term "associated equipment and facilities" refers to facilities, other than satellite terminal stations and communications satellites, to be constructed and operated for the primary purpose of a communications satellite system, whether for administration and management, for research and development, or for direct support of space operations;

(5) the term "research and development" refers to the conception, design, and first creation of experimental or prototype operational devices for the operation of a communications satellite system, including the assembly of separate components into a working whole, as distinguished from the term "production", which relates to the construction of hardware to fixed specifications compatible with repetitive duplication for operational applications;

(6) the term "telecommunication" means any transmission, emission, or reception of signs, signals, writing, images, and sounds or intelligence of any nature by wire, radio, optical, or other electromagnetic systems;

(7) the term "communications common carrier" has the same meaning as the term "common carrier" has when used in the Communications Act of 1934, as amended; and the term "authorized carrier", except as otherwise provided for purposes of section 304 by section 304(b)(1), means a communications common carrier which has been authorized by the Federal Communications Commission under the Communications Act of 1934, as amended, to provide services by means of communications satellites;

(8) the term "corporation" means the corporation authorized by title III of this Act;

(9) the term "Administration" means the National Aeronautics and Space Administration; and

(10) the term "Commission" means the Federal Communications Commission (H.R. 11040, pp. 20–22, sec. 103).

TITLE II—FEDERAL COORDINATION, PLANNING, AND REGULATION

Implementation of policy

The President shall: (1) aid in the development and foster the execution of a national program establishing a commercial communications satellite system; (2) provide for continuous review of all phases of its development and operation; (3) coordinate the activities of governmental agencies with responsibilities in the field of international communication; (4) exercise such supervision over relationships of the corporation with foreign governments or entities or with international bodies to be consistent with the national interest and United States foreign policy; (5) insure timely arrangements for foreign participation in the establishment and use of the system; (6) insure the availability and appropriate utilization of the system for general government purposes which do not require a separate communications satellite system; and (7) insure effective use of the electromagnetic spectrum and the technical compatibility of the system with existing communications facilities both in the United States and abroad (sec. 201(a)).

The National Aeronautics and Space Administration shall: (1) advise the FCC on technical characteristics of the system; (2) coordinate its research and development program in space communications with that of the corporation; (3) assist the corporation in its research and development program by furnishing, on a reimbursable basis, such satellite launching and associated services as the Administration deems necessary; (4) consult with the corporation on technical characteristics of the system; (5) furnish to the corporation, on a reimbursable basis, satellite launching and associated services required for the establishment, operation, and maintenance of the system approved by the FCC; and (6) to the extent feasible, furnish other related services to the corporation (sec. 201(b)).

The Federal Communications Commission, in its administration of the provisions of

the Communications Act of 1934, as amended, and as supplemented by this Act, shall: (1) insure effective competition in the procurement by the corporation of apparatus, equipment, and services, and, to this end shall prescribe appropriate rules and regulations; (2) insure that all present and future authorized carriers shall have nondiscriminatory use of and access to the system on just and reasonable terms and conditions; (3) upon the advice of the Secretary of State that commercial communication to a particular foreign point via satellite should be established in the national interest, institute forthwith the proceedings to require the corporation to establish such communications; (4) insure the system's facilities are technically compatible and interconnected operationally with the satellite terminal stations and existing communications facilities; (5) prescribe such accounting regulations and ratemaking procedures as will insure that economies made possible by the system are reflected in rates to the public; (6) approve technical characteristics of the system and of the satellite terminal stations; and (7) grant a license for the construction and operation of each satellite terminal station, either to the corporation or to one or more authorized carriers or to the corporation and one or more such carriers jointly, as will best serve the public interest (sec. 201(c)).

TITLE III—CREATION OF COMMUNICATIONS SATELLITE CORPORATION

Creation of corporation

There shall be created "a communications satellite corporation for profit which will not be an agency or establishment of the United States Government." The corporation shall be subject to this Act and to the District of Columbia Business Corporations Act. The right to repeal, alter or amend this Act at any time is expressly reserved (sec. 301).

Process of organization

The President of the United States shall designate incorporators who shall serve as the initial board of directors until the first annual meeting of shareholders or until their successors are elected and qualified. Such incorporators shall arrange for an initial stock offering and take whatever other actions are necessary to establish the corporation, including the filing of articles of incorporation, as approved by the President. No incorporator shall be elected to the board of directors which first succeeds such incorporators as the board of directors of the corporation (sec. 302).

Directors and officers

The corporation shall have a board of directors consisting of individual U.S. citizens of whom one shall be elected annually as chairman.

"Three members of the board shall be appointed annually by the President of the United States, by and with the advice and consent of the Senate, effective the date on which the other members are elected, six members of the board shall be elected annually by those stockholders who are not communications common carriers, and the remaining members of the board, not to exceed six, shall be elected annually by those stockholders who are communications common carriers in a number determined as follows: If such stockholders own in the aggregate not exceeding 15 per centum of the outstanding voting stock of the corporation, they shall elect one member; if they own in the aggregate in excess of 15 per centum but not exceeding 25 per centum, two members; if they own in the aggregate in excess of 25 per centum but not exceeding 35 per centum, three members; if they own in the aggregate in excess of 35 per centum but not exceeding 40 per centum, four members; if they own in the aggregate in excess of 40 per centum but not exceeding 45 per centum, five members; and if they own in the aggregate in excess of 45 per centum, six members. No stockholder who is a communications common carrier and no trustee for such a stockholder shall vote, either directly or indirectly, through the votes of subsidiaries or affiliated companies, nominees, or other persons subject to his direction or control, for more than three candidates for membership on the board. Subject to such limitation, the articles of incorporation to be filed by the incorporators designated under section 302 shall provide for cumulative voting under section 27(d) of the District of Columbia Business Corporation Act" (District of Columbia Code, sec. 29–911(d), sec. 303(a)).

The corporation shall have a president and such other officers as the board may name at rates of compensation the board may fix. Corporation officers must be U.S. citizens and may not receive a salary from any source other than the corporation while employed by the corporation (sec. 303(b)).

Financing the corporation

The corporation is authorized to issue and have outstanding, in such amounts as it shall determine, shares of capital stock, without par value, which shall carry voting rights and be eligible for dividends. Shares of such stock in the initial offering shall be sold not in excess of $100 per share and in a manner to insure the widest distribution to the American public (sec. 304(a)).

Only those communications common carriers which are specially authorized by the FCC to own shares in the corporations may own such shares at any time and "no other communications common carrier shall own shares either directly or indirectly through subsidiaries or affiliated companies, nominees, or other persons subject to its direction or control." Fifty percent of the shares of stock offered at any time by the corporation shall be reserved for purchase by the carriers specially authorized by the FCC; and such carriers shall in the aggregate be entitled to purchase a total number of such reserved shares not exceeding the total number of nonreserved shares of any issue purchased by other persons. At no time after the initial issue is completed shall the aggregate of shares of voting stock directly or indirectly owned by authorized carriers exceed 50 percent of such shares issued and outstanding. And at no time shall any stockholder, other than an authorized carrier, or any syndicate or affiliated group of such stockholders, own more than 10 per centum of the voting stock issued and outstanding (sec. 304(b)).

In addition to the offering of voting stock, the corporation is authorized to issue nonvoting securities, bonds, debentures, and other certificates of indebtedness as it may determine. Such nonvoting corporation securities, bonds, debentures, or other certificates of indebtedness as a communications common carrier may own shall be eligible for inclusion in the rate base of the carrier to the extent allowed by the FCC (sec. 304(c)).

Not more than 20 percent of the voting stock held by holders other than approved carriers may be held by aliens and their representatives, foreign governments and their representatives, foreign corporations and certain corporations in which foreign persons have an interest (sec. 304(d)).

Any corporation stockholder shall have the right of inspection and copying without regard to the percentage of stock held, subject to FCC regulations in the interest of national security (sec. 304(e)).

Upon application by a communications common carrier, the FCC may in the public interest compel any authorized carrier owning corporation stock to sell to the applicant a number of shares determined to be reasonable in the light of the estimated proportionate use of the corporation's facilities by the applicant, at a price determined to be fair by the FCC (sec. 304(f)).

Purposes and powers of the corporation

The corporation is authorized to: (1) plan, initiate, construct, own, manage and operate, itself or in conjunction with foreign governments or business entities, commercial communications satellite systems; (2) furnish, for hire, channels of communication to U.S. communications common carriers and to other entities, foreign and domestic; and (3) construct and operate satellite terminal stations when licensed by the FCC (sec. 305(a)).

Among other not specifically named activities, the corporation is authorized to: (1) conduct or contract for research and development; (2) require the physical facilities and hardware necessary to its operations, whether by construction, purchase, or gift; (3) purchase satellite launching and related services from the U.S. Government; (4) contract with users, including the U.S. Government for the services of the system; and (5) develop plans for the technical specifications of all elements of the system (sec. 305(b)).

Mr. Speaker, I ask unanimous consent that I may revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. COLMER. Mr. Speaker, I reserve the balance of my time.

Mr. BROWN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the gentleman from Mississippi [Mr. COLMER] my colleague on the Rules Committee, has described fully the rule under which this bill will be brought to the floor, so I shall not discuss the rule. I do, however, want to take just a few minutes, if I may, to discuss the bill itself.

This legislation, H.R. 11040, from the House Committee on Interstate and Foreign Commerce, would establish, for the first time, a privately owned free enterprise commercial satellite system of communications around the earth.

For a number of years I had the privilege of serving as a member of the House Committee on Interstate and Foreign Commerce and on its Subcommittee on Communications, at the time we were drafting and writing into law a great many of the statutory provisions to control radio, that later were expanded to include television.

I listened with a great deal of interest to the explanation of this bill by the distinguished chairman of the House Committee on Interstate and Foreign Commerce, the gentleman from Arkansas [Mr. HARRIS], when he appeared before the Rules Committee, and I have spent considerable time in studying this legislation. I would like, if I may, to point out this bill as drawn does not, of course, meet the original desires, views and requests of a great many people. It does not meet entirely the desires and requests of the President of the United States as set forth in his message to Congress on this subject. It certainly does not, in full manner, provide all of the things the communications industry would like to have written into the bill. Neither does it provide for the Govern-

ment control and ownership some organizations, groups and persons would like to have in connection with the establishment of this new satellite broadadroitly, very ably, and I believe very system.

Instead, however, the committee—very adroitly, very ably, and I believe very well—which drafted this bill, has brought together all the various interests, and views so, in my opinion, to give full protection to this new communication system, as well as to the people of the United States, and the Government.

If I may take just a moment or so—and I hope that I may be corrected if I am wrong—this bill provides for the establishment of a separate corporation to run this commercial, free enterprise type of satellite communications system. Under it the President of the United States would be authorized to name incorporators. The new corporation would be incorporated under the corporation laws of the District of Columbia, which, as I understand, are the strictest in the Nation.

Under this procedure, once the new company is incorporated, there would be 15 directors, 3 of whom are to be named by the President, for it must be remembered that there are international negotiations to be conducted in connection with the establishment of this satellite communications system. The law would also provide one-half of the stock, or 50 percent of the stock will be owned by the general public, or be available to the general public. The other 50 percent will be owned or available to the communications industry, and its various corporations, agencies, and so forth.

However, the bill goes a little further in providing protection. At no time can the communications industry control more than 50 percent of the stock, or control more stock than is owned by the general public. That is another safeguard, of course.

Then the bill further provides that no particular communications corporation or agency can have more than three representatives on the Board of Directors. Six representatives or members of the Board, are to come from industry, to be elected as representatives of industry; six to represent the general public, and three to be appointed by the President, subject to confirmation by the U.S. Senate.

This very well written piece of legislation, in my opinion, provides the Federal Communications Commission shall see to it, and have the authority under present regulations and powers now provided in reference to our television and radio industries, that every user of this type of service in international communications will have a fair opportunity to such system and any ground facilities that might be established.

What about the cost? It is estimated this new satellite communications system would cost about $170 million to put these satellites into space, anywhere from one up to four, according to the height they might be put into orbit, from which messages could be sent around the world through electronic impulses—radio, television, or what have you.

However, under the provisions of the bill, income from the new system would be regulated just as any other public utility earnings are regulated under present law. The charges for these services will be regulated, in other words, and the earnings would also be regulated, as is now the case with public utilities in practically every State of the Union.

The new satellites would be constructed, as I understand it, by the Federal Government or its agencies, and would be put into the air through the use of our Government missiles, or through the military projection power, perhaps down at Cape Canaveral. But this new free enterprise corporation will be required to reimburse the Federal Government for any expense which might be involved in connection with the establishment and creation of this satellite system.

We are told the average new satellite equipment would last for perhaps 7 years, or even a shorter time, because of the rapidity with which technical improvements are coming in the equipment used in such satellites, as well as in the ground stations which would be set up to handle these telecasts, broadcasts, and so forth.

The new private corporation would be charged with the responsibility of replacement and rebuilding the new system whenever necessary. If the Federal Government cooperates in connection with placing new satellites in the air, or in building new ones, or anything of that sort, again the Federal Government would be reimbursed fully.

I emphasize that in order to point out that under this legislation, the taxpayers of America will not be called upon to furnish a single penny of the money needed.

Mr. BOW. Mr. Speaker, will the gentleman yield?

Mr. BROWN. I yield to the gentleman from Ohio.

Mr. BOW. I note in the bill on page 34 there is a provision for the Department of State to cooperate with the corporation in the letting of contracts with foreign governments, and the corporation may request the Department of State to assist in negotiations, and the Department shall render, and so forth. Now, obviously after the satellites are in operation and beginning to work, they can call upon the Department of State, which would entail considerable travel abroad, considerable expense for the Department of State. Does the gentleman believe that the bill might be amended at that point where we could suggest that the Department of State be compensated by the corporation for this additional expense?

Mr. BROWN. I would certainly think the amendment would be accepted, because it is the general purpose of the bill that the Federal Government shall be reimbursed for any expense incurred. However, it is my understanding the primary assistance to be rendered by the Department of State would be in connection with the making of agreements with other countries for the use of this satellite system. And, just as we have today—for the State Department has cooperated, as I understand, in the past—agreements whereby American-owned cables and cables owned by foreign governments and foreign corporations work in conjunction with each other under international agreements. I think that is also true so far as certain other radio communications activities throughout the world are concerned. And, I think that is where the State Department would be called in.

Mr. BOW. It places a specific duty upon the Department if they are called upon to do so, but I think they should be compensated.

Mr. BROWN. I personally would be willing to see this sort of an amendment adopted, in spite of the fact I believe very firmly the State Department might be able to expend some of its funds to better advantage in establishing a free enterprise system like this than the ways they are spending money today on other projects and other activities.

Mr. BOW. With that I agree.

Mr. BROWN. And I hope the gentleman will agree with me that perhaps the State Department might find money somewhere else for this particular purpose.

Mr. BOW. So it does not come from the taxpayers' pockets.

Mr. BROWN. Yes.

Mr. HALEY. Mr. Speaker, will the gentleman yield?

Mr. BROWN. I yield to the gentleman from Florida.

Mr. HALEY. The gentleman stated that only 50 percent of this stock would be owned by the communications people. He did not say what the limit might be as to an individual.

Mr. BROWN. Fifty percent; not over 50 percent by individual investors, and 50 percent by the communications industry and corporations making it up.

There is also a prohibition in this bill—and I have not mentioned them all, because it has been very ably drawn, as I said a moment ago—that no officer of one of these communications corporations can, as an individual, buy any of this stock. Also there is a provision in the bill that any of these communication corporations or agencies that avail themselves of this law can be compelled to sell a part of their stock, if it is believed such sale to be in the public interest, to some other perhaps newly created communications organization. Further it provides every applicant will have the right to use this new service; that is, the applicant must be given a fair and proper opportunity to participate according to the volume of business conducted.

Mr. HALEY. The gentleman answers my question. I was worried about the fact that if the various communications systems owned 50 percent, then the officers of this system could not, as individuals——

Mr. BROWN. Let me be frank with the gentleman from Florida. Of course, I do not know how this bill can stop someone's cousin from owning some stock, or something like that. But in the end, the general public has control of six of the new corporation directors,

the President three, and the communications industry six of the directors. So, no one can ever have control.

Mr. Speaker, I would like to say that as far as the private investor is concerned this stock would not be too good an investment for the first 10 or 12 years, but that stock might probably be purchased by foundations, by insurance companies, or by others who could wait for a while in order to obtain a fair return on their investment.

Mr. Speaker, the bill, I say again, is very well drawn. It provides that in case the general public does not purchase the full amount of the stock it is entitled to purchase, the communications industry can buy no more than the public holds at any time. Instead, the corporation can issue debentures or bonds to borrow on the corporation assets, as such. I do not know of any safeguard that could be written into this bill which has not been written into it.

Mr. Speaker, I do want to congratulate the committee on taking a dozen different divergent views from different important people and industries, and getting all, including the Attorney General and the Department of Justice, satisfied—that is quite a job I might add—as well as getting the President satisfied, a lot of the people who wanted public ownership satisfied, and the communication industry that wanted everything for themselves, satisfied.

So, the committee has brought forth a bill that seemingly everyone is supporting.

Mr. Speaker, I would like to say one thing further, and then I will yield to the gentleman from Florida [Mr. HALEY] that there may turn up, in the passage of time some section of this bill, some activity under this legislation, that the Congress will want to look over again. Congress can amend this law at any time it desires. Also, under the rules of the House of Representatives the House Committee on Interstate and Foreign Commerce will be charged with the responsibility of riding herd, as the saying goes, on this entire activity as it proceeds along the way, and to keep the House advised as to what is being done under the provisions of this act.

Mr. HALEY. Mr. Speaker, I want to thank the gentleman for giving me this explanation. It has been very thorough. I want to say that if all of the people whom the gentleman from Ohio [Mr. BROWN] has enumerated here are in thorough agreement with the bill, I too want to compliment the committee, because it must have been quite a job.

Mr. BROWN. May I say I do not know how the committee did it, because it is an unusual accomplishment. If we could do more of this sort of thing, we might be happier here in the House of Representatives than we have been on other occasions in the past.

Mr. Speaker, I again wish to congratulate the Committee on Interstate and Foreign Commerce, and to ask the support of this rule so we may debate this bill fully, and have it discussed more ably than I have been able to discuss it.

Mr. JOELSON. Mr. Speaker, will the gentleman yield for one question?

Mr. BROWN. Yes, I shall be happy to yield to the gentleman from New Jersey.

Mr. JOELSON. On the subject of reimbursement to the Federal Government for expenses, I understand that of this space program, about $471 million was expended through research and development of the communications satellite program. Is there any provision for reimbursing this $471 million?

Mr. BROWN. No; not that I know of. I know of no reason why there should be, because we did that on our own as a government for other reasons, including defense reasons. But as a result of this research and development in this field we did ascertain—and the military, by the way, is using a satellite now, and is bouncing messages off the moon at certain times of the day and month, and so on and so forth—for military purposes to great portions of the world. That was all done originally for defense or military purposes. However, it was learned, during this research and development, that the use of these satellites for worldwide communications would be possible. Then the question arose as to how it should be done. This committee bill provides this method whereby the new corporation takes it from here on, and develops it further. Of course, it has to be developed further. However, there will be great developments and many changes in this system in the months and years ahead. It will be bettered, I am sure, as the result of further research and further effort. But it will be done at the expense of this private corporation under the free enterprise system.

Mr. JOELSON. Will the Federal Government be reimbursed for future expenses with regard to this?

Mr. BROWN. I am sure that is covered by the provision in the bill as far as putting up these satellites in the air.

Mr. JOELSON. Including research?

Mr. BROWN. If the Government is required to do research by the corporation then the corporation, of course, will pay for it. If not, it will do its own research. The fact of the matter is, let me say, that the communications industry has financed a great deal of research on their own which has been extremely valuable to the U.S. Government. Private enterprise, private industry, and private business, in other fields, have also carried on a great deal of research at their own expense which has proven very valuable to our Government, in time of war and in time of crisis such as this. They have furnished that material and information and development free of charge to the Federal Government in many, many cases.

Mr. JOELSON. I thank the gentleman.

Mr. CRAMER. Mr. Speaker, will the gentleman yield?

Mr. BROWN. I yield to the gentleman.

Mr. CRAMER. Mr. Speaker, I am sure the gentleman is familiar with section 302 involving the process of organization.

Mr. BROWN. I think I am.

Mr. CRAMER. Which requires that the President shall designate the initial incorporators who shall also serve as the initial board of directors; but it does not provide any criteria whatsoever for their appointment, and also does not provide for their confirmation by the Senate, which is necessary for the permanent board. It is understood, is it not, that these initial incorporators shall serve approximately 1 year and that they shall have the basic responsibility of setting up the corporation, which is very substantial?

Does not the gentleman feel that some congressional statement of purpose should be included to indicate what the makeup of the incorporators should be? Should it be similar, for instance, to the final board makeup, as contained in section 303—three members by the President, six on behalf of the industry, and six on behalf of the people?

Mr. BROWN. I do not agree with the gentleman's latter statement. I agree with the first part of his statement, that the committee, in debate, should make legislative history as to the intent and the purpose of the Congress as to this bill. But the reason for section 302 is that we have to get this thing started and that is the only way we can start it.

Mr. CRAMER. Mr. Speaker, if the gentleman will yield further, I fully understand that and I agree with it. But it is obvious that the initial incorporators are going to have very substantial authority in setting up this corporation, in incorporating it and putting it to work. And it is imperative that the Congress be certain that all interests involved be protected, particularly during this first year period. Does not the gentleman feel that requiring at least Senate confirmation of the initial incorporators would be justified?

Mr. BROWN. I am not certain that all of the incorporators should have to be confirmed by the Senate. Let me say frankly to the gentleman that there have been a number of times when I have disagreed with the present President. I have disagreed many times with former Presidents of my own party. I have always tried to disagree without being disagreeable. But I have confidence that the present President, even though I disagree with him quite often on many matters, is not going to name a board of directors that are not representative of the industry and of the investors interested in this matter. And we do have to have some incorporators to start a corporation, as the very able lawyer from Florida well knows.

Mr. CRAMER. Mr. Speaker, if the gentleman yields further, I trust the President, in considering the legislative debate, will take note of the observations of the distinguished gentleman from Ohio and of the legislative record which I am attempting to help prepare, and appoint people who are representative of the different groups who in the permanent organization are supposed to be representative.

Mr. BROWN. I thank the gentleman for his remarks. I think it would be a good situation if the President of the United States can agree with something

I have said on the floor of the House. I will be very happy over that. But I am sure the Committee will make very clear, in general debate, the intent and the purpose of this proposed legislation and establish, by the record, a legislative history that will not only guide the President but the courts in case of any matters that might be submitted to the courts.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. BROWN. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding to me quickly.

Mr. BROWN. I am anxious to have the gentleman ask his question. Go ahead.

Mr. GROSS. The gentleman of course is aware of the new climate which the President is now attempting to build between himself and the business fraternity of this country. I agree with the gentleman from Ohio that the President will undoubtedly look with favor upon private enterprise in starting this enterprise.

Mr. BROWN. Let me say to the gentleman from Iowa I am convinced, as the result of recent happenings, that the President will not go out of his way at this time, if this bill becomes law, to offend any more elements in the business and industrial world, as far as that is concerned. I rather feel he may be very cooperative, and may be very desirous of discussing these matters on a proper basis. I am sure that under no conditions will he lose his temper in connection with the establishment of this new board of incorporators or board of directors.

Mr. COLMER. Mr. Speaker, if the gentleman from Ohio has no further requests for time, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

Mr. HARRIS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11040) to provide for the establishment, ownership, operation, and regulation of a commercial communications satellite system, and for other purposes.

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11040, with Mr. WALTER in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

Mr. HARRIS. Mr. Chairman, I yield myself 15 minutes.

Mr. Chairman, the Committee on Interstate and Foreign Commerce has reported the bill H.R. 11040 as amended, with the recommendation that the bill as amended by the committee be passed. This bill would establish a private corporation which would be the U.S. participant in a global commercial communications satellite system.

I am sure that many of you observed in the press this morning the statement yesterday of General Sarnoff, who is recognized as one of the pioneers in the communications field in the United States. I do not have to relate to you the background, experience, and the marvelous record of this outstanding man in the communications field.

According to the press reports this morning, General Sarnoff said yesterday that communications satellites would revolutionize our communications industry and provide a potential that we ourselves today do not even know the import of. That is the kind of program we are considering here today. The bill provides for a new type organization. It is a special creature specifically designed to meet special needs. Special conditions and circumstances make this necessary. We feel that it is, under our system of private enterprise, the most appropriate way to get expeditious and effective action in this most important program. Because I can say to you, in my judgment—and I measure these words—in my judgment, the reason the United States has been permitted to become the leader in the world today is due primarily to the ingenuity of our people in developing our communications system. Without communications, as we have, superior to any other country in the world—without communications we would never be able to accomplish all of the things that we have accomplished in this country today. This is true not only in our commercial operation and social life but, also in our military endeavors and in our national defense and security. So in this age that we sometimes call the space age or the nuclear age we now have developed a new type of technical program where we are going to use outer space to bring to the people of this country as well as to people all over the world a new type of communications where we can by the flip of a button be in instant contact with any place in all the world, no matter how remote.

I say to you, Mr. Chairman, that this is revolutionary.

Mr. Chairman, any great idea which is ultimately consummated in order for it to serve the purposes and objectives that are sought must have a vehicle. There must be some organization that will permit that new development to burst forth with all of the potential that it must have in order to become a part of our lives.

That is another thing about this country of ours and our people. We not only have the ingenuity and the scientific know-how to research and develop these new ideas, but we also have the ingenuity and the intelligence to propose the vehicle or organization necessary to put it into being in order that we can reap the benefit of it. I think we are very fortunate that we do not have to depend upon the Government to do it all.

Today we are proposing this kind of organization, this vehicle to be established by congressional authorization. It is a corporation that is private and profit-making. I know the other members of this great Committee on Interstate and Foreign Commerce feel, as I do, pride in developing what most of us on the committee believe is a very good organization to accomplish the purposes and objectives. I know the other members of the committee feel as I do, that is, humble but grateful for the accolades that have been thrown our way. We are merely trying to look to the future to give to our own people all of the services which we can obtain from such a program. This will permit this country to continue its leadership in world affairs in this area of world communications. This is a global type operation, and we want to play a leading role in this.

It is important that we take the lead, as was said by the distinguished gentleman, a member of the Rules Committee, a moment ago. If we do not get there first with this development we are again put behind the eight ball. For that reason it is important: First, to have the right kind of organization which conforms to our way of life; and, second, to do it as expeditiously as we can so the corporation and those having to do with it may move on to get the job done. This is very important.

When we started on this program there were so many proposals that we of the committee never thought there would be a chance in the world of getting together the views that were so diverse and so extremely far apart. There were those who wanted ownership by the Government outright, every phase of it. The gentleman from New York, I understand, is going to propose such a program during the course of the consideration of this bill. Our committee, I believe, does not think this would be best, and I know in my own judgment it is not. There are those who wanted the international carriers to own and control this corporation without any Government supervision other than those that we now have in a field like this where you have foreign governments to deal with.

There are those who want it owned by this type of an organization or that type of an organization. So we conducted hearings. The committee held innumerable sessions on it, and we brought everyone who wanted to testify before us, people from Government agencies that have to do with it—that is, the Federal Communications Commission, the Department of Justice, NASA, all others that have to do with the program. We heard all segments of industry. Yes, we had very complete hearings and heard all of the interested parties.

The program is of a technical nature which has far-reaching conseqences. It is an interesting story which was told in the hearings and I commend to you the hearings which are printed and available to you.

We heard these various divergent views and the committee members interested in participating kept on developing and developing, knowing that we have to have a bill, knowing it was important to get something. We tried to bring these views together in a program which is in keeping with our system of government and our way of doing things. In my judgment that is what we have done.

We have a bill before the House today that has the approval of the White

House, the administration, the Department of Justice, the Federal Communications Commission, NASA, and all of the agencies of Government. I am not so sure the State Department is happy about some details because they wanted some other things that the committee did not feel should be included. We have tried to tie down the responsibilities of the State Department within the framework of the bill to be performed under the direction of the President of the United States.

The carriers, the "hardware" industry, are favorable to the legislation and support it. As a matter of fact, the only ones who are not in principle for this bill as we have it here today, are those who want outright Government ownership. Then there are others who are not satisfied with every provision. There will be a few amendments offered which the committee will have an opportunity to discuss. I believe one segment of the industry raises some questions indicating they are not fully satisfied with the committee work. But outside of that, the committee, in my judgment, has done a magnificent job in getting a program that we feel is practical and workable and in keeping with our own philosophy, and which, in my judgment, will permit us to move on.

What do we have? I have a prepared statement I am going to put in the RECORD that gives a more detailed account or analysis of the bill. But I will at this time give you some of the highlights.

In the first place, we have a statement of policy. So far as I know, the statement of policy is not only a very good one, but it has the approval and support of everyone interested in the program.

Then we have definitions. Now, our committee had to readjust the bill as it was proposed, not only originally but as it was reported by the Senate committee after hearings, and the way it has worked out, and we included definitions that we thought would be necessary to clarify the program and make it more workable. We define, as an example, which was not in the bill at first, communication common carriers. We thought that that would be necessary in order to understand the language of the bill. And, we define the term "communications satellite system."

Let me pause just a minute on that. Communication satellites are going to be put out into space a certain distance. They may be 150, they may be 300 miles out. That is called the low-type system. The one right now under consideration, I believe, is the one out 7,000 or 8,000 miles in space, which will give, we think, a more efficient service. But, the ultimate goal which we hope is the system which will be out some 22,000 miles, something like that, and in that case they will not have to have but three satellites.

Now, we define the system because under the provisions of the bill, the way it has worked out, the satellite could very well have been limited to, say, just one system or, if they developed it, say, in the first outer space, why, we would be limited to that. So, we made it where they could develop the whole category of systems, regardless of how far out they may be. If we go and use the one at 22,500 miles, according to the technicians and the scientists testifying before us, they could be more easily jammed in case somebody might undertake it, but if they develop a central system and then one nearer to us and possibly one even closer and we have several, say three satellites or more, then each one of them can be used for relays, and it would make it almost impossible to jam. We could then develop the communication program to the point where it would be impossible for any jamming to take place. So, the committee decided to work that out, and did, with those who were familiar with the terms and the operations, and you will find the other definitions in the bill, I think, clear and understandable.

Then we have other provisions under title II. Let me say here in passing that this bill is in four titles. There were those who wanted it as an amendment to the Space Act; there were those who wanted it as an amendment to the Federal Communications Act, but in this bill we put each of the jurisdictions in their own perspective.

I talked to the chairman of the committee, the gentleman from California [Mr. MILLER], and other members about it. The gentleman from Pennsylvania [Mr. FULTON], also on that committee, sat with us during the course of the hearings part of the time when we had this part of the bill under consideration. That part relating to the Federal Communications Commission, which is the greater part of this program, is set out as supplementary to that act, so that we will at all times know the framework of this program and have it easily understood and know where it is.

We permit under this program the President to assume his responsibility. Where we have a program set up which is international in scope this simply must be done. There is no other way under our system of the Constitution except giving the President certain authority. We do that. I think the committee and those who worked on this bill have done a good job in coordinating this responsibility.

We provide responsibility for the National Science and Space Administration for the launching of the satellites and those things that go with the launching, as well as research and development which belongs to that Administration. We provide that they have their responsibility here on a reimbursable basis. We think that is important, because it is a private corporation, profitmaking, and therefore since it is global in character, that the Space Administration in the national interest and in the interest of our future development, should assume its burden and responsibility.

Mr. Chairman, then we supplement the Federal Communications Act and give the Federal Communications Commission the authority to control that phase of the operation, such as determining rates, the licensing of ground stations, and so forth, the allocation of channels where necessary, and every other function necessary to go with it. We try in this program to safeguard the public interest in every way, but yet set up an organization which gives it freedom to operate, and we establish this organization in order to serve the public interest.

Mr. Chairman, there has already been stated by the gentleman from Ohio [Mr. BROWN] and the gentleman from Mississippi [Mr. COLMER] the facts with reference to the creation of the organization and it will not be necessary for me to go into that again. That will be included in the record. But suffice it to say we did not want the common carriers to control it. So, we provided that at least 50 percent of the stock be held by the public. There are those who wanted 100 percent of the stock to be held by the public. We provided that 50 percent of the issue would be reserved for the common carriers to purchase. There are those who wanted the common carriers to own all of it. But we safeguard the public interest by assuring that no more than 50 percent of any issue can be owned by the carriers themselves.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I shall be glad to yield to the distinguished chairman of the Judiciary Committee. Permit me to compliment the gentleman from New York [Mr. CELLER] for his interest in this program, and for his contribution to the formulation of this legislation.

Mr. CELLER. I, too, want to express appreciation—and I am sure I speak for a great many Members of the House of Representatives—for the fine work that the gentleman from Arkansas [Mr. HARRIS], as chairman of the Committee on Interstate and Foreign Commerce, has done, as well as the members of the committee, in fashioning a bill as intricate as this and the manner in which the job has been performed. You have steered a middle course between public ownership and outright ownership by the communications companies. It has been a difficult task that you fashioned. It is a job well performed. However, nothing is perfect.

Mr. HARRIS. That is right.

Mr. CELLER. Perhaps the chairman of the Committee on Interstate and Foreign Commerce might want to answer one or two questions that might bring out what I deem to be some slight imperfections in the bill.

Mr. Chairman, I wonder whether the Committee on Interstate and Foreign Commerce considered the fact that it is possible for the American Telegraph & Telephone Co. actually to secure absolute control over this communications satellite system in this sense: First, I want to say that the committee provides that the communications companies shall own 50 percent—no more than 50 percent—of the stock, to be divided among them. Then you provide, on page 32, line 11, the following:

> The Commission may compel any authorized carrier which owns shares of stock in the corporation to sell to the applicant a number of shares determined by the Commission to be reasonable in the light of the estimated proportionate use of the corpora-

tion's facilities by the applicant and other factors consonant with the purposes of this act at a price determined by the Commission to be fair and reasonable.

My question is this. The A.T. & T., it has been indicated, would have a proportionate use of up to 85 percent of the facilities. If that is so it is possible, with the consent of the Commission, for A.T. & T. to purchase the stock of other communications companies so that it could have conceivably 85 percent of the 50 percent of the stock, which would be 42½ percent of the stock. If the A.T. & T. had 42½ percent of the stock that would give A.T. & T. an ironclad control. I should like the gentleman's reaction to that statement.

Mr. HARRIS. I do appreciate the gentleman's concern and he raises a very important question. But the premise of the gentleman, with all due deference and with respect for the gentleman's knowledge, is erroneous because we provide that no corporation or organization may vote for more than three of the 15 directors, or 20 percent of the board. That is to be found on page 29. Referring the gentleman to page 32, the purpose of paragraph (f) is just to the contrary of what the gentleman has said. As an example, should A.T. & T. get a larger share and one of the other carriers wanted to purchase some stock and were not able to do so, the purpose here is to give the Commission authority to sell stock to the other company.

Mr. SPRINGER. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Illinois.

Mr. SPRINGER. I think that could have been clearer language, may I say to the gentleman from New York, but I thought it was clear enough at the time. Paragraph (f) on page 32 applies only to new applicants. It applies to those who did not have any shares and who now wish to come in.

Mr. CELLER. Where is that language to which the gentleman refers concerning new applicants?

Mr. SPRINGER. This question was brought up but we felt at the time that this language was clear enough. I never assumed any other position than that. An applicant who did not own any shares and wished to come into the corporation, and it was determined there was a reason for it, the Communications Commission could grant that carrier the right to come in.

Mr. HARRIS. Mr. Chairman, let me say further to the gentleman that it cannot happen as the gentleman has suggested, because we also provide that no carrier at any time may have more than three members on the board. We have that safeguard. We provide a total board membership of 15; three to be appointed by the President and confirmed by the Senate, six to be elected by the carriers who own up to 50 percent of the stock, and six to be elected by the public stockholders. We provide that no more than three may be elected from one company or one group. I think there would be no way for any one company to gain controlling interest in this corporation.

Mr. CELLER. Mr. Chairman, if the gentleman will yield further, the reason I bring this out is the following. Under present conditions the FCC has a great deal of difficulty regulating the rates, for example, between States in this very country, by the A.T. & T. There are no criteria. There is no document by the Federal Communications Commission defining the rates that you and I pay when we use interstate communications. Those rates are fixed only by negotiation. And the gentleman knows when people sit across the table there are all manner and kinds of compromise.

Beyond that, in 1960 Western Electric, a wholly owned subsidiary of A.T. & T., sold equipment to A.T. & T. to the extent of $1,800 million, involving huge profits. We do not know whether those profits did or did not go into the rate base. We think they went into the rate base. The Bureau of the Budget has cried out aloud against this practice. The Federal Communications Commission seems helpless to control the operations of A.T. & T. on earth. If they have difficulty controlling and regulating A.T. & T. on earth, what difficulty will they have in regulating A.T. & T. up in space? They would need to send up a space capsule to do that. So that is why I am concerned about this language. I want to be sure it is riveted down that A.T. & T. could not possibly get control of this huge, mammoth, monolithic corporation we are now developing. That is the reason I am raising this question.

Mr. HARRIS. The gentleman appropriately raises the question. He appropriately talks about, How are you going to control A.T. & T. in space? With all the sincerity I know the gentleman has, I think the committee has put safeguards in here that will control this corporation. I do not care if it is A.T. & T., Western Electric, or the stock market that might enter into it, it is my judgment the committee has not left any loopholes for anyone. The committee has given consideration to these problems, and the committee, in my judgment, has gone as far as it ultimately and possibly can go with the knowledge we have today in order to be sure that the public is protected. In the example which the gentleman employed, of a wholly owned subsidiary of A.T. & T., Western Electric, we provided here that there must be competitive bidding for the hardware. We also provide that this satellite corporation, if it owns ground stations or if the FCC licenses someone else to own ground stations, they must be made available to others on reasonable terms. I do not think the gentleman or anyone else can sustain any kind of implication that we have not provided adequate provisions here that would give protection to the public, and yet permit us to move forward with this project.

Mr. CELLER. I read on page 14 of the report with reference to the statement about the 20 percent the following:

> Under subsection (d) not more than 20 percent of the shares of voting stock of the corporation held by persons other than authorized carriers could be held by aliens and their representatives, foreign governments and their representatives, foreign corporations, and certain corporations in which foreign persons have an interest.

So that 20 percent refers not to communications common carriers.

Mr. HARRIS. Yes, that is right. But also, let me say that we have to be very careful in that foreign governments are ultimately—and we think it is inevitable—going to have to own some interest in this corporation. We cannot do business with the other governments where they insist on some ownership without letting them have it. We recognize that. We have to face it. We do not think that we will be able to own any ground stations in other countries, neither our own carriers, those authorized under this, or the corporation itself. We think that the foreign governments are going to have to own their own ground stations, and we have to negotiate with them about the utilization of their own facilities there. That is the reason we provide it here to bring it in line with the present Communications Act with reference to foreign ownership of these facilities. The gentleman is correct. It does not apply the limitation to common carriers as a part of this organization.

Now there was reason for that. The common carriers will have 50 percent of the stock reserved for them. It may be that some of the common carriers would feel that they do not want to take much interest in this. There may be a $100 stock. Some may feel that they do not want to take the interest and they, perhaps, would be interested in the issuance of debentures and so forth which may become a part of the rate base. In that case the other common carriers, perhaps, are going to have to take it up because if they do not we provide another safeguard here, that if the common carriers fail to take up their 50 percent of the capital stock, they will have representation on the board reduced accordingly.

In other words, we reserve 50 percent of the stock of the common carrier, but if they only take 25 percent of it, they then can have only three members of the board instead of six. That is another safeguard that we provide in this and we had these things in mind at the time it was worked out.

Mr. OSTERTAG. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from New York.

Mr. OSTERTAG. First of all, I want to commend the chairman of the Committee on Interstate and Foreign Commerce and all the members of the committee on a job well done. I think this very tough problem has been resolved in a very sensible sort of way. My question to the gentleman relates to the stock that has been or will be issued to the so-called public. It is not quite clear to me, and I wish the gentleman would devote a moment to that aspect of it. Suppose, and perhaps this is most unlikely, but suppose by chance the general public did not subscribe to this balance of investments. What happens in that event; or also, are people foreclosed from investing in this if they are investors in the common carriers?

Mr. HARRIS. To answer the last question, the answer is "No, it would not." To answer the other question, if there is an issue of x number of dollars and the general public decides it does not want to take all of it, there is no requirement for it. We do know somebody is going to be interested and if there are 10 shares that the general public does not take, then the common carriers would have 10 shares reserved to them—and they are in business. They can operate, but I say to the gentleman, our information is, from the reports we have had, that the underwriters, the brokers in the stock market seem to indicate that they have a backlog here that we need not worry about whether the stock is going to be taken up. While I am on that subject, let me emphasize here so that everybody will know it, and we have been trying to stress this point, we do not want the general public to think there is a windfall here and that they have something easy and that they can run up and put their money into something and get rich quick out of it. We think the public ought to be cautioned about dashing up and putting their money in it with the idea that they are going to get quick returns out of it because I do not think, and there is no one who knows anything about this who has any idea that there will be any returns on the investment within several years and, possibly, as much as 7 or 10 years. So we do not want the general public to think that because the Congress is taking this action that this is an indication to run in and invest some money that they are going to get a lot out of right away. I think they should be careful and know what they are doing. And even so, in my judgment, from the reports we have, we need not worry about the stock being taken up by the public.

Mr. JOELSON. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield briefly.

Mr. JOELSON. Does not this in fact mean that the private investors will necessarily have to be large corporations?

Mr. HARRIS. Not necessarily so at all, not necessarily at all. They tell me they have all kinds of backlogs of requests from private individuals asking for shares in this corporation.

Mr. CLEM MILLER. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield.

Mr. CLEM MILLER. Why then should we not wait in making this momentous decision until a later time when all the facts are available?

Mr. HARRIS. I am sure the gentleman does not fully realize the import of his question. The answer to that would be, Let us sit on our thumbs and let Russia take it over. Unless we move forward and set up this organization we are just sitting idly by and letting someone else take the leadership in this program that is going to mean so much to our future.

Mr. COLLIER. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield.

Mr. COLLIER. Concerning the inquiry of the gentleman from New Jersey that only large corporations will be in position to purchase this stock, let me remind him that there are 2½ million Americans who own stock in the A.T. & T. I am sure those 2½ million Americans represent a cross section of the American economic status.

Mr. HARRIS. There are other provisions of the bill that will be discussed fully. I have already used too much time.

Therefore, at this point in the RECORD I am extending my remarks and I insert a carefully worked out section-by-section summary of the bill:

TITLE I—SHORT TITLE, DECLARATION OF POLICY AND DEFINITIONS

Section 101.—Short title:

This section provides that the act may be cited as the "Communications Satellite Act of 1962."

Section 102.—Declaration of policy and purpose:

The section sets forth the policy and purpose of the Congress in enacting the Communications Satellite Act of 1962.

In subsection (a) the Congress declares it to be the policy of the United States to establish as soon as practicable a commercial communications satellite system. This system is to be established in conjunction and cooperation with other countries and is to be a part of an improved global communications network. It would be responsive to public needs and national objectives, serve the communication needs of the United States and other countries, and contribute to world peace and understanding.

Subsection (b) provides that the new and expanded communications services are to be made available as soon as possible and extended to provide global coverage at the earliest practicable date. In carrying out this program care and attention would be directed at the following: (1) Providing such services to economically less developed countries and areas, as well as those more highly developed; (2) efficient and economical use of the electromagnetic frequency spectrum; and (3) reflecting the benefits of this new technology in quality of services and charges for them.

Subsection (c) provides that U.S. participation in the system shall be in the form of a private corporation, subject to appropriate governmental regulation. The intent of Congress is stated to be that all authorized users shall have nondiscriminatory access to the system; that maximum participation be maintained in the provision of equipment and services utilized by the system; and that the corporation be organized and operated so as to maintain and strengthen competition in providing communications services to the public.

Subsection (d) states that it is not the intent of Congress by this act to preclude creation of additional communications satellite systems, if required to meet unique governmental needs or if otherwise required in the national interest.

Section 103—Definitions:

This section defines some of the terms used in the bill. These terms are used, as defined, in this section-by-section summary.

Paragraph (1) defines the term "communications satellite system." This term refers to communications satellites in space whose purpose is to relay telecommunication information between satellite terminal stations, together with associated equipment and facilities for tracking, guidance, control, and command functions which are not part of the generalized launching, tracking, control, and command facilities for all space purposes.

In paragraph (2) the term "satellite terminal station" is defined. This term refers to the complex of communication equipment on the ground which receives from other ground communications system for relay via the communications satellite system or receives from the communications satellite system for relay via other ground communications systems.

Paragraph (3) defines "communications satellite" to mean an earth satellite which is intentionally used to relay telecommunication information.

In paragraph (4) "associated equipment and facilities" is defined to refer to those facilities, other than satellite terminal stations, which are constructed and operated primarily for the communications satellite system.

In paragraphs (5) and (6) the terms "research and development" and "telecommunication" are defined. These terms are self-explanatory.

In paragraph (7) "communications common carrier" is defined to give it the same meaning that "common carrier" has when used in the Communications Act of 1934, as amended; and except as specifically provided for in section 304, the term "authorized carrier" is defined to mean a communications common carrier authorized by the Federal Communications Commission under such act to provide services by means of communications satellites.

Paragraph (8) defines "corporation" to mean the corporation authorized to be established by title III of the bill.

Paragraph (9) defines "Administration" to mean the National Aeronautics and Space Administration.

Paragraph (10) defines "Commission" to mean the Federal Communications Commission.

TITLE II—FEDERAL COORDINATION, PLANNING, AND REGULATION

Section 201—Implementation of policy:

This section sets forth the functions to be exercised by the President, and by the Federal agencies whose responsibilities are most directly involved, in providing for the establishment and operation of the commercial communications satellite system contemplated by the bill in a manner calculated to achieve the objectives and carry out the purposes of the bill.

Subsection (a) sets forth the functions to be exercised by the President with respect to the communications satellite system.

It would be the general responsibility of the President to aid in the development and foster the execution of a national program for the expeditious establishment and operation of the system and to provide for the continuous review of all phases of its development and operation (including the activities of the communications satellite corporation authorized to be created under title III (discussed more fully below)). The President would also coordinate the activities of Federal agencies having responsibilities in the field of international communications so as to insure compliance by them with the policies of the bill, and would take steps to insure that (except in cases where a separate system is needed to meet unique governmental needs) the communications satellite system contemplated by the bill is made available to and appropriately used by the various departments, agencies, and establishments of the Federal Government for their general governmental purposes.

The President would be charged with the duty of insuring that timely arrangements are made for foreign participation in the establishment and use of the system, and would exercise general supervision over the relationships of the communications satellite corporation with foreign governments and foreign entities (and with international bodies) so as to make certain that such relationships are consistent with the national

interest and foreign policy of the United States.

Finally, the President would be directed to carry out his responsibilities under the bill in such manner as to insure that the system to be established will make effective and efficient use of the frequencies in the electromagnetic spectrum and will be technically compatible with communications facilities (foreign and domestic) which are already in existence.

Subsection (b) enumerates the responsibilities of the National Aeronautics and Space Administration in connection with the communications satellite system. In addition to advising the Federal Communications Commission on the technical characteristics of the system, the Administration would be directed to assist the communications satellite corporation in several ways.

The Administration would consult with the corporation with respect to the technical characteristics of the system; and would furnish the corporation with satellite launching and associated services, both in order to assist it in the conduct of its research and development program in a manner calculated to promote the most expeditious and economical development of the system and to provide the services which are required (with the approval of the Federal Communications Commission) for the establishment, operation, and maintenance of the system.

More generally, the Administration would coordinate its research and development program in space communications with the corporation's research and development program, and would (to the extent feasible) furnish the corporation with any other services which it may require in connection with the establishment and operation of the system. All services provided by the Administration to the corporation would be furnished on a reimbursable basis.

Subsection (c) sets forth the duties and responsibilities which would be exercised by the Federal Communications Commission (as a part of or in connection with the exercise of its existing authority under the Communications Act of 1934) with respect to the communications satellite system.

The Commission would be charged with the duty of insuring that all communications common carriers authorized by it to use the communications satellite system (now or in the future) shall have nondiscriminatory use of and equitable access to the system and the ground stations serving the system, and would prescribe regulations governing the manner in which the facilities of the system are allocated among its users.

For the construction and operation of each ground station the Commission would grant a license, either to the corporation or to one or more authorized carriers or to the corporation and one or more such carriers jointly, as will best serve the public interest, convenience, and necessity; and it would encourage the construction and operation of such stations by communications common carriers wherever in its judgment such construction and operation are not inconsistent with the policies of the bill. It is not the intent of the committee that these provisions limit in any way the Commission in determining what meets the public interest, convenience, and necessity. It is, however, the intent of the committee that in exercising its licensing functions in this respect and in determining who is to be licensed, the Commission shall give consideration to all relevant factors, including such things as the amount and nature of the communications services which are being rendered and which are to be rendered by individual communications common carriers, the need for adequate reserve capacity on the part of such carriers in rendering such services, the need for developing improved technologies for rendering such services, the need for effective competition among the corporation and carriers in rendering such services, and any other factors which (in the case under consideration) might bear upon the public interest, convenience, and necessity.

The Commission would have to approve the technical characteristics of the operational system and of the ground stations, and would take such other action as might be necessary to insure that the system's facilities are technically compatible with such stations and with existing communications facilities.

In addition, the Commission would be directed to prescribe such accounting regulations and systems and to engage in such ratemaking procedures as will insure that any economies made possible by the system are appropriately reflected in the rates paid by the public for communications services, and would prescribe rules and regulations guaranteeing effective competition in the procurement by the corporation of apparatus, equipment, and services.

Finally, in any case where the Secretary of State (after obtaining advice as to technical feasibility from the National Aeronautics and Space Administration) advises the Commission that commercial communication to a particular foreign point by means of the system should be established in the national interest, the Commission would be directed to institute proceedings under section 214(d) of the Communications Act of 1934 to require that communication to such point be established by the corporation and the appropriate carrier or carriers.

TITLE III—CREATION OF COMMUNICATIONS SATELLITE CORPORATION

Section 301—Creation of corporation:

This section authorizes the creation of a communications satellite corporation. This would be a private corporation for profit and not an agency or establishment of the Government. The corporation would be subject to the act and, to the extent consistent therewith, to the District of Columbia Business Corporation Act.

Section 302—Process of organization:

This section provides for incorporation of the corporation by persons designated by the President. These persons would serve as the initial board of directors of the corporation, arrange for an initial stock offering, and take other actions necessary to establish the corporation, including the filing of articles of incorporation, as approved by the President. However, no incorporator could be among the directors first elected to the board.

Section 303—Directors and officers:

Subsection (a) relates to the composition of the board of directors of the corporation. All of the directors would have to be citizens of the United States. One director would be elected annually by the board to serve as its chairman.

Three members of the board would be appointed annually by the President, by and with the advice and consent of the Senate, effective on the date on which the other members of the board were elected.

Six members of the board would be elected annually by stockholders who were not communications common carriers.

The communications common carriers would elect the other directors, not exceeding six in number. The exact number of directors elected by the communications common carriers would depend on the amount of voting stock in the corporation owned by them. If the carriers owned 15 percent or less of such stock, they would elect one director, if they owned more than 15 percent but not more than 25 percent, they would elect two directors, and so on. They would elect the maximum of six directors if they owned from 45 percent of the voting stock up to 50 percent thereof (which is the maximum amount which they are allowed to own under sec. 304(b)(2) of the bill).

No communications common carrier owning stock in the corporation, together with certain other persons who might have related interests, would be permitted to vote for more than three candidates for membership on the board. Subject to this limitation, the articles of incorporation of the corporation would provide for cumulative voting as provided for in the District of Columbia Business Corporation Act.

Subsection (b) provides that the corporation would have a president and such other officers as might be appointed by the board. Officers of the corporation would have to be citizens of the United States and would serve at the pleasure of the board at rates of compensation fixed by it. During the period of employment by the corporation they could not receive any salary from any source but the corporation.

Section 304—Financing of the corporation:

Subsection (a) authorizes the corporation to issue and have outstanding, in such amounts as it determines, shares of capital stock without par value which would carry voting rights and be eligible for dividends. Shares of such stock issued as a part of the initial stock offering provided for in section 302 would be sold for not more than $100 per share and in a manner to insure the widest distribution to the American public.

Paragraph (1) of subsection (b) defines the term "authorized carrier" for purposes of section 304. For these special purposes (as contrasted with the general definition set forth in sec. 103(7)) the term would mean a communications common carrier authorized by the Commission to own stock in the corporation.

Paragraph (2) of subsection (b) prohibits any communications common carrier which is not also an authorized carrier from owning stock in the corporation.

Of the shares of stock offered at any time by the corporation, 50 percent would be reserved for purchase by authorized carriers. Such carriers would be entitled to purchase in the aggregate a total number of such reserved shares not exceeding the number of unreserved shares in the same issue purchased by other persons. At no time after completion of the initial issue could the aggregate number of shares of voting stock owned by authorized carriers, together with those owned by certain persons who might have related interests, exceed 50 percent of the voting shares of stock of the corporation issued and outstanding.

It will be seen that the effect of these provisions is that while persons who are not authorized carriers may purchase more than 50 percent of any one offering in the event that the authorized carriers do not purchase all of the 50 percent set aside for them, the authorized carriers may not purchase more of the offering than is purchased by persons who are not authorized carriers.

Paragraph (3) of subsection (b) limits to 10 percent of the shares of voting stock of the corporation issued and outstanding, the amount of such stock that may be owned by any stockholder who is not an authorized carrier, or any syndicate or affiliated group of such stockholders.

Subsection (c) authorizes the corporation to issue nonvoting securities, bonds, debentures, and other certificates of indebtedness. Such of these as were owned by a communications common carrier would be eligible for inclusion in the rate base of the carrier to the extent allowed by the Commission.

Under subsection (d) not more than 20 percent of the shares of voting stock of the corporation held by persons other than authorized carriers could be held by aliens and their representatives, foreign governments and their representatives, foreign corporations, and certain corporations in which foreign persons have an interest.

Subsection (e) provides that any stockholder in the corporation may exercise the rights of inspection and copying provided for in section 45(b) of the District of Columbia Business Corporation Act without regard to the percentage of stock held, subject to regulations prescribed by the Commission in the interest of national security.

Subsection (f) provides that the Commission may compel any authorized carrier owning shares in the corporation to sell a number of shares determined by the Commission to another communications common carrier which makes application therefor. To do this the Commission would have to make a finding, after notice and hearing, that the public interest and the purposes of the act would be served thereby. The number of shares which the Commission could so compel to be sold would be determined in light of the estimated proportionate use of the corporation's facilities by the applicant and other factors in keeping with the purposes of the act. The price of such shares would be that which the Commission determined to be fair and reasonable.

Section 305—Purposes and powers of the corporation:

Subsection (a) confers on the corporation certain powers in order to achieve the objectives and carry out the purposes of the act. These powers are (1) to plan, initiate, construct, own, manage, and operate commercial communications satellite systems either by itself or in conjunction with foreign governments or business entities; (2) to furnish channels of communication for hire to U.S. common carriers and to other entities, foreign and domestic; and (3) to construct and operate satellite terminal stations when licensed to do so by the Commission.

Subsection (b) sets forth some of the activities authorized to be carried out by the corporation. Those set forth are (1) to conduct or contract for research and development related to its mission; (2) to acquire physical facilities and hardware necessary to its operation by construction, purchase, or gift; (3) to purchase satellite launching and related services from the U.S. Government; (4) to contract for services of the communications satellite system with users thereof, including the U.S. Government; and (5) to develop plans for technical specifications of all elements of the communications satellite system.

Subsection (c) provides that the corporation shall have the usual powers conferred on a stock corporation by the District of Columbia Business Corporation Act in order to carry out the purposes described above.

TITLE IV—MISCELLANEOUS

Section 401—Applicability of Communications Act of 1934:

This section provides that the corporation shall be deemed to be a common carrier within the meaning of section 3(h) of the Communications Act of 1934, as amended, and as such fully subject to titles II and III of that act.

Section 402—Notice of foreign business negotiations:

Under this section, whenever the corporation enters into certain business negotiations with any foreign or international entity, it would have to notify the Department of State. The Department of State would in turn be required to advise the corporation of relevant foreign policy considerations. The corporation could request the Department of State to assist in the negotiations, and the Department would be required to render such assistance as might be appropriate.

Section 403—Sanctions:

Subsection (a) confers jurisdiction on certain district courts of the United States, upon petition of the Attorney General, to grant such equitable relief as may be necessary in order to prevent or terminate certain conduct inconsistent with the purposes of the bill which might be engaged in by the corporation or other persons.

Subsection (b) provides that nothing in this section shall be construed as relieving any person of any punishment, liability, or sanction which may be imposed otherwise than under this act.

Section 404—Reports to the Congress:

Under subsection (a) the President would transmit to the Congress in January of each year a report with respect to activities and accomplishments under this legislation in the preceding year. Included in this report would be the President's recommendations for legislation or other action which he considers necessary or desirable to carry out the objectives of the act.

Subsection (b) requires the corporation to submit to the President and the Congress, annually and at such other times as it deems desirable, a report of its operations, activities, and accomplishments under this legislation.

Before closing, however, I would like to stress that our committee was unanimous in reporting the bill, though several members have reservations about particular provisions. Two members have filed additional views. I do not necessarily agree with one of their proposals which is aimed at deleting a particular provision of the bill relating to ground stations. I shall have more to say later on this particular point. I feel, however, that the additional views are very constructive in stressing the nature of the role which this corporation is to play.

I am in wholehearted agreement with some statements contained in their additional views and I quote:

> Since the general public is being given the opportunity to invest in the private corporation being authorized by this legislation, we believe it highly imperative that the general public be not misled or deceived as to the very limited role in space communications which this legislation carves out for the corporation to play.
>
> In effect, therefore, the corporation merely will be the repository of whatever may be the U.S. interest arising from international agreements covering the system.
>
> The essentiality of these agreements to the success of this corporation must be flagged. Apart from those with nations who are at the other end of the communications line, either in transmitting or in receiving, it is necessary that a general agreement be worked out through the International Telecommunications Union, of which we are a member, providing for the allocation of frequencies in the radio spectrum which may be used for this purpose. The conference on allocations is not meeting until late next year, and its determinations subsequently must be ratified by the participating countries before the corporation's system can get underway. Hence it will be some time before the corporation may be expected to receive any revenues, and some years before it may be expected to have net earnings that might enable the investor to receive a return on his investment.

I feel it is most important that the membership of the House and the investing public be completely aware of these unusual circumstances which render investments in this new corporation highly speculative.

Since the corporation is a private corporation and not a governmental instrument, the securities issued by the corporation would be subject to the provisions of applicable securities laws, including those administered by the Securities and Exchange Commission.

There are other aspects, such as the application of the antitrust laws and the Attorney General's powers to seek an injunction in labor disputes to which attention has been called.

At this time, however, I shall desist from going into any of these details because it is most important that we first discuss some of the basic principles on which this legislation is based. I stand now ready to answer to the best of my ability any questions which the Members might have with regard to this legislation.

Mr. BENNETT of Michigan. Mr. Chairman, I yield 20 minutes to the gentleman from Illinois [Mr. SPRINGER].

Mr. SPRINGER. Mr. Speaker, the Committee on Interstate and Foreign Commerce held extensive hearings on the Communications Satellite Act of 1962. There were many different opinions as to how this future communications system should be accomplished. The result of our deliberations is the bill under consideration.

This bill is as sensible and workable a compromise as the committee could arrive at and still come forward with a bill that was responsible and gave full consideration to questions of public policy.

This plan has been endorsed by the Department of Justice, NASA, the Department of State and others in the administration. It prevents domination by any single company. Competitive bidding procedures will prevent favoritism in procurement of equipment and Federal agencies have been given specific power to guarantee this.

If a national policy of ownership and operation of the U.S. portion of the international system is to be assured, the instrumentality therefor must be established now. The creation at this time of the needed instrument, in the form of a private corporation, will provide the machinery through which existing carriers and other private individuals and groups which desire to participate financially in this venture may do so.

The Attorney General, Mr. Robert Kennedy, stated in his testimony before our committee:

> It is the administration's considered conclusion that a corporation with wide public participation, which recognizes the special role of existing carriers, and which is subject to appropriate governmental controls, best meets our policy objectives.

The Senate Space and House Interstate and Foreign Commerce Committees take the same position on this problem.

The President is specifically charged with the duty of insuring that timely arrangements are made for foreign participation in the communications satellite system. In addition, the executive department will exercise general supervision over the relationships of the communications satellite corporation with foreign governments and foreign entities. This will insure that our relationships are consistent with the national interest and foreign policy of the United States.

In addition the responsibilities of the National Aeronautics and Space Ad-

ministration and the Federal Communications Commission are clearly defined.

Thus, there will be no conflict between Federal agencies involved.

The Federal Communications Commission has the duty of insuring that all communications common carriers authorized by the Commission to use the system shall not be discriminated against in any way. The Commission in addition, shall prescribe regulations governing the manner in which the facilities are allocated among its users. The State Department in any instances where they believe that commercial communications to a particular foreign point must be established in the national interest shall direct the Federal Communications Commission to institute proceedings to require that such communications to that point be established by the Corporation and the necessary carriers.

The directors and officers have a unique position under this legislation.

Three members of the Board of Directors will be appointed annually by the President, with the advice and consent of the Senate.

Six members of the Board would be elected annually by the stockholders who are not communications carriers.

The communication common carriers would elect the other directors, not exceeding six in number. To insure that communications common carriers do not get a predominance, it is specifically provided that no carrier owning stock would be permitted to vote for more than three candidates for membership on the Board.

The corporation may issue and have outstanding such amounts of stock as it determines necessary. The stock will be sold for not more than $100 per share and in a manner to get the widest distribution to the public. Care has been taken to assure that it is not possible for one person or one carrier to garner an unreasonable share of the stock.

The effect of these provisions is that persons who are not authorized carriers may purchase a substantial amount. The authorized carriers may not purchase more of the offering than is purchased by persons who are not authorized carriers.

The Commission may compel by appropriate action any carrier to sell any number of shares determined by the Commission to any other communications common carrier which makes application to the Commission and who is authorized. The price of such shares would be that which is determined by the Commission to be fair and reasonable.

This bill is the result of a reasonable compromise of many of the views that were presented. This bill will hardly satisfy every individual viewpoint. But, the committee has brought forth the bill with the thought that it is as reasonable a bill as could be produced after hearing the varying viewpoints of all of those who had ideas about what this legislation should contain. It is possible that there will be legislation modifying this as the years pass—that is in the public interest. Experience with satellite communications at this point is almost nonexistent. We are entering a field that is almost as revolutionary in 1962 as was Columbus' voyage to the New World in 1492. Experience alone can dictate to us in the future what course of action should be taken. The committee does believe that this is a starting point and as the President has pointed out: "We must begin."

With all of this in mind, the committee recommends the passage of this legislation.

Mr. WESTLAND. Mr. Chairman, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from Washington.

Mr. WESTLAND. The gentleman mentioned England and the use of this satellite for relaying communications. Could the BBC, the British Broadcasting Corp., for example, buy stock in this company?

Mr. SPRINGER. I do not believe they could, unless they were so designated. Now, the BBC, if it is a part of the British Government, that might be possible, but being a separate corporation, I do not believe that they could.

Mr. WESTLAND. Could any foreign corporation?

Mr. SPRINGER. A foreign corporation could.

Mr. WESTLAND. Could buy in?

Mr. SPRINGER. Yes.

Mr. WESTLAND. How could BBC, say, buy in?

Mr. SPRINGER. Nobody can buy over 20 percent of 50 percent corporation.

Mr. WESTLAND. In other words, the British Broadcasting Corp. could own 20 percent?

Mr. SPRINGER. Yes. But, not more than 20 percent of one-half of the corporation could be owned by one foreign owner, under section 304(d).

Mr. WESTLAND. You were anticipating, probably, an oversubscription, and there would be a less amount of stock sold.

Mr. SPRINGER. I think I would be very cautious in the beginning with reference to foreign corporations ownership because of the fact that there may be in the course of a few years a number of countries that will want to apply or probably will want to own at least a small portion of the stock.

Mr. WESTLAND. I do not know what Russia is going to do. Amtorg, somebody is saying here. Could Amtorg buy into this satellite system?

Mr. SPRINGER. Under this legislation as it is written, I believe any foreign government with which we decided to do business could buy stock. However, we would have to decide this question first through the State Department to do business with them. Not just any company or any corporation could buy it.

Mr. WESTLAND. If the gentleman will yield further, would it not be possible to lose control of this corporation to foreign corporations if BBC bought 20 percent and Amtorg bought 20 percent?

Mr. SPRINGER. No.

Mr. WESTLAND. I am not so sure about that. I certainly do not want to dispute the gentleman on this question, but I would really like to know whether, let us say, Amtorg could not buy 20 percent, some French corporation or Yugoslavian corporation could buy 20 percent, and thereby we could lose control over this corporation to a group of foreign corporations?

Mr. SPRINGER. May I say to the gentleman I think that the categorical answer is "No."

Mr. WESTLAND. I beg the pardon of the gentleman?

Mr. SPRINGER. The categorical answer is "No."

Mr. WILLIAMS. Mr. Chairman, I yield 5 minutes to a member of the Committee on Interstate and Foreign Commerce, the gentleman from New York [Mr. O'BRIEN].

Mr. O'BRIEN of New York. Mr. Chairman, following the distinguished chairman of our Committee on Interstate and Foreign Commerce, the gentleman from Arkansas [Mr. HARRIS], one always has a feeling as though one is applying a wornout patch to a perfect tire.

Mr. Chairman, I think that all Members of this body appreciate the tremendous amount of work which the distinguished gentleman from Arkansas has put into this bill. He has covered the technical aspects. I have asked for a little time, Mr. Chairman, because I think that this is a historic action by the House of Representatives. I looked around the Chamber a few moments ago and I saw here several men with whom I had the honor 4 years ago—just 4 years ago—of serving on the Select Committee on Astronautics and Space. I remember well the desperation with which we faced the problem of that day. It was a desperation shared by the people of the country generally. We could not minimize the fact that the Russians were almost light-years ahead of us, it seemed, in the space activities. We looked around for a culprit and some of us blamed it on the kids. They said the children had not been taught enough science in the schools. But today, only 4 years later, we not only have witnessed the sensational orbit by Colonel Glenn which captured the imagination of all the American people, but we have arrived at a point in this House today where we are actually creating a corporation which will develop outer space commercially.

Mr. Chairman, I know that there has been and will be some discussion of the virtues of the private enterprise system versus Government control and operation. But may I state my philosophy in that respect very simply: Four years ago we had no choice. It was government against government, and the Devil take the hindmost, and we came pounding down the stretch. We are well on our way. But today in this House we have for the first time in this outer space question a naked challenge between this country based on private enterprise and a totalitarian country.

Mr. Chairman, I suggest this bill takes excellent care of the rights of the public of the United States. It also gives private enterprise the opportunity to put

its know-how into full use. I think the entire world will watch this particular challenge to see whether the people, the companies developed under our system of private enterprise, can go into the arena of international communications against the totalitarian authorities and whip them to a frazzle. I feel that we can, that we will, and that this bill as presented to this House is the best way to do it.

Mr. CLEM MILLER. Mr. Chairman, will the gentleman yield?

Mr. O'BRIEN of New York. I yield to the gentleman.

Mr. CLEM MILLER. When I asked the chairman of the committee, the gentleman from Arkansas [Mr. HARRIS], the question on putting off this legislation, I did not mean we should not press forward as rapidly as possible. I think we should. But if we put off this bill, would we not assemble additional facts which would make for a much better bill if enacted later?

Mr. O'BRIEN of New York. I think the gentleman is correct. We always learn something with the passing of time. But I may say to the gentleman that if there were great uncertainty about the success of this system his point would have a great deal of merit. But there is so much certainty about it that the carriers, for example, are willing to invest their hard cash in it expecting an ultimate profit. In other words, they are ready with their money and willing to risk it and I think if they are ready we in Congress should be ready. I might say that I have been informed that various stockbrokers around the country even prior to the passage of this bill are being besieged by inquiries from members of the public who want to make a little investment in outer space.

Mr. BENNETT of Michigan. Mr. Chairman, I yield 15 minutes to the gentleman from California [Mr. YOUNGER].

Mr. WHITENER. Mr. Chairman, will the gentleman yield?

Mr. YOUNGER. I am glad to yield to the distinguished gentleman from North Carolina.

Mr. WHITENER. Mr. Chairman, the gentleman from Washington [Mr. WESTLAND] asked the question a few minutes ago of the gentleman from Illinois [Mr. SPRINGER] with respect to foreign corporations winding up with control of this satellite corporation. I should like to ask the gentleman as a member of the committee if section 303 of the bill as it appears on pages 28 and 29 does not specifically answer that question, when it says this:

> The Corporation shall have a Board of Directors consisting of individuals who are citizens of the United States.

And on page 29, line 16, where it says:

> No individual other than a citizen of the United States may be an officer of the Corporation.

Would not those provisions answer the question of the gentleman from Washington and say to us that under this legislation there would be no way by which any foreigner or foreign corporation could ever get control of this particular Corporation?

Mr. YOUNGER. As I understood the gentleman from Washington he was not directing his question as to the officers of the Corporation but the control of the stock; is that not right?

Mr. WESTLAND. Mr. Chairman, if the gentleman will yield to me, of course, that is exactly right. It would still be possible, it is conceivable, that while American citizens were the directors of the Corporation, there could be control by the stockholders. And if a sufficient number of foreign corporations or individuals had effective control of the stock then we would be in a bad position. It seems to me there ought to be some provision in this bill—there probably is, but I have not found it yet—regarding working control of the Corporation remaining here in the United States.

Mr. YOUNGER. I think that is covered in the bill when it provides that the maximum that anyone could own would be 20 percent of the 50 percent which is allocated to a communications company.

Mr. WHITENER. Mr. Chairman, will the gentleman yield to me further?

Mr. YOUNGER. I yield.

Mr. WHITENER. Mr. Chairman, I should like to say, too, that my question was not intended to be critical of the gentleman from Washington. I thought it would be well to bring out that insofar as the legislation itself is concerned it seems to me the committee has done all it could when it said that operating control, through a board of directors and officers, shall be by U.S. citizens. When they did that, they went about as far as they could.

Mr. WESTLAND. Mr. Chairman, if the gentleman will permit, I might say that there could be something in the legislation that would permit only a certain amount of stock to be sold to foreign citizens or foreign corporations.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. YOUNGER. I yield to the gentleman from Mississippi.

Mr. WILLIAMS. The language is to be found on page 31 of the bill under subsection (d) of section 304 of the bill. It states:

> Not more than an aggregate of 20 per centum of the shares of stock of the corporation authorized by subsection (a) of this section which are held by holders other than authorized carriers may be held by persons of the classes described in paragraphs (1), (2), (3), (4), and (5) of section 310(a) of the Communications Act of 1934, as amended.

When we go to that section of the Communications Act we find that these categories are as follows:

> (1) Any alien, or the representative of any alien;
>
> (2) Any foreign government or the representative thereof;
>
> (3) Any corporation organized under the laws of any foreign government;
>
> (4) Any corporation of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country;
>
> (5) Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, or of which more than one-fourth of the capital is owned of record or voted after June 1, 1935, by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or the revocation of such license.

Those are the five categories of foreigners who will be able to own stock in this corporation, and the aggregate of the stock to be owned by all five of those categories cannot exceed 20 percent of the stock that is allocated for public sale.

Mr. SPRINGER. And that 20 percent of 50 percent means not more than 10 percent.

Mr. YOUNGER. I think there is one other feature which ought to be covered at this time which has not been mentioned; that is, under our corporate structure for the District of Columbia corporation any stockholder may require reports and look into the affairs of the corporation. We have covered that protection by saying they can do so. However, only under regulations which the Commission may prescribe in the interest of national security to the end that an alien cannot buy one share of stock and then require the corporation to disclose all of its affairs or the books of the corporation.

There is one thing more I might mention in passing: This bill as compared to the administration bill which first came to the committee is a 100 percent improvement. However, there are probably some improvements which could be made, and I want to cover them. There is one point which has been raised, and that is the reimbursement to the Government for the research that has been done in the space field. This bill follows the usual custom. There is no reimbursement to the Government in connection with the use of atomic energy for peaceful purposes. There is no reimbursement by the farmers for all of the research work that has been done in connection with the improvement of farm products. This bill follows the same process that has been followed by the Government in connection with all of these phases. There is no provision for reimbursement and there should be none because that has not been the policy that has been followed by our Government in other cases.

Mr. RYAN of New York. Mr. Chairman, will the gentleman yield?

Mr. YOUNGER. I yield to the gentleman from New York.

Mr. RYAN of New York. On that point, has not Mr. Webb of the Space Administration testified that future research will have to be carried on by NASA and that the corporation or the private companies cannot be expected to do revolutionary research?

Mr. YOUNGER. The corporation is supposed to reimburse the Government for certain usages. At the present time the A.T. & T. in order to get their space satellite into orbit will pay to the Government $1,700,000 for placing one satel-

lite in orbit. This is to be based on a reimbursable basis, but this does not cover research.

There is one thing about the hearings I wish the Members would take rather to heart. If you will read them, you will find that the Federal Communications Commission which represents the Government, all of the communications companies, and the president of the Communications Workers of America, A.F. of L.-CIO, recommend that this corporation should be wholly owned by the communications companies. I regret exceedingly that that was not done and that it was not approved by the administration. I think we should have in this case, as we have in the other cases of our international communications, permitted a traditional private enterprise company. But that was not approved and we have adopted the best compromise possible. Because the communications companies came before the committee; they stated they were ready, willing, and able to completely finance this operation. I think we would have been well advised had we accepted that offer. That brings up a question that has already been covered somewhat by our very able chairman, the question of selling this stock to the public. I am convinced in my own mind that there are going to be serious repercussions in regard to this sale. That is why I am sorry the communications companies were not permitted to subscribe to all the stock and own the companies. For this reason, and all of the evidence in regard to the hearings points to the fact, as mentioned by the gentleman from Illinois and also the gentleman from Arkansas, that it will probably be 10 years before there are any earnings out of which to pay dividends. I am a little fearful that during that time the stock may well go down and we may have serious pressure on the part of individual owners of this stock on the Congress to bail them out. We will have, in all probability, the question to answer by virtue of such a statement as this, "Well, this is a Government corporation because the President has appointed some of the directors." That brings me to this point. I am going to introduce amendments which I hope the committee will consider. One is that the provision calling for three directors to be appointed by the President be removed. As the President said the other day when the question was raised about his price control activities, he said he did not want to control prices because he had plenty of other things to do. I think he does have plenty of other things to do, plenty of other appointments to make besides making these appointments, and as surely as he makes these appointments so surely will there be the implication on the part of stockholders, the public who purchase this stock, that this is a Government corporation, a Government responsibility. I feel that we would be well advised to remove those three directors from appointment and allow the stockholders who are not communications companies to elect eight directors and the communications companies themselves to elect seven.

I also feel that when the President appoints the organizers, and the organizers are charged with the responsibility of organizing the company and putting it into operation, preparing the articles of incorporation, and so forth, that it is not necessary for the President then to approve the articles of incorporation. Certainly if he appoints the men I am sure he will appoint, able men, he can trust that they will do a good job and that they will consult with the Attorney General, and it will not be necessary for him to approve the articles of incorporation. I think he ought to be relieved of that responsibility.

I hope to offer those two amendments at the proper time. I think we then would have a better and a more nearly free enterprise corporation, which I think we all want, than to tie it too closely with the Government and have the stockholders purchase the stock on such a supposition.

I do not care what kind of brochure is put out. I do not care what the members the SEC approve for the stock sale, the purchaser is going to purchase this stock with the idea that it is a Government corporation. You just cannot get away from this fact because it is created by the Congress; we are debating it; it is going to have its birth in the act of Congress, and I am afraid the public is going to buy the stock thinking it is a dividend stock because the bill says it is a dividend-earning stock. We all know, however, from all the evidence that there is no possibility of it earning a dividend for probably 10 years. As a matter of fact, according to the testimony I think the A.T. & T. have already, by the time they put this satellite into orbit, spent something like $50 million in research in connection with this project. It is not something that is cheap; it is expensive, and I sincerely hope that we can remove all possibility of any interpretation on the part of the public that this is a Government corporation and that the Government is going to bail them out if the stock will not pay a dividend.

Mr. ROGERS of Texas. Mr. Chairman, I yield 20 minutes to the gentleman from New York [Mr. CELLER].

Mr. CELLER. Mr. Chairman, the committee plowed new fields, fields of space, and went into undiscovered areas. Old concepts had to be uprooted; new ideas had to be planted. With painstaking effort of the chairman of the committee and with earnest cooperation of his members, the Interstate and Foreign Commerce Committee did a genuine creative job. But some work remains. May I light up some dark spaces and shore up some shafts of light and reinforce some corridors of space?

Mr. Chairman, a global communications system gives promise of revolutionizing world communications. Such a system has a great potential for linking the world closer together and thus encouraging a greater understanding among nations. It is crucial that the United States be the first to develop the system. This is a national objective that the Congress cannot permit to be frustrated by the desires of a few vested-interest companies.

I warmly endorse the President's decision, embodied in the bill now before us, to permit all Americans, as well as the communications carriers, to invest in this new venture. I am confident that a broadly based public corporation under adequate Government regulation can effectuate the national policy.

However, we are creating here a private monopoly. The pending bill, H.R. 11040, does not contain, in my estimation, sufficient safeguards to protect the public interest. For this reason, I shall propose certain amendments which I deem essential to that all-important end.

1. PRESIDENT'S POWER TO DISAPPROVE

The ultimate responsibility for effectuating the national policy regarding global communications through space satellites must rest with the President. This responsibility is strikingly shown by the recent correspondence between President Kennedy and Premier Khrushchev calling for a major cooperative program of space exploration, including communications by satellites. This has already resulted in negotiations at the United Nations on this subject by American and Soviet representatives.

For just such reasons I plan to offer an amendment giving the President discretionary power to disapprove all acts, both by the proposed space satellite communications corporation and departments and agencies of the Government, in order to attain full compliance with the national policy regarding communications through space satellites. For far less compelling reasons, the Congress vested in the President the discretionary power to disapprove decisions of the Civil Aeronautics Board relating to international air transportation. If the President has power of negation in aeronautic transportation how much more compelling should that power reside in the President over space satellite communications. There can be no question that the President should have such power where delicate negotiations intimately affecting the foreign policy of the United States have already occurred and may be expected to continue and grow in importance and complexity as the space satellite communications system develops. The satellite communications system is international by its very nature. Since the State Department's role has been drastically scaled down from the conduct of international negotiations, as originally proposed, to merely being kept advised, with the new corporation to make its own international agreements, it is all the more crucial to give the President ultimate power to prevent any agreement or action by the corporation which would be contrary to our national interest.

2. GOVERNMENT DIRECTORS

It is difficult to determine accurately the amount of public expenditures related to space activities. However, it has been estimated that the American taxpayers will have contributed in excess of $25 billion for this development. Since 1959 American taxpayers willingly

poured $3.5 billion into our space effort. Congress is now asked to appropriate an additional $3.5 billion for 1963. The amount of public expenditures properly attributable to space communications, which is only a small part of space development, would be far in excess of the $175 million which NASA has programed through fiscal 1963.

In addition, anyone familiar with the history of the bill before us must be impressed by the numerous functions that must be carried out by the various departments and agencies, if we are to have a successful space satellite system. To cite but one example, the system must depend completely on the Government to launch its satellites into space.

For this reason, I am glad to see that this bill provides for three members of the Board of Directors to be appointed by the President by and with the advice and consent of the Senate. Thus, the bill recognizes our vital national stake in this new venture, together with the fact that the Federal Government has made and must continue to make major contributions toward a successful space satellite communications system at vast public expense.

However, this bill provides that these three directors shall be appointed annually by the President. The amendment I shall propose would provide instead that these directors shall serve for 3-year terms. This will enable them to become fully informed concerning the activities of the corporation. Furthermore, by extending their term of office, these directors will be freed for 3 years from political pressures and enabled to express their own conscientious views reflecting the overriding national policy and interest. It is self-evident that a 1 year term is entirely too short. Before the incumbent is oriented and has become conversant with his job his term will have expired.

3. DIRECTORS AND OWNERSHIP BY CARRIERS

The pending bill limits the number of directors elected by carriers to six, but permits all the carriers to own 50 percent of the stock. However, the bill discriminates against the American public by limiting any member of the public to 10 percent of the issued stock, although it would permit any one carrier to own up to 50 percent of the issued stock. Furthermore, H.R. 11040 permits any one carrier to elect three directors. I shall propose amendments under which any one carrier could only vote for two directors, as originally proposed by the administration, and would be limited to 15 percent of the issued stock.

These safeguards are necessary to protect the public interest by preventing A.T. & T. from gaining control or dominance over the corporation.

If A.T. & T. is permitted to elect three of the maximum of six directors allocated to the common carriers, as presently provided in the bill before us, it will be in a position to dominate the smaller carriers—RCA, Western Union, and A.T. & T.—which could only elect one director each. By reducing from three to two the number of directors any one carrier can elect, the smaller carriers would be given both the opportunity to obtain a voice roughly equal to A.T. & T. in the management of the corporation and an incentive to participate fully. For if A.T. & T. is limited, as I propose, to two directors, the smaller carriers, by purchasing all the stock available to them, could elect one director each, and they could join to elect one director to represent them collectively. Thus the smaller carriers would be given a chance and an incentive to counterbalance the otherwise dominant power of A.T. & T.

In addition, the pending bill would enable A.T. & T. to force the Federal Communications Commission to compel another carrier to transfer to A.T. & T. shares of stock in accordance with A.T. & T.'s proportionate use of the satellite system. Under such a formula, A.T. & T., which is expected to use 85 percent of the facilities of the system, could secure 85 percent of all the stock available to the communications carriers and 42.5 percent of the total stock of the corporation.

I shall offer an amendment removing this feature of the bill to prevent A.T. & T. from obtaining such a formidable share of the corporation, with the dominance sure to result from such a disproportion.

4. RATE BASE OF CARRIERS

The pending bill permits the carriers to add to their rate base the total cost of their investment in the corporation.

The amendments I shall propose today would prohibit carriers from including the cost of their voting stock in their rate base, thereby obtaining an advantage which the public stockholders cannot enjoy. On the other hand, the cost of the carriers' investment in nonvoting securities of the new corporation will not be eligible for inclusion in the rate base of the carriers for domestic service, but will be eligible for inclusion in their rate base for other international communication services.

These amendments are necessary to protect the millions of American telephone owners, who will never make an oversea call, from being charged by the carriers for international facilities they will never use.

5. GROUND STATIONS

Under the pending bill, the ground stations can be owned jointly or separately by the communications carriers. In addition, H.R. 11040 provides that the FCC shall lean over backwards to license these stations to the carriers. Nicholas Katzenbach, Deputy Attorney General, testified:

> We recognize that the carriers, having consistently opposed public participation in the ownership of the system, may feel that even with public investment they can still control the system, if only they can control the ground stations.

Much of the revenue from the satellite system will come from handling the messages on earth. Under my amendment the ground stations of the American part of the space satellite system shall be owned and managed by the corporation. This safeguard is necessary to enable the new corporation to make money, rather than handing its main source of income on a silver platter to the communications carriers. It would be difficult—indeed it might be folly—to sell to the investing public stock in a corporation shorn of its principal potential revenues.

My amendment would not preclude communications common carriers from leasing the facilities of the ground stations, or owning and managing other ground stations outside the United States, its possessions or territories. It would, however, secure to the new corporation a needed source of earnings.

The alternative, embodied in the bill before us, is to give away the ground stations to the communications carriers—principally A.T. & T. The administration is opposed to such a giveaway.

A.T. & T. has been boldly picketing the Halls of Congress advocating that the communications companies should be the sole beneficiaries of the communications satellite system. To grant the carriers the ground stations would make a gift to a few companies of a potential multimillion dollar a year monopoly, made possible by the expenditure of substantial amounts of taxpayers' money.

From A.T. & T.'s viewpoint, this campaign is quite understandable. This would mean that A.T. & T. would have a dominant and very probably a monopoly position in ownership and operation of the space communications system. In effect, A.T. & T. would be the chosen instrument of the U.S. Government to own and control civilian space communications to the detriment of the public interest. The Department of Justice has warned:

> Unrestricted ownership by interested parties may be subject to abuse by the dominant party.

Further, the Department of Justice has stated:

> The continuing opportunity [for A.T. & T.] to favor its own facilities would always be present and would inevitably result in discrimination or suspicion of discrimination no matter how strict might be the policy of [A.T. & T.] to provide equal service to its competitors. [Moreover], the opportunity to favor the purchase of equipment produced by [A.T. & T's subsidiary, Western Electric Co.] would be irresistible.

Judge Loevinger, the head of the Justice Department's Antitrust Division, has testified:

> The degree of concentration in this field may very well be one of the reasons why America is not further advanced in the field today than it is. * * * Our system has not produced as it should, and the public interest has suffered because there had been undue concentration in this field.

The Department of Justice has declared:

> A project so important to the national interest should not be owned or controlled by a single private organization.

A.T. & T. does not come before the bar of the Congress with clean hands. It is an old offender.

In 1953, the FCC negotiated with A.T. & T. a rate increase of approximately $65 million a year in long distance telephone rates. I would like to emphasize that the rate increase was through nego-

tiation with A.T. & T. and was not regulation by the FCC as envisioned by Congress.

The FCC granted this rate increase because it believed A.T. & T. was entitled to a 6.5-percent rate of return on a net book cost basis.

Since 1955, however, A.T. & T. has enjoyed a rate of return far in excess of 6.5 percent. A.T. & T.'s rate of return from long distance telephone service was: in 1955, 7.7 percent on a net book cost basis; in 1956, 7.8 percent; in 1957, 7.3 percent; in 1958, 7.4 percent; in 1959, 7.8 percent; in 1960, 7.8 percent; and in 1961, 7.7 percent.

In the years 1955 through 1961, if A.T. & T.'s rate of return had been limited to 6.5 percent long distance telephone users would have saved approximately $985 million. Thus, over the past 7 years A.T. & T. has overcharged the American public by nearly a billion dollars. Having made such an exorbitant profit, it is little wonder that A.T. & T. wishes to expand by capturing the satellite communications system.

In 1957 and 1958, the House Antitrust Subcommittee of the Committee on the Judiciary, of which I am chairman, conducted a long series of hearings dealing with antitrust consent decrees. In its analysis of the A.T. & T. consent decree, it became necessary for the subcommittee to ascertain whether FCC long distance rate regulation has been adequate. The subcommittee found that between June 1955 and October 1957, the Commission was apprised of the fact that the Bell System, by virtue of the 1953 rate increase was deriving a return from interstate telephone service far in excess of 6.5 percent.

The Antitrust Subcommittee reached the conclusion that the FCC "has neglected in the 24 years of its existence to establish fundamental principles or standards by which to judge the reasonableness of Bell System's interstate telephone rates."

Only after continuous prodding by the Antitrust Subcommittee, did the FCC in 1959 negotiate with A.T. & T. a $50 million annual reduction in interstate toll telephone rates. Once again, this was negotiation and not FCC regulation.

Notwithstanding this reduction, A.T. & T.'s rate of return is still well in excess of 6.5 percent. If A.T. & T.'s rate of return had been limited to 6.5 percent during the years 1960 and 1961 alone, long distance telephone users would have saved approximately $125 million.

For the 12 months ended February 28, 1962, A.T. & T.'s profit was $1.3 billion. This is the largest ever reported by any company in any 12-month period.

Moreover, the FCC has candidly admitted that it has never regulated A.T. & T.'s oversea rates. As recently as July 6, 1961, the FCC wrote A.T. & T.:

> As you are aware, the Commission has never had before it data on which to properly evaluate the level of earnings on your oversea communications services.

The FCC has still not instituted a formal rate hearing. It is content to crawl laboriously along the route of an informal inquiry to determine the investment, expenses, and revenues associated with A.T. & T.'s oversea communications services.

Late last month the Bureau of the Budget released a report on the FCC by a team of management consultants. This report, like the Antitrust Subcommittee, concluded that the FCC "has established no firm criteria governing such rates of return and does not demonstrate that the reductions negotiated actually bring the overall rate of return down to reasonable limits. This activity merits far greater emphasis if the public interest is to be properly served."

The report declared that the Common Carrier Bureau of the FCC, which has jurisdiction over all telephone and telegraph media "is in no position to establish the reasonableness of charges in most areas of common carrier service."

Moreover, the report noted that in 1960 Bell System's purchases from its wholly owned subsidiary, Western Electric, amounted to $1.8 billion "which amount becomes part of the rate base on which the Bell companies expect a return. Apart from occasional review of periodic reports, no examination of the books of Western Electric or other leading telephone equipment manufacturers has been undertaken to determine the reasonableness of charges to the Bell System." This is a barbarous situation. Is Western Electric overcharging A. T. & T.? Is the American public paying for this unexamined, high profit? Remember Western Electric is a wholly owned subsidiary of A.T. & T.

Thus this recent independent report on the FCC, after exhaustive study, has reached conclusions virtually identical with those of the Antitrust Subcommittee after extensive hearings.

My Antitrust Subcommittee found the FCC very receptive to A.T. & T. The subcommittee concluded:

> The Commission's failure to advise the Attorney General of factors so pertinent to its lawsuit, coupled with its willingness to present to the Attorney General a one-sided view of the divorcement issue, reflect a singular receptivity to the A.T. & T. point of view and a patent indifference to the public interest.

A.T. & T. has succesfully avoided regulation on earth. Divine guidance will be necessary to regulate A.T. & T. if it is permitted to expand its domain into space. We arm ourselves with a sea of troubles if we enact legislation in this new field which fails to tether A.T. & T., or to safeguard the public interest. The amendments I shall propose are designed to achieve this purpose.

The rapid development and full use of the space satellite communications system is a national goal, paramount to the selfish interests of any vested-interest group. A.T. & T. has proposed a low-random orbit system which would require scores of satellites and ground stations in order to obtain worldwide coverage. This proposal is made at a time when there is a general agreement on the ultimate desirability of a system of three or four high orbiting synchronous satellites, which would give global coverage and would be cheaper both to set up and to maintain. If the existing communications companies are permitted to own and operate a system of their choice, they will have a strong motive to retard its development and use in order to protect their vast investment in existing equipment and facilities, such as the undersea cables which A.T. & T. is still laying to this very day.

Space satellites will revolutionize communications as the airplane revolutionized travel. Air travel as we know it today would still be a mere vision if Congress had delivered the budding airlines business into the hands of the existing and established railroads. If Congress delivers this new and extraordinary facility into the hands of a few vested-interest companies, it will retard progress and frustrate the national interests for generations to come.

I do not advocate outright Government ownership. On the other hand, I rebel against the idea of private ownership where the control and destiny of the system would be the means of lining the pockets of a small, select group of companies.

I do not believe we should place the American taxpayers in the position of being the fools who have prepared a feast for a wise man to eat. I earnestly hope, therefore, that the House will heed the amendments I shall propose. I shall offer these amendments to the end that all interests may be protected from monopoly control of this vast new venture.

The public interest should be protected by truly independent directors appointed by the President to serve for 3 years and by the ultimate right of the President to disapprove actions by the corporation which would be contrary to our national interest.

The interests of the investing public should be protected by securing to the corporation its main source of potential income—ownership of the ground stations. Otherwise we shall be guilty of selling the American people a pig in a poke.

The interests of the smaller communications carriers should be protected by giving them a roughly equal voice with A.T. & T. and by preventing A.T. & T. from obtaining monopoly control. Only thus may the technology of the satellite communications system be freed from the self-interest and technlogical limitations of A.T. & T.'s wholly owned subsidiary, Western Electric.

And only thus may this great new vault into the future be launched free of restraint by the vested interest of A.T. & T. in its existing facilities.

May all of our people have an equal opportunity to share in the bright promise of this new venture into space.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield.

Mr. HARRIS. I do appreciate the gentleman's concern with these highly complicated and important problems. But I would like to call attention of the gentleman and of the Committee to the fact that safeguards in regard to the points made by the gentleman are included in the bill on page 25. There it says that the Federal Communications

Commission's responsibility shall be, under (c)(1) to—

Insure effective competition in the procurement by the corporation of apparatus, equipment, and services, and, to this end, shall prescribe appropriate rules and regulations;

(2) insure that all present and future authorized carriers shall have nondiscriminatory use of, and equitable access to, the communications satellite system on just and reasonable terms and conditions and regulate the manner in which available facilities of the system are allocated among such users thereof.

It is our contention that these are adequate safeguards, and the Federal Communications Commission is given responsibility to see that those matters the gentleman has in mind do not actually occur.

Mr. CELLER. Mr. Chairman, I will say to the gentleman that language similar to that which the gentleman has read appears in present statutes, and still that language in present statutes is utterly ineffective.

The Federal Communications Commission has been most derelict when it comes to the A.T. & T. Why, I do not understand and never will understand. I have indicated to you what our Antitrust Subcommittee revealed. I have indicated to you what the Bureau of the Budget has indicated. I could go on and give much amplification of the fact that the Federal Communications Commission has been woefully derelict. The A.T. & T. seems too much for it—too powerful for it. It has not constituted over all these years, over a quarter of a century, any criterion on which they could base effective regulation. Every time they attack the rates of A.T. & T. for interstate purposes—they have no jurisdiction over intrastate rates—but for interstate purposes and international purposes, they sit across the table and they dicker one with the other, negotiate one with the other. That is no way to run a "railroad," if I may use that term. That is no way to run the Federal Communications Commission. I hope the new enlightened Chairman they have, Mr. Minow, will change all that.

I applaud fully this language. I wonder, however, whether it is sufficient, because we have similar language in similar statutes and it has been ineffective.

Mr. HARRIS. The gentleman's complaint is not to the language in the proposed legislation.

As I gather from what the gentleman is saying, his complaint is with reference to the actions of the agency of the Government which has the responsibility here.

Mr. CELLER. That is correct, but for this reason: Keep your language as you have it, but see to it that the A.T. & T. is not able to assume this gigantic power. Some of these amendments would be shearing the A.T. & T. of some of its power. I say approach it positively and approach it negatively, so that the public will be the gainer and not the loser.

Mr. HARRIS. If the gentleman will permit, I think the gentleman will find throughout the bill that is the approach, except in one section, and that has nothing to do with A.T. & T. It has to do with additional systems, and there will be an amendment, which I will offer, to make that a positive approach.

Mr. CELLER. That will be a decided improvement. I congratulate the gentleman again on his foresight in that regard.

Mr. ROGERS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield.

Mr. ROGERS of Colorado. I think the gentleman a moment ago read a part of paragraphs (1) and (2) of subsection (c), which appears on page 25. I wonder if those two paragraphs would make it possible for the agency charged with this to be compelled to accept competitive bids to purchase equipment in connection with the use that may be made of it by the corporation? Does the gentleman from Arkansas contemplate that in insuring effective competition in the procurement by the corporation of apparatus, equipment, and services, and, to this end, prescribing appropriate rules and regulations, the corporation would be directed that in its purchase of apparatus and equipment it would get them on a competitive basis, advertising as we do in the Government operations in the purchase of many articles?

Mr. HARRIS. That is exactly the purpose of this language. That is what is contemplated. I do not know any more positive approach that could be made to it. As a matter of fact, in arriving at this language we took into consideration the incident the distinguished chairman of the Committee on the Judiciary brought into the debate today, that is, the incident with reference to Western Electric in its relationship with A.T. & T., and out of that came this language, which would give the Federal Communications Commission the authority to require this competition in the procurement of material.

Mr. ROGERS of Colorado. I believe that that is one of the things the gentleman has been trying to point out.

Mr. CELLER. Here is another proposition we must not lose sight of. The Bell Laboratories spends vast sums of money—it is owned by A.T. & T.—in perfecting apparatus. They have all kinds of inventions. They give those inventions to another subsidiary of A.T. & T., Western Electric. When they ask for bids, other manufacturers, who have no authority to use Western Electric patents, cannot compete because there is a patent bar. That has happened all along here. So that when you use the word "competition"——

The CHAIRMAN. The time of the gentleman has expired.

Mr. HARRIS. Mr. Chairman, I yield 2 additional minutes to the gentleman from New York, but I am afraid we are going to run out of time. Will the gentleman yield at this point?

Mr. CELLER. I yield to the gentleman from Arkansas.

Mr. HARRIS. However, with reference to the example the gentleman has just used, there is no direction of the Federal Communications Commission or of any other agency of the Government to require that such competition be brought about. This is a positive thing. It is a positive direction.

Mr. CELLER. I do not quarrel with that language. I think it is good language. It ought to be in there. I think it advances the bill and helps. I am just trying to point out some of the operations whereby A.T. & T. has made it very difficult to regulate them, and I would say finally, if it has been so difficult to regulate the A.T. & T. on earth, how much more difficult is it going to be to regulate A.T. & T. way up there? As I said before, you will probably need divine guidance for that.

Mr. YOUNGER. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois [Mr. COLLIER].

Mr. COLLIER. Mr. Chairman, I wish to get back to the content of the bill before us. But, before I do, I cannot help but make the observation in view of the remarks of the gentleman from New York who preceded me that the only thing I can think of that would be worse than total control of a communications system by a private industry would be its total control by the Federal Government. He mentioned, too, that because A.T. & T. was permitted a rate of return of 7.7 percent, instead of the established 6.5 percent, that it involved an additional cost to the long-distance users in the country of $50 million. I submit that 76 percent of the long-distance calls in this country are made for business and Government functions and purposes, leaving the balance to individuals making personal calls. The Federal excise tax which the gentleman from New York has not clamored to repeal, has cost the American long-distance callers $250 million a year. I want to mention at this time, I share the concern of the burden of public cost not alone as it represents profit to the A.T. & T. but as well as it applies to the unfair wartime telephone excise tax and which phone users must pay any time they make a long-distance call.

Mr. Chairman, getting back to the specifics of the legislation, I should like at this time to pay tribute to the chairman of our committee because, certainly, this legislation as it has been resolved is a tribute to him and to the work he did in committee on one of the most complex, and difficult bills that has come before this House in a long time.

It was difficult because it necessitated the defining and coordinating of the roles of several agencies getting in a new program, such as we are, including the National Space Administration, the FCC, and even the role of the State Department which necessarily must come into this program from time to time.

Let me say, however, at this time that this legislation leaves much to be desired. That is so because I can see in the future many pitfalls with which we are going to have to deal on an international basis as disputes of one nature or another develop. I think we must recognize too that as these disputes arise, many of them undoubtedly will wind up in the United Nations for settlement. I point in substantiation of that conclusion that presently the International Telecommunications Union in Geneva which is

the international organization coordinating these problems at the present time, will have to deal with such things as disputes over the allotment of radio frequencies. Conceivably, of course, we might run into the situation where a frequency would be in dispute between the United States and Russia or between any other country and a Communist satellite nation. It was interesting to note that when the resolution was adopted in the United Nations to embark upon a cooperative program, it was in fact that Soviet Union that cosponsored the resolution providing for a global and nondiscriminatory satellite system and the establishment of it.

I commend the committee for having written into this legislation a limitation that would foreclose the possibility of any foreign power ever getting the controlling stock interest in this corporation. I should like to reiterate at this time the warning voiced by the gentleman from California that this should not be sold to the American people as a high-profit stock. Those of you who may have read the article which appeared in the U.S. News & World Report on this space communications satellite program a month or 6 weeks ago may have gathered from it the true picture of what is involved in the purchase of this stock. I should certainly dislike seeing any great number of the American people who cannot actually afford the purchase of this stock do so on the basis that it is going to provide a windfall, because, as has been pointed out here, it probably will be 10 years at least before there is any return. Actually, there is no guarantee of profit in a program of this nature. Notwithstanding its tremendous potential, that it may be a long time before there will be a dividend returned to the buyer of this stock. I am afraid that if a block of stock set aside for the American public is not fully consumed the Government will move in to purchase it. I would certainly dislike seeing this type of situation develop, because I am stanchly in favor of keeping control of the actual communications satellite program out of the hands of the Federal Government other than in the field of necessary regulation of the communications system.

Mr. DEVINE. Mr. Chairman, will the gentleman yield?

Mr. COLLIER. I yield.

Mr. DEVINE. I wish to commend the gentleman from Illinois for his studious presentation to the House of the overall problem involved in this communications satellite program. Those of us on the committee who studied this program were quite concerned over the original bill presented by the administration because of the strong area of possible Government control.

The gentleman from Illinois has consistently supported the free enterprise approach. As contained in the bill that originally came before the committee it looked like there would be a great multiplicity of controls starting with the President of the United States, continuing with the State Department, the Department of Justice, the Federal Communications Commission, as well as the space agency. Those of us who have spent any time here at all know that when there is a multiplicity of authority the program bogs down.

I think the chairman of the committee likewise should be commended for his handling of this bill. We feel it has been moved into the area of free enterprise as far as possible at this time fully knowing that this bill will have to go through the other body; and, as the gentleman from Illinois mentioned, there are some reservations that this is not the answer to all the problems involved. There are many of us, however, who will support it even though there may be some question of what the outcome may be. Many of us believe this should be a free enterprise system controlled by private rather than Government ownership.

It is my understanding also that several amendments will be offered to put this back into Government control which I am sure the gentleman in the well as well as the gentleman from Ohio will resist.

Mr. COLLIER. I thank the gentleman, and let me suggest that if the bill is so amended, that much as I favor this legislation and appreciate the need for it, I would be obliged to vote against any bill that placed in the hands of the Government any greater power in the operation of this corporation than exists in the legislation reported by the committee.

I would like, if I may, to point out one other thing that I think we should face with reality, and that is that in the establishment of the facilities in improving and expanding this satellite communications program in the years ahead, we might just as well resign ourselves that we are going to pick up a large part of the cost of its development. I say this because through the United Nations we are lending funds to many nations for the improvement of their domestic communications programs.

Undoubtedly we will have to continue to do so for many years to come. It is my understanding that the funds that shall be made available under the Alliance for Progress program in Latin-America will also be used to improve their communications systems, systems which are certainly in dire need of improvement. That is, of course, for the development of such things as ground stations, whether it is done by the governments of these foreign countries or whether they might be done by free enterprise in those countries, they may borrow money, of course, through the World Bank for such purposes.

I should mention one other thing, too, and that is, that in the foreign aid program, more popularly known of late as AID, there would also be funds available for this type of development in foreign countries. So that you can appreciate that through one means or another we will undoubtedly have—when I say "we" I mean the American taxpayers—to be picking up the tab, by direction or indirection, for the development of this program abroad.

I point this out because I think this should be a consideration in evaluating this legislation. It should be something that would make it incumbent upon this House to pass legislation wherein the United States will maintain control of this program, lock, stock, and barrel, though at the same time cooperating with our foreign neighbors to make it an effective system.

Mr. YOUNGER. Mr. Chairman, I yield 3 minutes to the gentleman from Colorado [Mr. DOMINICK].

Mr. DOMINICK. Mr. Chairman, I rise in support of H.R. 11040 but I think it only fitting that a few comments be made to point out some of the risks involved in this new legislative vehicle.

I was privileged as a member of the committee to attend the hearings so ably conducted by the chairman of the committee, the gentleman from Arkansas, and to watch with interest as the varied plans of different groups were tested and explored.

Out of this exploration has evolved a novel type corporation. It has been called a private corporation, but as any quick reading of the bill will evidence it is private only in the field of financing. In short, the company is to be financed by a combination of dollars derived from a public stock offering and investments by authorized common carriers. But a very large portion of the control and operation of the company remains in the hands of the Government. Specific powers in the bill are given to the President of the United States, the National Aeronautics and Space Administration, the Federal Communications Commission and the Attorney General. These powers are far-reaching and include not only the right and duty of the President to review all phases of the development and operation of the system but the right of the Attorney General to bring injunctive proceedings if the management does not operate in such a way as to promote world peace and understanding.

Furthermore, another hump in this camel is the inevitable conflict in the desires of the two investing groups. The public stockholder will quite naturally want to see the corporation make a profit as rapidly as possible so that his investment will become more valuable and dividends may be paid.

On the other hand one of the stated purposes of the act is to facilitate communications to the less developed countries and such activities are going to be unprofitable because of lack of internal communication facilities in those countries or at least far less profitable than connections with the developed countries.

Furthermore, the system itself is speculative in nature as it has not been thoroughly tested and the evidence indicated clearly that profits could not be expected for 8 to 10 years and perhaps even longer than that.

Largely for the reasons noted in this statement, the Federal Communications Commission, the Communication Workers of America, and the international carriers all favored the type of corporation proposed by the ad hoc committee which envisaged that the carriers absorb these risks and provide the financing, the management, the research, and the development skills to

make it work, subject, of course, to appropriate regulation by the Federal Communications Commission. The public, in turn, would have the opportunity to invest in the corporation by investment through the carriers.

This proposal, namely, the ad hoc proposal, was beaten down by the combined activities of the administration and by those who also want complete Government ownership, and the compromise results we have before us today.

The three directors appointed by the President will be there largely to insure that national policy, as expressed in section 102, is carried out. The six directors of the public will be there to try and get the corporation on a money-making basis as soon as possible. The six directors of the carriers will be there to provide management ability, research and development drive, and to facilitate interconnection between this system and the existing international and national communication systems.

As I think you can see from those apparent purposes, these three groups of directors may readily be tugging in three different directions at the same time and in the same corporation, and this, to say the least, is a very difficult situation if any corporation is to prosper and to continue the development work which will be necessary in such a far-reaching plan as we have here.

Despite all these problems, I am going to support this bill because it is vital that a system be started as soon as possible in order to take advantage of the research and knowledge which has been developed by both the Government and the carriers. I do, however, want to point out the risks involved so that it will be a matter of public record for all potential investors to study. This public stock offering will have to go, I presume, before the Securities and Exchange Commission, and it seems to me imperative that these things be pointed out in the prospectus so that those people who are thinking of investing will know first of all that the Government is not guaranteeing any profit and, secondly, that there is a good chance that this corporation may not show any profit for a considerable period of time.

I hope that the next time we produce any kind of a bill under the heading of "private enterprise," it can be done in the fashion which has enabled this country to grow and prosper, and will not again produce that classic definition of a camel, namely, a horse created by a committee. We do not have classic private enterprise. We do not have free enterprise. We have a combination of three conflicting groups all under governmental control which we can only hope will work together for the best interest of all.

Mr. HARRIS. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. Moss].

Mr. MOSS. Mr. Chairman, I believe that the remarks of my colleague, the gentleman from Colorado [Mr. DOMINICK], demonstrate the problems which the committee had in arriving at something reflecting a workable concensus. The bill has been characterized as a compromise. That, of course, it is in every sense of the word. I doubt that it would be possible to draft legislation dealing with a problem area so broad and so dramatic and one so little understood without creating many areas of disagreement. I think for all of those of us who voted to report this legislation there was a little giving up of some of the things that we felt essential. I felt compelled to write additional views which are a part of the report accompanying this legislation.

Mr. Chairman, I regard the type of corporation being created here as a privately owned corporation, subject to regulation, as any utility-type operation is subject to regulation, in virtually every jurisdiction in this Nation.

Mr. Chairman, we have heard a lot of discussion here of the merits of a free enterprise corporation versus a publicly owned corporation. Obviously the former philosophy prevailed, because we had the free enterprise, or more properly, the privately owned vehicle as the means chosen by the committee to take this Nation into the age of space communications. Well, I believe that the Congress at this point in creating a private corporation to undertake this assignment should not unnecessarily burden it. I think it should have its activities considered by the regulatory bodies under the same criteria applied to any of the existing carriers who will participate in the development of an effective space communications system. At an appropriate time, I shall offer amendments to make that possible. While we have heard many professions of confidence in free enterprise, I point out that on page 26 of this legislation, beginning with line 20, we add a new dimension to the criteria traditionally employed in determining whether or not a carrier will be granted a license by the regulating agencies.

Now, remember that at this point we are not testing here between a private and a public enterprise operator. We are laying down criteria for evaluating the applications of two privately owned systems. Yet, what do we find? First, we find that the Commission is instructed to grant a license for the construction and operation of each satellite terminal station either to the new corporation and one or more of the carriers, or to one or more of the existing carriers, and they shall do it under the long-established criteria as will best serve the public interest, convenience, and necessity. That is a fair test. Any privately held corporation should be perfectly willing to submit to that test of the one best able to serve the public interest. But we add the cute gimmick, a new dimension, at this point, and state that in determining the public interest, convenience, and necessity, the Commission shall encourage the construction and operation of such stations by communications common carriers.

Remember that under this mandate where the Commission finds that the public interest would be better served by the new satellite corporation it must, unless it is an overwhelming case, under the mandate to encourage, grant the license to an existing carrier. This could even discriminate against an existing carrier. Let us for purposes of discussion take a hypothetical instance where perhaps the Western Union corporation, joining with the satellite corporation, would compete with a single carrier for the license for a given ground station. Under the language which I propose to strike it is my opinion that the Commission would have to grant it to the single carrier. I do not think we need that type of encouragement to permit effective operation. This is my primary objection to the language of the bill at the moment.

But there is another condition imposed which I regard as totally unrealistic, occurring on page 28. We instruct the President to appoint three directors, and to appoint them annually with the advice and consent of the Senate. I am not in any way attempting to detract from the efficiency, the effectiveness, the efficacy in any manner, of the other body. But I think it conceivable that some directors under this onerous condition could be appointed and wait many months before they were confirmed. And this would be an annual occurrence, an annual appointment. I know of no precedent for it; I know of no parallel. I think it imposes an unrealistic and most onerous condition which would render highly ineffective the services of these 3 directors to be appointed by the President.

I indicated at the opening of my remarks that there are other areas where I could object, but I recognize that in the process of legislating we are dealing with the art of the possible, and I am willing to yield many of my positions in order that we come up with something which I think at the moment we must have, because there is no assurance that the United States can preempt space communications. We know that Russia has assigned a high priority to the development of such a system. I believe at the time of the hearings last year I had inserted in the RECORD extracts from a Russian scientific journal indicating their interest in the development of a system. I want this Nation to demonstrate its ability to do the best possible job of providing this new means of communication. Our initial step may not be with the ideal tools but it gets us underway. However, I hope I will have support when I offer an amendment to make this a little bit more free enterprise.

Mr. Chairman, I ask unanimous consent that the gentleman from California [Mr. HOLIFIELD] may extend his remarks at this point in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HOLIFIELD. Mr. Chairman, as a businessman I have good reason to believe in the free competitive enterprise system. Over the years I have spoken out in defense of this system and have attempted to offer constructive measures to alleviate some of the evils that have appeared to threaten it. I will continue to do so. Further, many of these evils

arise under the guise or appearances of benefiting the system.

I have noticed with alarm and anxiety the retreat from the principle of competition in then what is referred to as the so-called free enterprise system. Great segments of business have, for all practical purposes, deserted the principle of real competition.

What is true with business as to steel, electrical equipment, rubber, petroleum products, and chemicals also finds its counterpart situation in finance and labor.

We have been told throughout the complete development of our economy that our progress has been based essentially on the incentives of reward under competitive effort in a free enterprise system incorporating the necessary safeguards to protect small business and also creative and promotional items. However, in the past few years throughout the length and breadth of our land we can see a pattern of monopoly, managed prices, pyramiding prices, regional distribution agreements, collusive agreements between great labor unions and their employers, and rigged collusive bidding gradually taking the place of competitive practices and procedures.

These practices are conducted purposefully and knowingly. They would impair even the national defense of this Nation.

Profits no longer are based primarily on efficiency of production and distribution between real competitors. Profits depend too often upon the elimination of competition through various devices, collusive and otherwise. I am deeply concerned with the erosion of the competitive principles.

To prevent the recent steel price increase the President had to exercise all his clubs of big government. Such powers indiscriminately used can be dangerous and could lead to bureaucratic practices which rather than aiding competition would increase monopoly concentration. This has been true in the communications equipment manufacturing and other industries.

If our system of competitive free enterprise is a valid one, and if it is to succeed in the world struggle against the Communist system of production, it must be allowed to function without crippling distortion. We will not be able to successfully compete with the Soviet system through operating a system that denies the transmission of its benefits to the consumer.

I say we cannot deny to all our people the advantages and improvements in the productive and distributive processes of a free society which operates under the competitive principle and which is inevitably stifled when monopoly takes over.

We are in desperate cold war struggle with the Soviets, not only for the minds, but for the markets of free and neutral nations. If we are to be crippled with the dead weight of monopoly, managed prices, limited production, and unjustified profits we cannot win. We are doomed to failure.

It would be wise to utilize the traditional principles of competition as much as possible before it is too late.

We allow monopolies under regulatory agency control because it is thought that under such control they may best serve the public interest and that duplication is expensive and unwarranted in this sector of our economy. However, in the operation of such monopolies many times the public interest is not protected, let alone best served.

The American Telephone & Telegraph Co. and the Bell System companies are the major operators of telephonic communications in the United States. The wholly owned nonregulated manufacturing subsidiary Western Electric provides about 90 percent of the market equipment as the Bell System companies purchase practically all their equipment from this subsidiary.

By this bill through the language relating to ground station control as interpreted by Nicholas deB. Katzenbach, the present Deputy Attorney General, the present A.T. & T. monopoly will be preserved—nay increased—and in time further expanded so that it also will include television data, meteorological data, and other communication transmission operations. This 90-percent potential ground station control, in turn, will make A.T. & T.'s operation automatically cheaper than any other operators. The revenues collectible from a communication satellite system will come from ground station control. As A.T. & T. could use their stations for greater capacity, greater area coverage, and many more purposes such as voice, data, wire, and other forms of transmission, whereas the other international carriers are limited to wire and if domestic companies participate, they are restricted to voice. It is very probable that the ground station cost may be beyond a reasonable factor for an eligible participating company or a cost resulting in service charges that would be very expensive in contrast to A.T. & T.'s due to limited allowable volume of companies other than A.T. & T. and the Bell System companies.

Also Western Electric obviously will supply all or practically all the equipment needed for the ground stations which will require the greatest percentage of goods and services needed in a communication satellite system.

The effect of this bill is to bar all electronic equipment manufacturers other than Western Electric from supplying goods and services to the sector of the communication satellite system which represents 80 to 90 percent of the system's needs.

The Government has spent already vast sums of tax moneys in the development of booster, electronic research, communication satellite experiments, and developing an inhouse capability and a contracting capability. Many, many companies have participated in this program and many more have had the opportunity to participate. Are we now to shut the door in their faces? May I remind you that not only these companies and their employees have been taxed to provide the necessary funds to provide for the present investment but all the people of the United States. Are we now to grant away the results of this investment in such a manner that only one company and its manufacturing arm may benefit?

I believe that A.T. & T. and Western Electric have contributed much to the growth and development of this country. I hope they will continue to do so as they have much to contribute, but I also believe it is our duty to assure other companies the right to compete. I realize that the bill purports to give competitors certain rights to participate in satellite communication stations and satellites, but from a realistic and economic point of view, their rights are worth very little. The existing widespread A.T. & T. system and their practice of purchasing electronic equipment from their subsidiary Western Electric, effectively nullifies competitive efforts in producing electronic equipment and selling competitive services.

I am not in favor of the bill H.R. 11040 as reported by the committee.

The rights of present and future competitors to use ground stations on an economic basis and to manufacture and sell equipment in a nonexcluded market should be established by statute.

Unless amendments are accepted during the debate on this bill which will accomplish these goals, I will be constrained to vote against the bill.

Mr. HARRIS. Mr. Chairman, I ask unanimous consent that the gentleman from Oregon [Mr. ULLMAN] may extend his remarks at this point in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. ULLMAN. Mr. Chairman, as one of the 32 Members of this body who wrote to the President last year regarding the communications satellite program, I have followed developments since then with keen interest and considerable concern. It seems to me impossible to overstate the importance of this issue and of the public interest, both direct and indirect, which is at stake.

In the first place, the development and implementation of a global communication system utilizing space satellites will represent a tremendous breakthrough in this field of technology. Not only will it have the widest social and economic ramifications, but it will involve international cooperation on a virtually unprecedented scale. The public interest is therefore vitally concerned, as the President has recognized, and as everyone must concede.

Second, we are dealing here, as we are in every phase of our space program, with fantastic public investments. It is impossible to state precisely what the taxpayers' financial stake in this proposed system already is, but I think that no one can deny that it amounts to the hundreds of millions of dollars, even if we narrowly limit the research and development investment to be credited directly to a communications satellite system. Realistically, since space technology is so interrelated, the stake of the taxpayers is already much in excess of

that level. Furthermore, it is crystal clear that, whatever action we take today, the public will continue to foot the bill for the major portion of this development. Testimony of scientists and administrators concerned with our space program have made that obvious.

This undeniable and vast public interest involvement requires that we focus our attention in considering the legislation before us on the twin issues of ownership and control. We cannot avoid the fact that what we are dealing with is a prospective monopoly—whether it be a public one or a private one. There is no question of competitive free enterprise at stake here—the technological facts of the matter preclude that completely. There will, of necessity, be one satellite system and our objective must be to insure that in the development and operation of that single system, the public interest—both in terms of the public's already vast investment in it and in terms of the operational control of the system—is fully protected.

I deeply regret the haste with which this issue has been brought to the floor of the House for action. As the report of the Committee on Interstate and Foreign Commerce concedes, there remain a great many unanswered questions at this stage of the game—questions which are, in the nature of things, unanswerable at this point in the system's development. Two members of the committee have called the proposal a pig in a poke. Furthermore, I believe that there has been completely inadequate public discussion of all of the issues involved.

Nonetheless, the legislation is before us and we are called upon to act. I want to indicate briefly the reasons for my belief that public ownership of the system is the soundest course and the best guarantee of full protection of the public interest.

First, as I have already said, the taxpayers of this Nation have footed the bill to date and will continue to foot a major portion of the bill in the future—no matter what we decide here. The proposal to establish a private monopoly corporation to own and operate a communications satellite system may give the superficial appearance of turning its financing over to private investors. This is a completely misleading appearance and discerning people will recognize that what is being proposed is a sort of an iceberg arrangement in which the private company will foot the very small portion of the costs which show above the water while the major portion of them will remain the investment of the taxpayers of the United States. Only under public ownership will those taxpayers retain the fruits and the returns of their investment, both direct and indirect.

Second, it seems clear to me that—paradoxical as it may sound—public ownership of the communications satellite system offers far greater prospects for a competitive situation in this field of communications via space satellite than would the committee bill. Why is this so? It is so because a publicly owned satellite system, including the necessary ground stations, would provide a real common-carrier situation whereby the facilities would be available on an equal basis to all communications firms desiring their use. A private corporation, such as is proposed by the committee bill, will merely perpetuate and vastly increase the aspects of the existing structure in the communications industry in which the giant firm of A.T. & T., because of its size and scope of operations, tends to dominate and control. Again, it seems clear to me that testimony on the record underlines the fact that public ownership of the satellite system and ground stations will produce a far more competitive atmosphere into the communications industry than now exists and certainly more than would exist under a private corporate arrangement.

We all are aware of the economic fact that financial ownership is not the total key to operational control. It is true, on the contrary, that what appears to be minority financial ownership can still be majority operational control. Thus, even were the committee bill to actually guarantee that no single firm or single sector of the industry could have a majority financial interest—and I am far from convinced that the legislation would do that—it would still not guarantee that operational control would not rest, in actual effect with a single firm and/or a single sector of the industry.

This being the case, I think that we must consider a third very basic and important question—that of the speed and efficiency of the system's development. This is a basic question because of the existing communications industry's large investment in present facilities—the obsolescence of which is likely to be accelerated by the development of the space system. One must ask whether the motivation for going ahead with this important new development in communications would be such under the committee bill as to insure its most rapid development. Furthermore, there is the question of the low-orbit, random satellite system versus the high-orbit, synchronous system involved. The fact that A.T. & T. has made clear its current bias toward the low-orbit system raises the question of whether we could be assured that the private monopoly proposed by the Committee bill would give fair consideration to the technological aspects of the high-orbit system—which appears to me, at this stage, to offer the greater potential. Again, I think the public interest rests on the side of public ownership.

Finally, and related to this, is the whole question of our antitrust policies and the implications of the committee bill in that area. As I have indicated, it seems clear to me that creation of a private corporation to own and operate this new and revolutionary technology is far too likely to accentuate the noncompetitive aspects of the communications industry and that public ownership is far more in accord with our traditional policies in the field of antitrust and competition.

For all of these reasons, I urge that we adopt as the policy of this Congress and this Nation, that of public ownership of this global communications system which is being developed at such vast cost to the American public and which is so clearly affected with the public interest as well as the public pocketbook.

Mr. HARRIS. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I want to pay tribute to our chairman for the careful and conscientious job he did in guiding the committee on this legislation. I feel that, although there are things in this measure with which I do not agree, basically the legislation before the House is sound. I feel that it is incumbent upon the House that we consider this legislation expeditiously, that we enact it speedily, and I hope that the administration will handle the legislation in such a way as to bring about the early implementation of its provisions. I do, again, wish to express my commendation and warm good feeling toward the chairman of the committee for the fine and careful job he has done in the consideration of this legislation.

Mr. Chairman, there are, however, two points about which I have been greatly concerned in the legislation which have not been discussed by previous speakers, the first of which is the question of whether or not this legislation in any way, aside from its express terms, alters, amends, or otherwise affects the antitrust laws. It is for that reason that I ask the attention of the distinguished chairman of the Committee on Interstate and Foreign Commerce for two questions which I should like to direct to him.

I should like to direct the first to our chairman as to whether or not there is any intention on his part as author to alter or amend the antitrust laws by implication, except insofar as may be necessary to carry out the clear, precise, and concise language of the legislation presently before us.

I note that the chairman of our committee has had some correspondence with Mr. Katzenbach, Acting Deputy Attorney General, on this point. I wonder if he might care to use that in reply to my question.

Mr. HARRIS. If the gentleman will yield, I may say that the gentleman gave time and attention to this subject matter when it was before the committee. As the gentleman knows, there was no discussion in the committee about the problem that he raises, except I believe the gentleman did bring it to the attention of the committee just before we concluded our consideration of it. I have asked the Department of Justice about it, as I told the gentleman I would. The Department confirmed the position that I took at the time the gentleman offered the suggestion in the committee, that there is no intention of amending or in any way affecting the application of the antitrust laws except in the usual and normal way, as would be expected in a matter of this kind.

Mr. DINGELL. I appreciate the chairman's comment on this. I have here a copy of the letter which our chair-

man received from Mr. Katzenbach in response to the injury I raised, and I should like to read this letter:

APRIL 26, 1962.

Hon. OREN HARRIS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN HARRIS: This is in response to your letter of April 19, 1962, setting forth two questions which arose during your committee's consideration of H.R. 11040.

The first inquiry is whether this legislation might modify the antitrust laws by implication and whether a provision might be inserted to make clear that the intent of Congress is to the contrary. Since the establishment of a communications satellite system involves the creation of a monopoly, the administration has, of course, been mindful of antitrust laws and policy from the beginning of its studies as to the best means of promptly developing an operational system. The concern of the administration in this connection is reflected by its proposal, approved by your committee and the Senate Committee on Aeronautical and Space Sciences, that the legislation provide for broad public participation in the ownership of the system as contrasted with ownership limited to communications common carriers. That concern is reflected also in the requirements that there be equitable access to the system by all its users and effective competition in the satellite communications corporation's procurement of equipment and services. Aside from the creation of a single enterprise to carry out the purposes of the legislation, I see nothing in its provisions or in its history to the present time which implies the grant of an exemption from the antitrust laws. Accordingly, although I see no objection to a congressional expression of intent of the nature mentioned in your letter, I do not believe it would add anything of substance.

The second inquiry noted in your letter is whether section 403 would authorize the granting of an injunction in a case of a labor dispute. This section was not intended to override any present prohibitions against the issuance of injunctions, whether in connection with labor disputes or otherwise. Since repeals of existing law by implication are not favored by the courts, I do not believe the language of section 403 would be construed to reach a contrary result. However, in order to remove any ground for argument afforded by a literal reading of the present language, it may be well to amend section 403 by inserting the following words after the word "jurisdiction" which appears at page 17, line 22 of H.R. 11040 as originally introduced: "except as otherwise prohibited by law,".

I appreciate your kindness in referring the two points to me for comment. Congressman DINGELL has also asked for my views on these points, and I am taking the liberty of sending him a copy of this letter.

Sincerely,

NICHOLAS DEB. KATZENBACH,
Acting Deputy Attorney General.

I should like also to ask our distinguished chairman about this point. I noticed in reading the sanctions section language which might be construed as repealing the Norris-LaGuardia Act or some of the other statutes which might prohibit the utilization of injunctions in cases involving labor disputes. I was concerned, as the chairman recalls, lest this might have this language in the sanctions section of the bill in section 403 and might by implication or otherwise be aimed at repealer of any of the great statutes like the Norris-LaGuardia Act. I was wondering if our chairman would care to comment on that.

Mr. HARRIS. There was no intention at any time by the committee to change or to alter or in any way override present prohibitions with reference to the issuance of injunctions. So far as I am concerned, if there is any question in the mind of anyone, I would concur with a suggestion made by the Acting Deputy Attorney General who handled this matter for the Department of Justice for an amendment which would make it clear that there was no such intention.

Mr. DINGELL. I appreciate the gentleman's comment.

If I may take the liberty of again referring to the language of the letter received by our distinguished chairman.

I think it is particularly important that our good friend and colleague, chairman of the committee, and also the author of this legislation has so construed it because I feel this is a very important point. I do not think the Congress is anxious to repeal this section by implication.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HARRIS. Mr. Chairman, I yield 20 minutes to the gentleman from New York [Mr. RYAN].

Mr. RYAN of New York. Mr. Chairman, in the first place I would like to compliment the distinguished Chairman and the Committee for a very conscientious study of many of the serious implications which I believe are raised by this proposal. I am rising to speak in opposition to this bill. I am rising to speak in opposition because I consider this bill to be in the nature of the greatest giveaway of the space age. A workable communications system is possible now only because of vast expenditures of taxpayers' dollars on Government financed space research. Dr. Welsh of the Space Council has estimated that 90 percent of the expenditures in this research have been Government expenditures. We know that the space program has already involved some $25 billion. Of that amount some $471 million are directly attributable and allocable to the development of a communications satellite system. I do not believe that the benefits to be derived from these billions of research dollars should be turned over to a private monopoly which will be dominated by American Telephone and Telegraph, the greatest monopoly in America today, a private monopoly which will be immune to any meaningful regulation as explained very eloquently and cogently by the distinguished chairman of the Committee on the Judiciary, the gentleman from New York [Mr. CELLER]—a private monopoly which will increase concentration and facilitate conduct inconsistent with the antitrust laws.

Furthermore, it would be a private monopoly which would be inevitably inclined to lag in space research and development in order to preserve the investment it will have in existing facilities.

It seems to me that we must also retain flexibility to permit us to enter into international negotiations and arrangements for this global system.

I favor retention of this satellite system in the hands of the Government where it can be most effectively utilized on behalf of all of the people. The taxpayers' dollars made it possible, and I believe that it should be retained as a public resource for their benefit. I have previously introduced a bill (H.R. 9907) to accomplish this. At the proper time I will offer a substitute bill which would preserve this natural resource for the benefit of the taxpayers.

My amendment would provide for Government ownership, through a communications satellite authority, of the satellites and ground stations. This would constitute a carrier's carrier which would lease its facilities to the carriers which now exist or which may come into existence in the future.

The single most important fact in this whole question is this: Any system of private ownership will be a private monopoly, and this is not free enterprise. This private monopoly will lack the single, most important ingredient of free enterprise; it will lack competition. There will be no competition because we cannot achieve either economically or technologically more than one system. This corporation, therefore, will be a Government-created private monopoly contrary to our traditions and the exact antithesis of free enterprise. Furthermore, the carrier investors are not embarking upon a risk because their investment will go into the rate base.

I should like also to point out that in the conduct of this system the Government will be deeply involved at all times. The Government will have to furnish launch vehicles; the Government will have to launch the satellites and provide crews and associated services for the launching of the vehicles. The Government will have to consult the corporation regarding the technical specifications of satellites and of the ground stations. The Government will have to coordinate continued research and development with the activities of the proposed private corporation. The Government must insure that the satellite system be technically compatible with existing facilities. The Government must insure that present and future access to the system be on an equitable and nondiscriminatory basis. The Government must preserve competition in the field of supplying hardware and services to the corporation. The Government must assure that opportunities are provided for foreign participation; and the Government must insure that the corporation provide communication service to areas of the world where it may be economically unprofitable and yet in our own national interest; and, finally, the Government must regulate the rate-making process.

With so much necessary Government involvement I do not see why this system should be turned over to a private monopoly.

Furthermore, this private monopoly will be dominated by A.T. & T., the most powerful monopoly in the United States today. This dominance will result, firstly, from the fact that A.T. & T. would put up most of the money.

At the ad hoc carrier committee, which included all the major carriers but the General Telephone & Electronic Corp.,

A.T. & T. indicated a willingness to put up more than 80 percent of the then contemplated financing—$65 million. Under the proposed plan, A.T. & T. will have the right to buy all the stock it can, up to 50 percent of the total. In light of the ad hoc committee estimates, A.T. & T. will probably own at least 40 percent of the total stock. Indeed, Deputy Attorney General Katzenbach, has conceded that A.T. & T. is likely to take 35 percent.

Second, many other carriers, such as Western Union, RCA, and others are currently dependent on A.T. & T. for overseas and other long-distance cables. These carriers are hardly likely to oppose A.T. & T.'s wishes.

Thirdly, A.T. & T. will be by far the largest commercial user. Thus, it will be responsible for much of the corporation's revenues, and by threatening to withhold use, it can force the private company to charge higher rates in order to survive. A Government-owned corporation will not have this survival problem.

Under this bill A.T. & T. may take up to 50 percent of the carrier stock, and a few other large noncarrier companies may jointly own most of the other 50 percent. In addition, there is nothing to prevent A.T. & T., and a few other corporations, from buying all the nonvoting securities or bonds which are permitted to be issued.

This investment would go into the rate base where it would be recouped from the public.

Limitation of directors is an illusory safeguard, as both Western Union and the Department of Justice pointed out in testimony before the Senate Space Committee. Deputy Attorney General Katzenbach pointed out that the size of A.T. & T.'s financial interest was sufficient to insure its dominance, even without any directors—hearings before Senate Space Committee, 726, March 7, 1962. Judge Loevinger has concurred, as has Western Union—hearings before the Long committee, 576, November 8, 1961. A.T. & T.'s anticipated huge financial interest, its high usage, the present dependence by others on its facilities, its truly colossal size and enormous power beside which every other potential investor is dwarfed—all these factors will inevitably join to make A.T. & T. the dominant force, despite the administration's professed concern that this should not happen.

It seems to me that the proposed Satellite Communications System offers us a magnificent opportunity to reduce concentration and to encourage competition.

In the first place, Government ownership will assure equitable access to all, which will relieve all other carriers from dependence on the facilities of A.T. & T.

Secondly, it will reduce concentration in long line and cable facilities. At the present time A.T. & T. owns most of these facilities. An independent satellite corporation, governmentally owned, would bring competing facilities into the picture, perhaps lowering rates and improving service.

Third, it will offer a vast new market for small manufacturers who up to now have been frozen out of the telephone and communications equipment business. Only Government ownership offers a real opportunity for such equipment manufacturers.

It seems to me that reliance on wide ownership as the panacea betrays a shocking ignorance of the facts of American corporate life—the wider the ownership, the smaller the amount necessary for control and the easier it is for a tightly concentrated block to dominate a corporation.

Moreover, even some of the bigger shareholders will not be inclined to oppose A.T. & T. With the latter's 35 to 40 percent investment, and with no other company being able to buy more than 10 percent, who will oppose A.T. & T.'s wishes, especially when further financing is necessary?

But the problems involved do not stop with the communications industry. This corporation will be buying equipment in enormous amounts. Most of the prospective investors are in the equipment business, either directly or through affiliates. As a matter of fact, of the communications carriers themselves, I.T. & T. and RCA are primarily manufacturers. Sixty percent of General Tel's revenues are from equipment; and A.T. & T. itself has a huge equipment subsidiary, Western Electric, from which it buys its telephone equipment. On the basis of past experience and normal human behavior, these carrier manufacturers will almost certainly try to favor themselves or their affiliates in procurement.

Moreover, I think we should not overlook the fact that the proposed system sets up a joint venture of companies which are currently supposed to be competing with each other. Insofar as the international telegraph companies are concerned, Congress has refused to permit such a merger for 19 years.

Government ownership would actually encourage competition, for it would make procurement and access available to all on an equal basis without the inevitable self partiality and conflict of ownership inherent in ownership by suppliers.

I think there is another point that should be stressed, and that relates to continued research and development.

I believe that Government ownership is the only way to insure maximum research and development. The private carriers, including A.T. & T., have enormous investments in facilities, such as cables and long lines. If the satellite system goes up quickly and is used to capacity, these cables will become obsolete. Since the first and proper duty of rational businessmen is to protect their stockholders, there will be a certain lag in the development and actual use of means for making obsolete the present equipment. This was pointed out very clearly by Deputy Attorney General Katzenbach before the Senate Space Committee.

Then there is another point, and it is this: The first system to go into operation will probably be the low orbit system. However, there is pretty much unanimous agreement that this system should be superseded by the more efficient and more economical high orbit, three-satellite synchronous system. Once this private corporation has invested millions of dollars in a low orbit system, its investors and directors will not be inclined to proceed expeditiously with research and development necessary to produce the high altitude synchronous system.

Failure to push the introduction of new techniques and new technical improvements has been demonstrated in the past. Witnesses before the subcommittee in the Senate presided over by Senator RUSSELL LONG gave numerous illustrations where new techniques were either not developed or introduced by A.T. & T. These include, for example, one-piece telephones, modern switching equipment, and the dial phone, which were not placed on the market for years after they had been developed.

Furthermore, this corporation, this profit-seeking corporation, is not likely to invest in research and development in nonprofit or less profitable operations. It may be for this reason that the A.T. & T. vice president and other carrier spokesmen have insisted on minimizing the revolutionary potential of the satellite system. As the Deputy Attorney General pointed out, however, the industry has downgraded the system by calling it just another link in a communications system. It is much more than that. It is revolutionary.

As a matter of fact, James Webb, Administrator of NASA, has expressly stated that because the industry will not be interested in truly revolutionary research, the research in the future would still have to be done by NASA at Government expense and the fruits turned over to the corporation.

I think that the distinguished chairman of the Committee on the Judiciary has pointed out very ably the failure over the years of the FCC to regulate A.T. & T. I cannot take extensive time to reiterate what he has said, but I should like to call the attention of the House, however, to the fact that last week a report was published which was the result of a study by Booz, Allen & Hamilton for the Bureau of the Budget, a study of the operations of the A.T. & T. The study concluded that the FCC has not adequately protected the public interest by insuring reasonable rates.

I have pointed out, Mr. Chairman, many of the issues and implications which I feel are important in this proposed piece of legislation.

I do not understand, despite the arguments that have been made, why we should be in such a rush to turn the benefits of the space research paid for by the taxpayers, this public resource, over now to a private monopoly. RCA and others have concurred that the first problem is to settle the technical questions, the development. Later we can determine the form of the organization.

Mr. Chairman, Dr. Welsh said that the lack of an organizational structure has not delayed the development of the communications satellite system. How could it, since what is necessary now is to conduct space research and also to proceed with international negotiations? These things must be done primarily by the Government. I think that the commit-

tee report to the House is revealing. The report of the committee on page 8 concludes that the reason for the urgency for this legislation is to insure private ownership. I do not believe that by proceeding with this legislation we in any way advance the date when the communications satellite system will be operational. We know that the Department of Defense and the National Aeronautics and Space Administration are proceeding rapidly with this development. They are moving ahead and will produce in short order a really revolutionary concept, which will provide communications to all parts of the world, provided we provide the proper form of organization to see to it that the objectives are not impeded, are not impaired and are not obstructed by a private monopoly which will necessarily be dominated by the self-interest of the private corporations which will constitute the largest investors.

Mr. Chairman, space is the greatest natural resource of our time. We do not even know its vast potentialities. Why should we hasten to give away the fruits of these billions of dollars of the taxpayers' money to a private monopoly? Our great space achievements have been made possible only by the entire American public's investment. The full value of this investment should stay with the American people. I believe that, if the Government retains ownership of the satellites and the ground stations and leases the use of them to carriers in competition with each other, we will assure that the benefits from this great public resource will be preserved for the benefit of all the people.

Mr. KOWALSKI. Mr. Chairman, will the gentleman yield?

Mr. RYAN of New York. I yield to the gentleman from Connecticut.

Mr. KOWALSKI. Mr. Chairman, I want to express myself as being in full support of the splendid statement which has been made by the gentleman from New York [Mr. RYAN].

Mr. RYAN. I thank the gentleman.

Mr. KOWALSKI. Mr. Chairman, I wish to express my opposition to the legislation before the House. Let us make no mistake about the bill before us—it proposes to place in private hands a Government-created monopoly over a natural resource made productive by Government-financed technology. Henceforth, if we pass this bill the Government and the public as well as the rest of the world, will be able to use only such facilities as this profit-invented monopoly chooses to make available, at a toll which assures it a very comfortable profit. Through regulation, we may exercise some restraint; but we will give up all of our right and power to act affirmatively on space satellite communication. Does our foreign policy and our convenience require continuously operating circuits with every country, around the globe? The unprofitability of many of these may foreclose them. Does our prestige, or our spirit of adventure, call for the development of ever-new systems, higher satellites in additional functions? The rational monopolist will not obsolete an existing system before it has paid for itself. Are our people and the world best served by low rates? The private owner is best served by high rates. No regulatory commission has any right to require a private corporation to operate at less than a reasonable profit, or to place its investment in any type of facility which its business judgment considers unwise.

Two things make space satellite communications possible: First, the natural resources of space and the radio spectrum which belong to all the people; and, second, the aerospace capability which the United States, under the leadership of its Congress, developed at great cost. To the first, the people are entitled by birthright. They are entitled to the second by proprietary right.

How much treasure, contributed by the taxpayers of our country, has been expended, and will certainly yet be expended, in developing the technological capacity to put aloft and use communications satellites? On all space capability, much of which will be utilized in satellite communications and without which there can be no communications satellite, estimates are that our taxpayers have spent $25 billion. On communications satellite research and development alone, NASA and the Department of Defense will have spent $470 million by the end of fiscal 1962. Dr. E. C. Welch, Executive Secretary of the National Aeronautics and Space Council, testified that the taxpayers have financed in excess of 90 percent of our space communications competence. Does the bill before us require the private monopoly to pay anything for this valuable asset? It does not. It constitutes, simply, a giveaway, and the Government will continue to give. James E. Webb, NASA Administrator, testified before the House Commerce Committee that NASA research and development on space communications will not end with the establishment of the satellite corporation, but will continue as before—and the advances made will be available to the satellite corporation at no charge.

The President does not deny or ignore the vast taxpayer investment in space communication, and he acknowledges that it would be inequitable to give this asset to a favored few, leaving the taxpayers without a shred of their investment. In an attempt to reconcile this equitable consideration with other motives, the President suggested that one-half the stock of the corporation be made available for purchase by the American public. A variation of this proposal is embodied in the bill. But surely, it must be known to all the gentlemen of the House that the class of stockholders is not coextensive with the class of taxpayers—few are wealthy enough to be stockholders. Classically, one buys stock with surplus funds, after the taxes are paid, the needs of life provided, and savings and insurance are adequate. A recent study found that 1.6 percent of adults in our country own 82 percent of the stock held in the personal sector. The proposed remedy does not satisfy the purpose for which it was fashioned.

It is no answer that the communications companies, primarily A.T. & T. and the few participating members of the public who are able to buy stock, will be putting in additional capital. Rather than a venture, this is a privilege which outsiders must envy. There is no risk of loss in monopoly. Dr. Welch testified before the Senate Commerce Committee that the satellite corporation is certain to enjoy financial success, for three reasons: First, expanding demand for the service; second, improving technology, which will lower costs; and, third, absence of competition.

It has never been made clear why we are urged to set up a private monopoly now, to own and operate space communications. Little if anything is yet known about what type of space communication system will eventually be used, or what will be the nature of the international organization for its use. Several technical systems have been proposed, and it is still possible that one not yet proposed will be chosen. Other countries have not been formally consulted, and their wishes are not known. Do they wish to participate in ownership or participate at all? What technical system do they prefer? How much of the international radio spectrum are they willing to reserve for communications satellite use? Some other nations, notably the Soviet Union, have space competence. Should not space planning be cooperative, as frequency allocation has been?

Technical development is not being impeded by the absence of commercial organization, and it will not be. Let us not hurry to give away this national asset, but keep it in the people's hands, at least until events have informed our judgment.

Mr. YOUNGER. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. BROWN].

Mr. BROWN. Mr. Chairman, I ask unanimous consent to proceed out of order.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BROWN. Mr. Chairman, I have asked for this time to simply state to the membership of the House that a few moments ago, in the Rules Committee, that committee reported out a resolution to make in order the sending of H.R. 8900, the so-called college facilities bill, to conference. Immediately thereafter I made a motion to report, for consideration at the same time, the so-called medical facilities, or doctors' training, bill from the Interstate and Foreign Commerce Committee. On motion of the gentleman from Missouri [Mr. BOLLING], by a straight party-line vote, action on my motion to report the bill was deferred, thus defeating my attempt to get prompt consideration of this important legislation.

Mr. Chairman, I took this action because I believed very strongly the American people, and especially the House of Representatives, should be given an opportunity to decide for themselves, and itself, whether it wants doctors of philosophy and of social sciences, or whether it wants medical doctors first of all. I am hoping that a little later on, if there is proper consideration and pressure on the House Rules Committee from

the American people, we may be given the opportunity to vote on this very important measure which comes from the Committee on Interstate and Foreign Commerce, and which would provide facilities to train more doctors, more medical technicians, dentists and others who are so badly needed in our present-day civilization.

I have taken this action deliberately, and purposely, because I do believe that in view of the findings of the Ford Foundation and of the Prudential Life Insurance Co. staff studies of present college and university facilities, the greatest need of all rests in the field of medicine, and its affiliated activities, and that we should begin to put first things first in this country, in connection with education, as well as other matters.

Mr. YOUNGER. Mr. Chairman, I ask *unanimous consent* that the gentleman from Indiana [Mr. ROUDEBUSH] may extend his remarks at this point in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROUDEBUSH. Mr. Chairman, I wish to express my support for H.R. 11040 as amended by the Committee on Interstate and Foreign Commerce.

The Communications Satellite Act of 1962 is in keeping with our traditional policy, expressed in the Communications Act of 1934, of private ownership and operation.

Under this precept of free enterprise and the profit system, the United States has produced the best communications system in the world. The same excellent results can be expected in space communications if we give our scientific minds the free rein they need, without the stultifying and depressive controls and supervision of Government ownership and interference.

American private industry has the manpower, know-how, and facilities to develop a satellite communications system in the most economical way and at the earliest practicable time. All it needs is the go ahead signal.

This proposed legislation before us today seems an appropriate vehicle to speed American participation in the developing field of space communications.

It establishes machinery through which existing carriers and other private individuals and groups may play a vital role.

It is urgent that we establish now an instrumentality for private ownership and operation of this system if we are to maintain and increase our supremacy in this crucial area.

Government ownership of our communications satellite system would be an abandonment in this Nation's fundamental doctrine of progress through free enterprise. It would weaken confidence throughout the world in private enterprise and provide grist for the Communist propaganda mill.

Government ownership of the satellite system would open the way to more and more Government ownership of all forms of communications.

Government ownership of delay would destroy the incentive of private industry to continue the research that it has done at its own expense and that has contributed so much toward opening the door to making space communications possible. It would be shortsighted for Congress to discourage private industry to go forward at its own expense with research activities in this field.

I believe most emphatically that all private inidviduals and groups which desire to participate financially in this new venture should be allowed to do so.

This is the free enterprise way; this is the capitalistic way; this is the profit system way; and this is the American way.

Mr. YOUNGER. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois [Mr. COLLIER].

Mr. COLLIER. Mr. Chairman, I requested this time because I was intrigued in a completely negative way with the approach to total Government ownership of this program as prescribed by the gentleman from New York [Mr. RYAN], who preceded the gentleman from Ohio [Mr. BROWN], in the well of the House. I should like to direct a couple of questions to him to clarify certain questions in my mind.

My first question is, Upon what basis of fact or historical record did you reach the conclusion you apparently reached in your statement that total Government ownership in this program would provide lower rates and improved services?

Mr. RYAN of New York. If there is competition forced upon the common carriers, it will in and of itself reduce rates. One of the reasons rates have been high is because this whole field of communications has been controlled by a handful of companies and dominated particularly by one.

Mr. COLLIER. That is a conclusion without basis of fact but merely assumption; is it not?

Mr. RYAN of New York. I think it is a conclusion that certainly flows from the economics of the situation.

Mr. COLLIER. Do you find this same conclusion flowing from the economics of any other situation where the Federal Government has control of such things as hydroelectric power? I am speaking of a historical record.

Mr. RYAN of New York. I would certainly say to the gentleman that the record of TVA shows that the rates were reduced as a result of competition in that area through the yardstick provided by the TVA, which certainly served the public interest.

Mr. COLLIER. Rates reduced through the use of taxpayers' money across the face of the country; is that correct?

Mr. RYAN of New York. I can only point out to the gentleman that the taxpayers have funded this entire program and have a tremendous investment in communications satellites.

Mr. COLLIER. The conclusion is that you take the money out of the left pocket and put it into the right pocket and then you have saved everything that you have taken out of the left pocket.

The gentleman made another statement—I think I may be correct in this, because I tried to take it down as he made it—that profit-seeking corporations are not likely to invest in research in a nonprofitable operation. Eighty percent of all private research done in this country over the last half century has been done by profit-seeking corporations.

Mr. RYAN of New York. The gentleman did not record my remarks correctly. I should like to point out that some 90 percent of the research done on space communications has been done at Government expense.

Mr. COLLIER. I have great doubt of the accuracy of that 90-percent figure.

Mr. RYAN of New York. Dr. Welsh of the Space Council cites that as the figure.

Mr. COLLIER. Dr. Welsh testified before the committee and in all kindness let me say that everything he said to the committee was not necessarily something that I or other members of the committee would agree with.

Then you do not believe profit-seeking corporations are not likely to invest in research; since you say I took it down incorrectly, then this is an incorrect statement and therefore you do not really believe this?

Mr. RYAN of New York. No, what I said was very clear. I pointed out that history shows that corporations which have an investment in existing facilities will not progress to the point of making their own facilities obsolete, and that is the problem here.

Mr. COLLIER. That was a different part of the gentleman's statement. Then profit-seeking corporations will actually invest in research and improve apparatus and services. Is that a fair statement?

Mr. RYAN of New York. I think we must talk about what the situation is with respect to this bill and this system. We are concerned about the fact that the Government has a tremendous investment in space research and development, that the space satellite system would not be at the point it is today, in fact we would not be here today debating this bill, if it were not for the $471 million spent directly on communications by the Government and the $25 billion spent on the general space program.

Mr. HARRIS. Mr. Chairman, I yield 5 minutes to the gentleman from South Carolina [Mr. HEMPHILL].

Mr. HEMPHILL. Mr. Chairman, I think it is time we get back to what we are really here for, and that is communications. We hear talk about space, but the issue here is whether the progress in communications and toward freedom, of this country and in the free world—and I hope all the world will soon be free—will be hastened and helped by this legislation. You can talk about Government ownership all you want, but the fact of the matter is that in the field of communications today the A.T. & T. and the private carrier companies are carrying 80 percent of all the communications of this country, domestically and internationally, and give excellent service.

As the president of the CWA said before our committee, it is singular that not only is management in favor of private ownership but also labor. He said that the workers for private companies

have the know-how and have done the job, and can do the job. We now have a proposition here to socialize this idea, or nationalize it, if you want.

What are you going to do about servicing this thing except use the people who have the know-how? As far as I am concerned, I would prefer that we not have to have a Government operation. I would prefer that we let those people who have given us the finest communications system in the world own and operate it. They are regulated by the Federal Communications Commission and the agencies of the various States. They have done the job. Sure, they have made profits for the investors of this country, but those profits have been funneled back into the operations or paid in dividends for the benefit of people who are stockholders—the widows, orphans, and others—to become a factor in a consumer market. But, since we have to have a corporation, what finer one could we have than one that contemplates a partnership, as it were, between the Government of the United States and private enterprise? What better corporation could we have than one that recognizes the ability and efficiency of private enterprise rather than the Red type of a socialistic operation?

It is true we are going to use the space effort to get this particular satellite into the air, but after it gets into the air who is going to have the know-how? What Government bureaucracy has the know-how in communications? Not one that I know of that has the know-how of A.T. & T. or any other of these big corporations, which are already regulated here. So to me it is fantastic to say, "Let us abolish the free enterprise system in this particular instance, let us look beyond the horizon and pull the skeletons out of the closet and say something is going to happen which has not happened, something is going to take place which has not taken place in the history of the private enterprise of this country." Let us say to a company that is doing a good job, "Keep on with it."

Mr. KOWALSKI. Mr. Chairman, will the gentleman yield?

Mr. HEMPHILL. I yield to the gentleman from Connecticut.

Mr. KOWALSKI. I am a little bit disturbed to hear that no other agency but a private enterprise knows about this. The whole SAGE system, which is operating our warning system, is not being operated specifically by private enterprise. It was let out by the Government. I think there is room for both. Government ownership of satellites still permits rental and other kinds of arrangements.

Mr. HEMPHILL. I think if the gentleman will read the statement referred to in the hearings, by Mr. Bierne, of C.W.A., to the effect that they had the know-how, what are you going to do? Are you going to train all these people in the Government to do something which the A.T. & T. people and the AFL–CIO say they know how to do? Are you going to cause the taxpayers that additional expense? Of course, you are not if you are reasonable with the taxpayers' money.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. HEMPHILL. I yield to the gentleman from Massachusetts.

Mr. BOLAND. I am delighted to hear the gentleman refer to this because right now NASA has as some of its experts, former employees in the communications field and some of the top men in the communications field who came from the Bell system, who came from the A.T. & T. and who came from some of the other companies and there has to be dependence on this particular informed opinion in order to make this satellite work. I am delighted to see the gentleman make the point that he is making.

Mr. HEMPHILL. I thank the gentleman. I think we ought to thank A.T. & T and the private companies for the training they have given to people, which we have been able to utilize in NASA.

Mr. ANFUSO. Mr. Chairman, will the gentleman yield?

Mr. HEMPHILL. I am happy to yield to my colleague.

Mr. ANFUSO. Does the gentleman believe if telephone communications that we have today were under Government ownership that we would have cheaper rates?

Mr. HEMPHILL. I certainly do not. Not only would we not have cheaper rates, but we would have less efficiency and less service and the taxpayers would have to be reaching down in their pockets all the time to pay the bill.

The CHAIRMAN. The time of the gentleman has expired.

Mr. YOUNGER. Mr. Chairman, I will be glad to yield 2 additional minutes to our colleague.

Mr. HEMPHILL. I thank the gentleman. Had the gentleman from New York [Mr. ANFUSO] completed his statement?

Mr. ANFUSO. Is it not the history of other countries that where they have tried government ownership of the telephone system that they had poor service and also high rates?

Mr. HEMPHILL. That is my information although, of course, I do not have the exact facts and figures on that at this time.

Mr. RYAN of New York. Mr. Chairman, will the gentleman yield?

Mr. HEMPHILL. I am happy to yield to the gentleman.

Mr. RYAN of New York. I should like to call the attention of the gentleman to the testimony before the Senate Space Committee of Assistant Secretary of Defense John H. Rubel who said and I quote:

> About 90 percent, I would say of the problem associated with the communications satellite system really doesn't have much to do with communications, Mr. Chairman. It has to do with launch vehicles, it has to do with spacecraft that you put into orbit, it has to do with controlling those spacecraft when they are up there in orbit, it has to do with the life of electric and mechanical equipment in space.

Mr. HEMPHILL. I think the gentleman from New York is just confused. He is talking about space and we are talking about communications. I suppose that that same Assistant Secretary of Defense knows, and if he does not know he ought to know, that the Defense Department is using private companies for 80 percent of their communications all over the world today. This is a matter of communications. Space is just incidental in getting this particular satellite into the air. This space effort is to get into orbit such satellites as we may have to use, but the communications problem is one which is so vital that we cannot afford to let the Government come into it as a new thing and take this thing over, and as the gentleman from New York so ably pointed out, give less efficient service at increased cost.

Mr. NELSEN. Mr. Chairman, will the gentleman yield?

Mr. HEMPHILL. I yield to the gentleman from Minnesota.

Mr. NELSEN. Mr. Chairman, I wish to compliment the gentleman on his fine statement. I also want to point out in the committee hearings the predominance of witnesses there indicated a desire to steer the handling of this communications facility in the area of the free enterprise system. I think the gentleman would agree with me that one of the finest witnesses there was Mr. Beirne of the Communications Workers of America. He pointed this out probably more specifically and pointedly than anyone, possibly, who appeared before the committee; or just as well or, perhaps, better. I want to thank the gentleman for his statement and for his observation. I thoroughly agree with him. I think the House is indebted to him for his statement.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HARRIS. Mr. Chairman, I yield 1 additional minute to our colleague.

Mr. HEMPHILL. I thank my colleague.

I thank the gentleman from Minnesota for calling to mind something else which I think is very important here. We have private enterprise ready to go. Time is a factor here. Time is such a factor it scares me to think that while we are wasting time trying to put the Government's finger in this thing that, perhaps, our enemies are making progress. The private companies are ready to do the job for the United States just as they have done in the training of some of these men.

That is the reason I say we ought to encourage them. Let them do it, and let us get on with this thing for the progress of communications in this country.

Mr. HARRIS. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. ANFUSO].

Mr. ANFUSO. Mr. Chairman, I rise in support of the bill under consideration, H.R. 11040, which is a compromise of the original recommendations of the administration for the United States as a participant in a global satellite communications system and the views of the communications industry in the matter.

This bill would make possible the establishment of a private corporation, on a profitmaking basis, owned half by individual stockholders and half by private communications carriers. I understand that there is to be no Government ownership of the corporation in any way, and that Government controls or regulations would be at a minimum and

limited to such matters as FCC licensing of ground stations, the determination of rates, the supervision of stock issuances and similar matters which are also applicable in other private enterprises.

I believe that this bill is definitely in the public interest and will help bring the benefits of space communication to the American people in a most efficient manner and at reasonable rates. It would help save money for the American taxpayer since private industry and private investors would provide the funds, the experience and the know-how in developing a commercial communications satellite system, just as they did in the case of existing communications system which is the best in the world and which they developed under Government regulation.

I want to commend private industry and particularly A.T. & T. for their initiative in getting this program started with their own money, and the know-how in developing the communications satellite. Were it not for these sources this program would never have gotten underway.

Let me emphasize another very important factor. We cannot afford to be second to any other nation in space communications. We must also make sure that space communications, just as other space explorations, must be used for peaceful purposes for the benefit of all mankind. In order to assure the development of space communications along those lines and that we play a leading role in it, it is imperative that we adopt a national policy of private ownership and operation of the U.S. portion of the international communications system. We must take early and definite steps to prevent preemption of this very important field on the part of the Communist bloc.

The bill under consideration lays the foundation for U.S. participation in the global system. The actual establishment of a global system will depend, of course, on future international conferences and agreements to allocate the radio frequencies for the respective countries. I understand that such a conference, under the auspices of the International Telecommunications Union, is scheduled for late 1963. This means in the next 15 to 18 months.

We do not have too much time. We must utilize the time to set up our plans and machinery, and it must be established on a basis which will be flexible enough so that the United States can gain the support of other nations in a fair and just allocation of frequencies under the global system.

This bill will help us achieve our goals in world communications. It will make it possible to protect our public interest, private enterprise, the investor, the taxpayer, and the interests of free nations everywhere. For these reasons, I am happy to support it.

Mr. HARRIS. Mr. Chairman, I yield 5 minutes to the gentleman from North Carolina [Mr. KORNEGAY].

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

Mr. YOUNGER. Mr. Chairman, I will be glad to yield the gentleman from North Carolina 2 minutes.

Mr. KORNEGAY. Mr. Chairman, I should like to compliment the gentleman from New York and the gentleman from South Carolina on their position on and presentation of this matter, and to say that I wish to associate myself with their remarks. I should also like to congratulate and commend the chairman of the Committee on Interstate and Foreign Commerce and to say what a splendid job he has done in bringing this bill to the floor. In it are contained many of the ideas presented to the committee by representatives of both industry and Government. As the newest member of that committee, I am proud to have had a part in its deliberations insofar as the consideration and drafting of this legislation are concerned and I am wholeheartedly in favor of this bill.

As has been pointed out, we are in a race with our enemies, and it is imperative that we move forward as rapidly as possible. To my way of thinking, this is a splendid opportunity for the United States and the free world to show that in competition with the communistic world, we can, through the power of free enterprise and private ownership of property, certainly get there the fastest with the mostest.

Mr. HARRIS. Mr. Chairman, I ask unanimous consent that the gentleman from Illinois [Mr. MACK] may extend his remarks at this point in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. MACK. Mr. Chairman, I want to commend our chairman of the Committee on Interstate and Foreign Commerce, the gentleman from Arkansas [Mr. HARRIS], for his excellent work in reconciling the conflicting points of view regarding this bill and for his leadership in dealing with this most important problem.

At the start of the hearings on this bill it seemed that it would be virtually impossible to report legislation that would satisfactorily serve the public interest and at the same time be acceptable to the private companies in this field.

Our distinguished chairman, the Honorable OREN HARRIS, deserves the major credit for solving this problem. This bill, in my opinion, represents the best features from the various proposals put forward for the establishment of a communications satellite system.

This legislation is necessary now to assure that the U.S. portion of the global communications satellite system remains under private ownership and operation. As explained in our committee report, if legislation is not enacted now, all planning for U.S. participation in the international system will have to be done by Government agencies. This bill creates a private corporation through which the existing communications companies, other groups and private individuals may participate financially in this new area of space communications.

I endorse this bill as I have wholeheartedly supported our Government's other efforts to probe the secrets of space and use them to our advantage. I voted last year for the NASA authorization bill. I realize that some people object to the money we are spending for the moon shot program but I do not believe we can afford to let the Soviet Union get there first.

The communications satellite program will bring more immediate practical benefits than our moon shot effort but both are necessary to assure U.S. supremacy in the vital field of space.

Mr. ALBERT. Mr. Chairman, I ask unanimous consent that the gentleman from California [Mr. CLEM MILLER] may extend his remarks at this point in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. CLEM MILLER. Mr. Chairman, my observations are, of necessity, very tentative. In answer to a question of mine, the chairman of the committee, the gentleman from Arkansas [Mr. HARRIS], has said we must proceed with this legislation in order to forestall Russia. The gentleman from New York [Mr. O'BRIEN] agrees that we may profitably proceed now.

Certainly, I agree that we must press forward as quickly as possible in the development of the satellite program. By all means we must do so. I support this activity with enthusiasm.

Does this mean that we must enact this bill at the present time? There are grave questions to be answered. It does seem possible to me that our development and implementation of a satellite program could proceed, and defer ownership and control considerations until we have assembled vital data.

Research and development, I am informed, are proceeding at top speed—almost entirely under Government auspices, of course. Negotiations with foreign governments are proceeding apace. It is impossible to predict where these delicate and far-reaching diplomatic negotiations will find us a year from now, or what they would mean in the drafting of a meaningful bill.

Turning to the operational field, we cannot even begin production and installation of the necessary equipment or train a staff. No final agreements can be instituted until some time next year.

All these activities depend on the results of experiments which will not be concluded until next year. When we know more, we will be in a position to make a more informed decision. As a matter of fact, RCA, Western Union, and others have expressed reluctance about making any investment at this time because they don't yet know what is involved. It seems most significant to me that Western Union's vice president flatly states that enactment of this legislation will not hasten the date on which the system becomes operational by 1 day. As he said, that date will be determined by what NASA does, and not by anything else.

A recent study by the Rand Corp. stresses that we must retain maximum flexibility at this time, for, as Professor Lipson of Yale, a Rand consultant, has pointed out, making a decision at this time will freeze the situation before we know what we are doing. We will lose

the benefits of competition as to development and we will be making an organizational decision without full consideration of all the problems. It seems to me that if we pass H.R. 11040 at this time, these disadvantages will be keenly felt and cause great regret.

As I said at the beginning, there may be adequate answers to the questions I have raised. I do not feel that this debate has revealed them, because concern seems directed elsewhere.

I am not so much concerned with ownership as with control. Is the public interest adequately protected? It does not seem that this is adequately answered by talk about stock ownership, and directorship appointments. We know that control in the modern corporation is only remotely connected to ownership.

We are unloosing here a vast and awesome thing. It is not to be compared to a signal tower in any manner. Some of the proceedings here indicate the almost Orwellian possibilities in store for us. The effect this will have on us as individual Americans and as citizens of a difficult world must be carefully considered, before the power is bestowed on anyone, however benevolent their ideals.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the substitute committee amendment printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

TITLE I—SHORT TITLE, DECLARATION OF POLICY AND DEFINITIONS

Short title

SEC. 101. This Act may be cited as the "Communications Satellite Act of 1962".

Mr. RYAN of New York. Mr. Chairman, I offer a substitute amendment.

The Clerk read as follows:

Substitute offered by Mr. RYAN of New York: Strike out all after the enacting clause and insert in lieu thereof the following:

"TITLE I—SHORT TITLE AND STATEMENT OF POLICY

"Short title

"SEC. 101. This Act may be cited as the 'Communications Satellite Authority Act'.

"Statement of policy

"SEC. 102. (a) The United States is engaged in the development of a space communications program which will permit worldwide communication by means of a system of satellites and related space devices. This program will be intimately related to the space program of the United States, to the national defense, and to other scientific activities over which Federal agencies exercise jurisdiction and control, and will require facilities, equipment, and technical capabilities which only the Federal Government can effectively provide. Further, the placing of communications satellites in orbits passing over the various parts of the earth has serious international political implications and raises difficult questions of international law which will necessitate negotiations with foreign countries, and the utilization of such satellites raises antitrust and regulatory problems under domestic law.

"(b) In view of these considerations it is clear that if the space communications program is to be truly effective, possessing maximum utility and conferring maximum benefits consistent with the national interest of the United States and the interests of the users of the system throughout the world, it should be owned and operated by the United States through a single Federal authority, with coordinated participation by all the other Federal agencies whose functions or jurisdictions might be involved.

"(c) It is accordingly declared to be the policy of the United States and the purpose of this Act to provide for the establishment of a Federal instrumentality which will own and operate the satellites and related facilities and equipment that make up the space communications system of the United States, and which will coordinate the activities of other Federal agencies that are directly related to such system or form a necessary part of its operation or administration.

"TITLE II—ESTABLISHMENT OF THE COMMUNICATIONS SATELLITE AUTHORITY

"Establishment of the Authority

"SEC. 201. (a) To carry out the purpose and policy of this Act, there is hereby created a body corporate which shall be known as the Communications Satellite Authority (hereinafter referred to as the 'Corporation') and which shall be an instrumentality of the United States.

"(b) The Corporation shall maintain its principal office in or near the District of Columbia, but it may establish other offices and facilities at such places within or outside the United States as its Board of Directors may deem appropriate.

"Board of Directors

"SEC. 202. (a) The Corporation shall be directed and controlled by a board of three directors (hereinafter referred to as the 'Board'), who shall be appointed by the President, by and with the advice and consent of the Senate. In appointing the members of the Board, the President shall designate the Chairman. The members of the Board shall be citizens of the United States. All other officials, agents, and employees shall be designated and selected by the Board. Each member of the Board, and each of its officers, before entering upon the duties of his office, shall subscribe to an oath (or affirmation) to support the Constitution of the United States and to perform faithfully and impartially the duties imposed upon him by this Act.

"(b) The terms of office of the members first taking office after the enactment of this Act shall expire as designated by the President at the time of nomination, one at the end of the third year, one at the end of the sixth year, and one at the end of the ninth year after the date of the enactment of this Act. A successor to a member of the Board shall be appointed in the same manner as the original members and shall have a term of office expiring nine years from the date of the expiration of the term for which his predecessor was appointed.

"(c) Any member appointed to fill a vacancy in the Board occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

"(d) Vacancies in the Board, so long as there shall be two members in office, shall not impair the powers of the Board to execute the functions of the Corporation, and two of the members in office shall constitute a quorum for the transaction of the business of the Board.

"(e) Each of the members of the Board shall receive a salary at the rate of $20,000 a year (or $20,500 in the case of the Chairman), to be paid by the Corporation as current expenses. Members of the Board shall be reimbursed by the Corporation for actual expenses (including traveling and subsistence expenses) incurred by them in the performance of the duties vested in the Board by this Act. No member of the Board shall, during his continuance in office, be engaged in any other business, but each member shall devote himself to the work of the Corporation.

"(f) No director shall, during his continuance in office, have a financial interest in any corporation, firm, institution, or other person or entity which may enter into any contractual relation with the Corporation or otherwise participate in the activities contemplated by this Act.

"(g) The Board shall direct the exercise of all the powers of the Corporation.

"Officers and employees

"SEC. 203. (a) The Board shall, without regard to the provisions of civil service laws applicable to officers and employees of the United States, employ such officers, employees, attorneys, agents, and consultants as are necessary for the transaction of its business, fix their compensation, define their duties, require bonds of such of them as the Board may designate, and provide a system of organization to fix responsibility and promote efficiency. Any person so employed may be removed in the discretion of the Board. Officers and employees of the Corporation shall be classified and remunerated in conformity with the Classification Act of 1949 and the pay scale of the United States civil service, except as specifically exempted by this Act. By a majority recorded vote of the Board, particular contract, short-term, or expert employees of the Corporation may be exempted from the Classification Act of 1949 and the pay scale of the U.S. civil service.

"(b) In the employment, selection, classification, and promotion of officers and employees of the Corporation, no political test or qualification shall be permitted or given consideration, but all such employments and promotions shall be given and made only on the basis of merit and efficiency. Any member of the Board who is found by the President to be guilty of a violation of this subsection shall be removed from office by the President; and any officer or employee of the Board who is found by the Board to be guilty of a violation of this subsection shall be removed from office by the Board.

"(c) The benefits of the Act entitled 'An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes,' approved September 7, 1916, as amended, shall extend to persons given employment under the provisions of this Act, subject to the provisions of the Federal Tort Claims Act.

"(d) All contracts to which the Corporation is a party and which require the employment of laborers and mechanics in the construction, alteration, maintenance, or repair of buildings or other structures or facilities shall contain a provision that not less than the prevailing rate of wages for work of a similar nature in the vicinity shall be paid to such laborers or mechanics. In the event any dispute arises as to what are the prevailing rates of wages, the question shall be referred to the Secretary of Labor for determination, and his decision shall be final. In the determination of such prevailing rate or rates, due regard shall be given to those rates which have been secured through collective agreement by representatives of employers and employees. Where such work as is described in this subsection is done directly by the Corporation, the prevailing rate of wages shall be paid in the same manner as though such work had been let by contract.

"(e) The Corporation is authorized to request the assistance and advice of any officer, agent, or employee of any executive department or any independent office or agency of the United States, to enable the Corporation the better to carry out its powers successfully, and as far as practicable shall utilize the services of such officers, agents, and employees, and the President shall, if in his

opinion the public interest, service, or economy so require, direct that such assistance, advice, and service be rendered to the Corporation, and any individual that may be by the President directed to render such assistance, advice, and service shall be thereafter subject to the orders, rules, and regulations of the Board, and the Corporation shall reimburse such department, office, or agency for the compensation of such individuals while serving pursuant to such direction.

"Corporate powers

"SEC. 204. (a) Subject to the provisions of this Act, the Corporation—

"(1) shall have succession in its corporate name;

"(2) may adopt and use a corporate seal, which shall be judicially noticed;

"(3) shall have power to enter into such contracts and agreements, and to exercise such powers and do such things, as may be necessary or appropriate to carry out the powers now or hereafter conferred upon it by law; and

"(4) may sue and be sued in its corporate name and may settle and adjust claims held by it against other parties or persons and by other parties and persons against it, except claims cognizable under the Federal Tort Claims Act. The district courts of the United States shall have original jurisdiction of all proceedings against the Corporation or against any director, officer, employee, or agent thereof by reason of his being such director, officer, employee, or agent; and the Corporation or any such director, officer, employee, or agent thereof who is a defendant in any such suit may, at any time before the trial thereof, remove such suit from a State court into the district court of the United States for the proper district by following the procedure for the removal of causes otherwise provided by law.

"(b) The Corporation is hereby authorized—

"(1) to acquire, by purchase, lease, condemnation, right of eminent domain, or donation, such real and personal property and any interest therein, and may sell, lease, or otherwise dispose of any real and personal property and any interest therein, as in its judgment may be necessary in carrying out the purpose of this Act. Title to all real property or interest therein, whether acquired by condemnation or otherwise, shall be taken in the name of the United States of America, and thereupon such real property shall, for the purposes of this Act, be entrusted to the Corporation as agent of the United States to accomplish the purposes of this Act; and

"(2) to purchase and acquire such materials and other personal property as may be required to carry out the purpose of this Act. All purchases and contracts for supplies or services, except for personal services, made by the Corporation shall be made after advertising, in such manner and at such times sufficiently in advance of opening bids, as the Board shall determine to be adequate to insure notice and opportunity for competition: *Provided, however,* That advertisement shall not be required when (A) the Board determines that an emergency requires immediate delivery of the supplies or performance of the services; or (B) repair parts, accessories, supplemental equipment, or services are required for supplies or services previously furnished or contracted for; or (C) the aggregate amount involved in any purchase of supplies or procurement of services does not exceed $500, in which cases such purchases of supplies or procurement of services may be made in the open market in the manner common among businessmen: *Provided further,* That in comparing bids and in making awards the Board may consider such factors as relative quality and adaptability of supplies or services, the bidder's financial responsibility, skill, experience, record of integrity in dealing, and ability to furnish repairs and maintenance services, and the time of delivery or performance offered.

"(c) In exercising the right of eminent domain, and in the purchase of any real estate or the acquisition of real estate by condemnation, the proceedings shall be instituted in the United States district court for the district in which the property involved is located.

"Financing and accounting

"SEC. 205. (a) To obtain funds for the purpose of carrying out its functions under this Act, the Corporation is authorized to issue and sell bonds not exceeding in the aggregate $500,000,000 outstanding at any one time. Such bonds shall be in such forms and denominations, have such maturities, be sold at such prices, bear such rates of interest, and be subject to such terms and conditions as may be prescribed by the Board with the approval of the Secretary of the Treasury. Such bonds shall be fully and unconditionally guaranteed both as to principal and interest by the United States, and such guarantee shall be expressed on the face thereof; and such bonds shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds the investment or deposit of which is under the authority or control of the United States or any officer or officers thereof. In the event that the Corporation should not pay on demand when due the principal of, or the interest on, such bonds, the Secretary of the Treasury shall pay to the holder the amount thereof, which is authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such bonds. The Secretary of the Treasury is authorized, in his discretion, to purchase any bonds issued hereunder, and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended; and the purposes for which securities may be issued under such Act are extended to include any purchase of such bonds. The Secretary of the Treasury may at any time sell any of the bonds of the Corporation acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such bonds shall be treated in every respect as a public debt transaction of the United States. With the approval of the Secretary of the Treasury, the Corporation shall have power to purchase such bonds in the open market at any time and at any price.

"(b) The net proceeds for each fiscal year derived by the Board from the activities of the Corporation, including the disposition of any real or personal property, after deducting the cost of operation and maintenance, and an amount deemed by the Board as necessary to withhold as operating capital or devoted by the Board to the conduct of new or expanded activities, shall be paid into the Treasury of the United States at the end of each calendar year or used to redeem bonds issued under subsection (a). Any funds retained by the Corporation shall be devoted only to activities of a character directly incidental to the projects authorized by the Congress except as appropriated by the Congress for the specific purposes.

"(c) The Corporation shall at all times maintain complete and accurate books of account. The system of accounts and books and records kept for that purpose shall be subject to the approval of the Comptroller General of the United States, as to their adequacy for the accounting purposes of the Corporation. In December of each year the Board shall file with the President and the Congress a financial statement and a complete report as to the business of the Corporation covering the preceding governmental fiscal year.

"(d) The Corporation shall determine and prescribe the manner in which its obligations and expenses shall be incurred, allowed, and paid: *Provided,* That the Corporation shall be a wholly owned Government corporation within the meaning of the Government Corporation Control Act, and its transactions and operations shall be subject to control in the manner provided in that Act except as specifically set forth in subsection (b).

"(e) Nothing in this Act shall be construed to relieve the treasurer or other accountable officers or employees of the Corporation from compliance with the provisions of existing law requiring the rendition of accounts for adjustment and settlement pursuant to section 236 of the revised statutes, as amended, and accounts for all receipts and disbursements by or for the Corporation shall be rendered accordingly: *Provided,* That subject only to the provisions of this Act, the Corporation is authorized to make such expenditures and to enter into such contracts, agreements, and arrangements, upon such terms and conditions, and in such manner as it may deem necessary, including the final settlement of all claims and litigation by or against the Corporation; and, notwithstanding the provisions of any other law governing the expenditure of public funds, the General Accounting Office, in the settlement of the accounts of the treasurer or other accountable officer or employee of the Corporation, shall not disallow credit for, nor withhold funds because of, any expenditure which the Board shall determine to have been necessary to carry out the provisions of this Act.

"(f) The Corporation shall determine its own system of administrative accounts and the forms and contents of its contracts and other business documents except as otherwise provided in this Act.

"(g) All appropriations necessary to carry out this title (including appropriations to provide initial capital for the Corporation) are hereby authorized.

"TITLE III—FUNCTIONS OF THE AUTHORITY

"In general

"SEC. 301. (a) It shall be the function of the Corporation to administer the space communications program of the United States, in accordance with the policy and purpose set forth in section 102.

"(b) In carrying out such function the Corporation, in accordance with the provisions of this Act, shall—

"(1) provide for the development and manufacture of the satellites and related facilities and equipment making up the space communications system of the United States, and own, operate, and service such satellites and all necessary facilities and equipment;

"(2) coordinate other Federal activities which are related to or form a part of the space communications program, and coordinate such activities with related activities of State and local governmental agencies and private persons;

"(3) provide for the launching and placement in orbit of communications satellites through arrangements with the National Aeronautics and Space Administration as specified in section 302;

"(4) lease or otherwise make available the facilities of the space communications system to authorized users in the manner provided in section 303;

"(5) provide for the development of the space communications system as an effective worldwide system, and make arrangements for foreign participation in such system in the manner specified in section 304; and

"(6) take any and all other actions which may be necessary or appropriate to carry out the policy and purpose of this Act.

"Launching and placement of communications satellites

"SEC. 302. (a) In accordance with the procedures set forth in subsection (b), the National Aeronautics and Space Administration shall—

"(1) furnish the launch vehicles required for the space communications system on a schedule which will facilitate its economical and efficient development and operation;

"(2) launch the communications satellites and furnish the necessary launch crews and associated services;

"(3) consult with the Corporation on the technical specifications for satellites and all necessary facilities and equipment; and

"(4) coordinate to the maximum extent practicable its research and development program in the field of space telecommunications with that of the Corporation so as to give maximum assurance of rapid and continuous scientific and technological progress.

"(b) The National Aeronautics and Space Administration shall perform the functions specified in subsection (a) at the request of the Corporation, in accordance with arrangements and schedules worked out and agreed upon jointly by such Administration and the Corporation. In any case in which such Administration determines that it is unable to comply with such a request of the Corporation because of other programs having a higher priority or for any other reason, and such Administration and the Corporation are unable to reach an agreement, the matter shall be referred to the President, whose decision shall be final.

"(c) The costs of the launch vehicles and the launching and related services furnished by the National Aeronautics and Space Administration under subsection (a) shall be reimbursed by the Corporation as a credit to current appropriations of such Administration.

"(d) The National Aeronautics and Space Administration is also authorized to furnish other services, on a reimbursable basis, upon the request of the Corporation and as required for the successful development and operation of the space communications system.

"(e) The Corporation shall consult with the National Aeronautics and Space Administration, and coordinate its research and development program, as provided in subsection (a).

"Use of space communications facilities

"SEC. 303. (a) The Corporation shall establish and maintain rate schedules for the use by private communications carriers and other persons of the space communications system of the United States.

"(b) In connection with the exercise of its functions under subsection (a), the Corporation shall take such action and issue such regulations as may be necessary to insure—

"(1) that private communications carriers are eligible to utilize the space communications system on a nondiscriminatory and equitable basis;

"(2) that the rate structure established under subsection (a) bears a fair relation to the cost of the services provided; and

"(3) that the space communications system is technically compatible with and operationally interconnected with existing communications facilities.

"(c) The Corporation shall enter into arrangements with the Secretary of State, the Secretary of Defense, the Director of the United States Information Agency, and the heads of other interested Federal departments and agencies, providing on a reasonable basis for the use of the facilities of the space communications system by such departments and agencies in the performance of their official functions and duties.

"(d) Nothing in this Act shall be construed as restricting, limiting, or otherwise affecting the existing jurisdiction of the Federal Communications Commission with respect to the rates charged consumers for communications facilities and services by private communications carriers.

"Participation by foreign governments and foreign carriers

"SEC. 304. The Corporation, under the foreign policy guidance of the President, shall take all possible steps to provide opportunities for participation in the space communications system, on an equitable basis and on reasonable terms, by foreign governments and foreign communications carriers, in order to develop such system as an effective worldwide communications system as soon as it is technically feasible.

"TITLE IV—MISCELLANEOUS

"Payments in lieu of taxes

"SEC. 401. (a) In order to render financial assistance to those States in which the Corporation establishes facilities and for that purpose acquires properties previously subject to State and local taxation, the Corporation is authorized and directed to pay to such States during each fiscal year a sum in total not less than the revenue lost to the State and political subdivision affected by the Corporation's removal of property from the tax rolls formerly subject to State and local taxation. The first payment to be made by the Corporation to the States and political subdivisions affected shall be based on the then prevailing tax rate. Subsequent annual payments shall be made according to the property tax rates effective for the major portion of the year for which payment is due. The determination of the Corporation of the amounts due hereunder to the respective States shall be final.

"(b) The Corporation shall, not later than five years after the enactment of this Act, submit to the Congress a report on the operation of the provisions of this section, including a statement of the payments to the various States hereunder; the effect of the operation of the provisions of this section on State and local finances; an appraisal of the benefits of the program of the Corporation to the States receiving payments hereunder, and the effect of such benefits in increasing taxable values within such States; and such other data, information, and recommendations as may be pertinent to future legislation.

"(c) The payments authorized under this section are in lieu of taxation, and the Corporation, its property, franchises, and income are hereby expressly exempted from taxation in any manner or form by any State, county, municipality, or any subdivision or district thereof.

"Penal provisions

"SEC. 402. (a) All general penal statutes relating to the larceny, embezzlement, conversion, or to the improper handling, retention, use, or disposal of public moneys or property of the United States shall apply to the moneys and property of the Corporation and to moneys and properties of the United States entrusted to the Corporation.

"(b) Any person who, with intent to defraud the Corporation, or to deceive any director, officer, or employee of the Corporation or any officer or employee of the United States, (1) makes any false entry in any book of the Corporation, or (2) makes any false report or statement for the Corporation, shall, upon conviction therof, be fined not more than $10,000 or imprisoned not more than five years, or both.

"(c) Any person who shall receive any compensation, rebate, or reward, or shall enter into any conspiracy, collusion, or agreement, express or implied, with intent to defraud the Corporation or wrongfully and unlawfully to defeat its purposes, shall, on conviction thereof, be fined not more than $5,000 or imprisoned not more than five years, or both."

Amend the title so as to read: "A bill to establish a Communications Satellite Authority to provide for the unified public control and operation of the space communications program of the United States."

Mr. RYAN of New York. Mr. Chairman, I ask unanimous consent to speak for an additional 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. RYAN of New York. Mr. Chairman, my amendment which I have referred to in general debate upon the bill would establish a Communications Satellite Authority which would own and control and maintain the proposed communications satellite system. This Authority is patterned after the Tennessee Valley Authority and would be financed by Government bonds.

I strongly believe that a Government-owned corporation is the only way to protect the national interest and to allow the public to enjoy the full benefits of this new technology which has been developed with public funds. Only 2 weeks ago we turned in our income tax forms. Only a week ago we saw the progress of the Ranger moon shot. These two events are a dramatic illustration, first, of how we are paying for our space program, and, second, what space research can achieve.

Today we are asked to decide who will get the benefits of this vast expenditure in space research and development.

As I pointed out earlier, in the last decade the American taxpayers have paid $25 billion for space research and some $471 million for the development of a communication satellite system which involves, as the Defense Department points out, more than communications. Communications, as the Assistant Secretary of Defense pointed out, is only 10 percent of the problem. Ninety percent is space technology.

The question really is, Are we paying our taxes for space research for the benefit of a few huge corporations or for the benefit of all Americans, rich or poor, stockholders or nonstockholders, investors or noninvestors? Are the techniques and the tools of this program to be used for people or are they to be used for profit?

Are we setting off into the space age with the greatest giveaway of all time? I fear that we may be.

Let me also say that I am a firm supporter of our system of free enterprise; I mean by that a system of risk capital employed in competition and, when it is successfully employed, paying a profit. I am opposed to unnecessary Government regulation of business, and I am opposed to business regulation of Government. But by now I think we all know that what is good for General Motors is not necessarily good for the United States. It is not necessarily true that increased steel prices, although they may be good for United States Steel, are good for the United States. It is not true that what is good for communications carriers is necessarily good for the American taxpayer.

It should be made clear that this argument does not involve free enterprise.

Setting up a private corporation, a private monopoly, to own the communication satellite system has nothing to do with free enterprise or competition or American capitalism. No enterprise is required, and there will be no competition. Actually the Government will be setting up a private monopoly, a joint venture of companies which should be in competition with one another. The President has described this proposed corporation as a "Government-created monopoly."

Mr. YOUNGER. Mr. Chairman, will the gentleman yield?

Mr. RYAN of New York. I yield to the gentleman from California.

Mr. YOUNGER. Do you propose that every communication corporation put up its own satellite system in order to meet competition?

Mr. RYAN of New York. I propose that the U.S. Government put up the satellites and own the ground stations and make this facility available to all carriers on a competitive basis, leasing the facilities, and at the same time recouping some of the vast investment that has been made in this space communication satellite system.

Mr. KOWALSKI. Mr. Chairman, will the gentleman yield?

Mr. RYAN of New York. I yield to the gentleman from Connecticut.

Mr. KOWALSKI. What will the Government own under this system?

Mr. RYAN of New York. Under my proposal the Government will own the satellites themselves, the equipment necessary to launch them, and the ground stations.

Mr. KOWALSKI. If this were a natural satellite in space, then the Government would not be providing this equipment.

Mr. RYAN of New York. In a sense that is correct. In a sense I think we can look at the satellites as a channel placed in space by the American taxpayers which should be available for the benefit of all of them.

Mr. KOWALSKI. And under private enterprise any company could lease the facility and use it for communication purposes; is that correct?

Mr. RYAN of New York. That is correct.

Now who is going to get the primary benefits?

Dr. Wernher von Braun has suggested the huge revenues of the communications satellite system could be used to pay for past and future research. Under Secretary of State George McGhee pointed out recently that if a private corporation is set up—the Government could never recover what moneys have been spent in this field, which are very large.

Yet if a private corporation is set up, the Government is nevertheless going to have to be involved in just about everything except the profits.

The Government will have to furnish launch vehicles, do the launching, work out technical specifications, coordinate continuing research, regulate the system so far as possible, insure opportunities for foreign participation, regulate rates and pay for extension of the system to underdeveloped areas and for less profitable uses.

Further the carriers investing in the private corporation, served by Government, will not only have risk-free investment. They will get a double return. Under the plan, they will be able to charge their investment off on their rate base; that is, to their customers. Then when the satellite corporation starts paying dividends, the corporations will get a dividend on this same investment.

Not only would the private satellite corporation be a private monopoly, it would be a monopoly dominated by the most powerful monopoly in America—American Telephone & Telegraph.

First. A.T. & T. would put up most of the money.

Second. A.T. & T., because it owns oversea and other long-distance cables, dominates other carriers which must use those cables.

Third. A.T. & T. will be by far the largest commercial user of the communications satellite system and thus responsible for much of its revenues.

Deputy Attorney General Katzenbach has pointed out that the size of A.T. & T.'s financial interest would insure its dominance of the corporation—even if it had no directors on the board.

H.R. 11040 does not avoid A.T. & T. dominance or protect the public interest. A.T. & T. can, and there is good reason to suspect that it will, purchase most of the 50-percent carrier stock and a large percentage of the nonvoting securities and bonds. The rest of the carrier stock and nonvoting securities will be purchased by other carriers who are dependent on A.T. & T.

Although the bill purports to allow the public to participate in this enterprise, in actuality there will be little if any participation by John Q. Public. H.R. 11040 allows the public to buy up to 50 percent of the outstanding voting stock with a limitation of 10 percent on any one holder. However, foreign corporations, including carriers, can own up to 20 percent of this 50 percent. In addition, noncarrier corporations can purchase from this 50 percent. How much will be left for the public? Even if the ordinary citizen could buy stock, we know that the overwhelming majority of those who own stock play no part in corporate decisions.

There is another aspect of this problem which should concern us.

This private satellite corporation will be buying enormous amounts of expensive equipment. From whom? From whom do most monopolies buy? From themselves.

I.T. & T. and RCA are primarily manufacturers; 60 percent of General Tel's revenues are from equipment; and A.T. & T. buys its telephone equipment from its huge subsidiary, Western Electric.

For the big communications carriers, the supplier often is the profitable tail that wags the corporate dog. And you can be sure the proposed private satellite corporation will be buying its equipment from its owner-suppliers.

Needless to say, the high prices paid for equipment will be passed on by the corporation to the public.

On the other hand, if the Government owns it, it can encourage competition in communications, can insure competition in procurement on behalf of small business and can reduce concentration in the communications industry.

Government ownership also is the only way to insure maximum research progress. The private carriers have enormous investments in facilities such as cables and are investing in a low altitude communications satellite system.

Seeking profits—as they must—the private satellite corporation simply will not move as fast as possible to put up a more economical high orbit system which will make their equipment obsolete.

And monopolies are notorious in their failure to push introduction of new developments. Witnesses before Senator RUSSELL LONG'S subcommittee gave numerous illustrations of delays in introducing new techniques—for example, one-piece telephones, modern switching equipment and the dial telephone. Moreover, only the Government will undertake research and development in less profitable areas such as weather and navigation. The private companies have already indicated a lack of interest in this.

But, some say, regulation by the FCC of the private satellite monopoly is the answer.

As for the FCC, let us look at the record of its performance. The Bureau of the Budget recently received a report on the FCC from Booz, Allen & Hamilton, a private management firm. The report's conclusion was brief and simple: the FCC had not effectively protected the public interest.

Other students have come to the same conclusion. In the first place, the FCC, despite the recommendations of its own staff, has never completed a full formal rate hearing on A.T. & T.'s rates. It, therefore, has no idea of what the proper rate should be or what the components of the rate base should be—the two most important elements in ratemaking.

The FCC has never checked A.T. & T.'s cost figures except to check whether or not uniform accounting principles were followed. Thus, the FCC has no way of knowing whether the rate base was properly computed.

How has the FCC been able to deal with A.T. & T? By "negotiation" the FCC accepts A.T. & T.'s figures and then tries to negotiate either a rate reduction or a rate increase. In 1953, the FCC permitted A.T. & T. a rate increase to provide a 6.5-percent rate of return which the Commission staff, then and since, has considered a fair rate of return in view of A.T. & T.'s financial and market position. In 1959, and again recently, the FCC negotiated two rate reductions. Nevertheless, from 1955 through 1962, A.T. & T.'s return has averaged well over 7.5 percent. Congressman CELLER has computed the amount A.T. & T. collected by earning in excess of 6.5 percent—$985 million. And this, on A.T. & T.'s own figures.

Finally, not until last summer, a period of 26 years, did the FCC even try to regulate A.T. & T.'s oversea rates. Rates between New York and London have not fallen since 1946 despite a huge increase in traffic. A Rand Corp. study concluded

that on a conservative basis A.T. & T. was earning a 66-percent profit on its oversea operations—"Communication Satellite and Telephone Rates: Problems of Government Regulation," by Leland L. Johnson, prepared by Rand Corp. for NASA, October 1961, page 74.

It is clear that the FCC is not engaging in the difficult and time-consuming process of making sure that a giant monopoly is not abusing its position and taking advantage of the American people. To those who say the FCC will improve, I say, let us wait until it does. There is no need for haste in giving away the satellite communications system to a private monopoly. We can always give it away; but once we do, we can never get it back.

Mr. Chairman, I think we should also not overlook the fact that the establishment of this system will have far-reaching ramifications in our foreign relations. The system will be global. It will provide, or should provide, economical and rapid communications throughout the world. It will expand commerce, make foreign cultures accessible, transmit data for computers anywhere in the world, transmit whole libraries anywhere in the world, and bring the benefits of knowledge to the furthest corners of the globe. Such vast ramifications mean that the satellite system will have enormous social, political, and economic ramifications, and many nations will be involved with different ideas and approaches.

Mr. Chairman, State Department spokesmen have pointed out that many of the problems will be unique and unprecedented.

The experience of the private carriers in this field will not be significant for several reasons. In the first place, the prospective negotiations and discussions will be multilateral. The carriers' experience has been largely in bilateral negotiations. When multilateral negotiations have been in question, the State Department necessarily has stepped in.

Second, international communications have been of relatively minor significance until recently; the FCC gave this as the reason for not trying to regulate oversea telephone rates until last summer.

Third, a good many disputes are bound to arise where the other party will be a governmental entity. These disputes can only be resolved on the intergovernmental level.

The only way of effectively furthering and safeguarding our foreign policy objectives is by making sure that the foreign policy aspects are controlled by the President and the State Department. The only effective and efficient way of insuring this is by Government ownership, which will enable the satellite to be operated exclusively in the public interest.

Communications will be one of the most vital aspects of our foreign policy goals. If we enact this bill, we shall be subjecting those goals to the wishes of a private monopoly and relegating the Government, which has paid for and developed this system, to the position of a passive bystander. To insure that our foreign policy goals will not be impeded or compromised by a powerful private monopoly, I urge support for my amendment.

I do not need to remind the Members of the Committee that space is the greatest natural resource of our time. We have as yet no idea of its vast potential.

Retaining the proposed system in Government hands will provide time to determine which is the best system technically and to negotiate the necessary international arrangements. Creating a private monopoly does not advance the completion of an operational system one day. Research and development and international negotiations are moving as fast as possible.

Mr. Chairman, as we stand on the threshold of space, as we stand on the threshold of a new era, I do not believe that we have reached the point where we know enough about the potentialities of this system to engage in a giveaway of this vast investment. It seems to me that now is the time to reserve the benefits of our space program and the future possibilities of this system for the benefit of all the American taxpayers. I urge the Members of the Committee to give serious consideration to my amendment and to support it.

Mr. HARRIS. Mr. Chairman, I ask unanimous consent that all debate on this amendment offered by the gentleman from New York [Mr. RYAN], and amendments thereto, close in 2 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Arkansas [Mr. HARRIS].

Mr. HARRIS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New York.

Mr. Chairman, we have had a great deal of discussion on the philosophy that is embodied in the amendment offered by the gentleman from New York [Mr. RYAN]. It is a matter that we had pending before our committee, and witnesses, including the gentleman from New York [Mr. RYAN], appeared and testified. It was a matter that we discussed in the committee. It has also been debated here on the floor of the House this afternoon. I think it is a clear-cut issue. I believe that Members of the House are ready to pass judgment on it, and I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. RYAN] to the committee amendment.

The amendment to the committee amendment was rejected.

The Clerk read as follows:

Page 18, line 16:

"Declaration of policy and purpose

"SEC. 102. (a) The Congress hereby declares that it is the policy of the United States to establish, in conjunction and in cooperation with other countries, as expeditiously as practicable a commercial communications satellite system, as part of an improved global communications network, which will be responsive to public needs and national objectives, which will serve the communication needs of the United States and other countries, and which will contribute to world peace and understanding.

"(b) The new and expanded international communications services are to be made available as promptly as possible and are to be extended to provide global coverage at the earliest practicable date. In effectuating this program, care and attention will be directed toward providing such services to economically less developed countries and areas as well as those more highly developed, toward efficient and economical use of the electromagnetic frequency spectrum, and toward the reflection of the benefits of this new technology in both quality of services and charges for such services.

"(c) In order to facilitate this development and to provide for the widest possible participation by private enterprise, United States participation in the global system shall be in the form of a private corporation, subject to appropriate governmental regulation. It is the intent of Congress that all authorized users shall have nondiscriminatory access to the system; that maximum competition be maintained in the provision of equipment and services utilized by the system; and that the corporation created under this Act be so organized and operated as to maintain and strengthen competition in the provision of communications services to the public.

"(d) It is not the intent of Congress by this Act to preclude the creation of additional communications satellite systems, if required to meet unique governmental needs or if otherwise required in the national interest."

Mr. HARRIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment to the committee amendment offered by Mr. HARRIS: Page 19, strike out lines 22 through 25 and insert the following:

"(d) The Congress reserves to itself the right to provide for additional communications satellite systems if required to meet unique governmental needs or if otherwise required in the national interest."

Mr. HARRIS. Mr. Chairman, this is an amendment suggested by our distinguished Speaker of the House with whom I conferred on this legislation concerning two or three matters that we thought would strengthen it. I have not had an opportunity to discuss it with the committee, but paragraph (d) in the committee bill is a provision that was included at the outset and had to do with reserving the right to the Government to provide an additional system should it be determined in the public interest. But as the Clerk read a moment ago, it is approached in a negative way. In other words, as originally proposed, I assume at the council level in the administration, or somewhere along the line, I am not sure just where, this was a provision in various proposals and the committee did not disturb it. But it was agreed that it was not the intent of the Congress by this act to preclude the creation of an additional communication satellite system or systems, and so forth. I thought the suggestion made by our distinguished Speaker was very good, that we should take a positive rather than a negative approach.

The amendment, therefore, is that that Congress reserve to itself the right to provide an additional communications satellite system if required to meet unique governmental needs or if otherwise required in the national interest.

It is a positive approach instead of a negative approach.

The CHAIRMAN. The question is on the amendment to the committee amendment.

The amendment to the committee amendment was agreed to.

The Clerk read as follows:

Definitions

SEC. 103. As used in this Act, and unless the context otherwise requires—

(1) the term "communications satellite system" refers to communications satellites in space whose purpose is to relay telecommunication information between satellite terminal stations, together with such associated equipment and facilities for tracking, guidance, control, and command functions as are not a part of the generalized launching, tracking, control, and command facilities for all space purposes;

(2) the term "satellite terminal station" refers to the complex of communication equipment located on the earth's surface which receives from or transmits to terrestrial communication systems for relay via communications satellites;

(3) the term "communications satellite" means an earth satellite which is intentionally used to relay telecommunication information;

(4) the term "associated equipment and facilities" refers to facilities, other than satellite terminal stations and communications satellites, to be constructed and operated for the primary purpose of a communications satellite system, whether for administration and management, for research and development, or for direct support of space operations;

(5) the term "research and development" refers to the conception, design, and first creation of experimental or prototype operational devices for the operation of a communications satellite system, including the assembly of separate components into a working whole, as distinguished from the term "production", which relates to the construction of hardware to fixed specifications compatible with repetitive duplication for operational applications;

(6) the term "telecommunication" means any transmission, emission, or reception of signs, signals, writing, images, and sounds or intelligence of any nature by wire, radio, optical, or other electromagnetic systems;

(7) the term "communications common carrier" has the same meaning as the term "common carrier" has when used in the Communications Act of 1934, as amended; and the term "authorized carrier", except as otherwise provided for purposes of section 304 by section 304(b)(1), means a communications common carrier which has been authorized by the Federal Communications Commission under the Communications Act of 1934, as amended, to provide services by means of communications satellites;

(8) the term "corporation" means the corporation authorized by title III of this Act;

(9) the term "Administration" means the National Aeronautics and Space Administration; and

(10) the term "Commission" means the Federal Communications Commission.

TITLE II—FEDERAL COORDINATION, PLANNING, AND REGULATION

Implementation of policy

SEC. 201. In order to achieve the objectives and to carry out the purposes of this Act—

(a) The President shall—

(1) aid in the development and foster the execution of a national program for the establishment and operation, as expeditiously as possible, of a commercial communications satellite system;

(2) provide for continuous review of all phases of the development and operation of such a system, including the activities of a communications satellite corporation authorized under title III of this Act;

(3) coordinate the activities of governmental agencies with responsibilities in the field of international communication, so as to insure that there is full and effective compliance at all times with the policies set forth in this Act;

(4) exercise such general supervision over relationships of the corporation with foreign governments or entities or with international bodies as may be appropriate to assure that such relationships shall be consistent with the national interest and foreign policy of the United States;

(5) insure that timely arrangements are made for foreign participation in the establishment and use of a communications satellite system;

(6) take all necessary steps to insure the availability and appropriate utilization of the communications satellite system for general governmental purposes which do not require a separate communications satellite system to meet unique governmental needs; and

(7) so exercise his authority as to insure effective and efficient use of the electromagnetic spectrum and the technical compatibility of the system with existing communications facilities both in the United States and abroad.

(b) The National Aeronautics and Space Administration shall—

(1) advise the Commission on technical characteristics of the communications satellite system;

(2) coordinate its research and development program in space communications with the research and development program of the corporation;

(3) assist the corporation in the conduct of its research and development program by furnishing to the corporation, on a reimbursable basis, such satellite launching and associated services as the Administration deems necessary for the most expeditious and economical development of the communications satellite system;

(4) consult with the corporation with respect to the technical characteristics of the communications satellite system;

(5) furnish to the corporation, on a reimbursable basis, satellite launching and associated services required for the establishment, operation, and maintenance of the communications satellite system approved by the Commission; and

(6) to the extent feasible, furnish other services, on a reimbursable basis, to the corporation in connection with the establishment and operation of the system.

(c) The Federal Communications Commission, in its administration of the provisions of the Communications Act of 1934, as amended, and as supplemented by this Act, shall—

(1) insure effective competition in the procurement by the corporation of apparatus, equipment, and services, and, to this end, shall prescribe appropriate rules and regulations:

(2) insure that all present and future authorized carriers shall have nondiscriminatory use of, and equitable access to, the communications satellite system on just and reasonable terms and conditions and regulate the manner in which available facilities of the system are allocated among such users thereof;

(3) in any case where the Secretary of State, after obtaining the advice of the Administration as to technical feasibility, has advised that commercial communication to a particular foreign point by means of the communications satellite system should be established in the national interest, institute forthwith appropriate proceedings under section 214(d) of the Communications Act of 1934, as amended, to require the establishment of such communication by the corporation and the appropriate communications common carrier or carriers;

(4) insure that facilities of the communications satellite system are technically compatible and interconnected operationally with the satellite terminal stations and with existing communications facilities;

(5) prescribe such accounting regulations and systems and engage in such ratemaking procedures as will insure that any economies made possible by a communications satellite system are appropriately reflected in rates for public communication services;

(6) approve technical characteristics of the operational communications satellite system to be employed by the corporation and of the satellite terminal stations; and

(7) grant a license for the construction and operation of each satellite terminal station, either to the corporation or to one or more authorized carriers or to the corporation and one or more such carriers jointly, as will best serve the public interest, convenience, and necessity. In determining the public interest, convenience, and necessity the Commission shall encourage the construction and operation of such stations by communications common carriers wherever, in the judgment of the Commission, such construction and operation are not inconsistent with the policies of this Act. The Commission shall insure that each authorized carrier shall have equitable access to, and nondiscriminatory use of, such stations on just and reasonable terms.

Mr. HARRIS (interrupting the reading of the bill). Mr. Chairman, I ask unanimous consent that the remainder of section 201 be considered as read and open to amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. HARRIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARRIS: On page 23, line 3, strike out "exercise such general supervision" and insert "exercise such supervision".

Mr. HARRIS. Mr. Chairman, this is merely another one of the amendments suggested by the Speaker, which I feel also strengthens the bill. It has to do with Presidential powers. We, of course, know that in certain fields the President is the only man under our system that can do certain things. As reported by the committee, we use the term "exercise such general supervision." If you will observe, this has to do with the powers of the President under the bill. After careful analysis and study of the word "general" it is, I think, agreed that there might be some vagueness in the term, and it was thought it might be much better if we struck out the word "general" and said that the President shall "exercise such supervision over relationships of the corporation," and so forth.

The CHAIRMAN. Without objection, the amendment is agreed to.

There was no objection.

Mr. MOSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Moss: On page 26, beginning in line 20, strike out "In determining the public" and all that follows down through the period in line 2 on page 27.

Mr. MOSS. Mr. Chairman, all that is done by this amendment is to afford the

new corporation, which we are authorizing by this series of amendments to the Communications Act, the right to have its applications for licenses considered on the same basis, utilizing precisely the same criteria, as apply to any other applicant.

Let me emphasize we are here through these amendments authorizing the creation of a new privately owned corporation. Whether or not we expressly indicate it, we are going to be inviting the American investing public to put their dollars into the capital structure of this new corporation. The only test which should be applied in considering its application for license for the operation either by itself or in cooperation with common carriers of the necessary ground stations is the traditional one of the public interest, convenience, and necessity. There is no justification for the modifying language which I seek to strike which says that in considering the public interest, convenience, and necessity, the Commission shall encourage the existing common carriers in the construction, operation, and ownership of these ground stations. If we are going to invite the public to invest, then this new entity should have the opportunity to compete on equal grounds where it shows conclusively that it can better serve; or where it shows in partnership with an existing carrier it can better serve the public interest. I think if we really believe in free enterprise, then we should put both of these new private creatures in the position to compete on a reasonable and equitable basis. I hope you will support my amendment.

Mr. YOUNGER. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I yield.

Mr. YOUNGER. How about a ground station in a foreign country which I understood this paragraph was supposed to encourage?

Mr. MOSS. This paragraph has no specific application to the ground stations of foreign countries. This is where the Commission licenses an applicant to construct a ground station. It is very specifically within that area where the Commission itself must issue the license to the applicant best able to serve the public interest, convenience, and necessity.

Mr. YOUNGER. Might not that be in a foreign country?

Mr. MOSS. I do not think we are going to be licensing the stations in a foreign country. Those will be controlled to a large extent by the agreements consummated with the foreign countries.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. MOSS. I am happy to yield to the gentleman from New York.

Mr. CELLER. As to foreign countries, neither the United States nor any of its agencies would have any jurisdiction over any ground station in any foreign country.

Mr. MOSS. That, in my judgment, is correct. This is primarily in the area of domestic service.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I rise in support of the amendment. I think we are here dealing with a question of basic fairness to those who will invest in this new and novel corporation which we are establishing. We are establishing a corporation here with the sacred imprimatur of a Federal charter, in effect. We are, in effect, passing a special enabling act and in a large measure the investors who would invest in this new corporation will rely on the action of the Congress today to see to it that this new corporation has a means to compete fairly in the field of the carrying of messages and to make adequate earnings to justify their investment and their confidence in this new corporation which we are, in effect, creating by our action today. It might be said that this is an anticarrier amendment. It might be said that this is an amendment which is directed unfairly at any one of the carriers. I say this is not true. I do not favor public ownership of this corporation nor do I take the position that the carriers are unfair or that they have ever breached their trust to the people of the United States.

As a matter of fact, I will state for the record that the American Telephone & Telegraph Co., which has been somewhat pilloried in the discussions of this legislation in the press, in the Congress, and elsewhere, is a fine corporation. It has never had a breath of scandal attached to it. Its officers are devoted to the public interest and to the interest of the corporation which they so well and capably represent and which they have well and properly served. They have given good service to our people. But here we have a question of basic fairness to the people who will invest in this corporation. If we do not adopt in the Congress of the United States this amendment today we may well find that we will create a corporation in fact but so crippled in its earning power that it will be little more than a husk the people will be investing in.

So I say this amendment and its adoption are essential to a sound piece of legislation to be passed by this Congress at this time; and I say if we fail to, we are engrafting upon the principles of regulatory law in these United States a new and novel principle and a new and novel criterion which has never been in the law before; we even do a potential wrong to the carriers, because we say that the criterion of the public convenience, interest, and necessity is not to be utilized in determining who will have a ground station. We even say, Mr. Chairman, that conceivably the carriers under the language which this amendment would strike, if not stricken from the bill, may be compelled to take an uneconomical ground station, an uneconomical operation when it is not in the interest of public convenience and necessity that they should so do.

I say, therefore, that in the very interest of fairness to the new investors who will invest in this, in the interest of fairness to the corporation which we are creating, in the interest of fairness to the investors who will place their money into this new corporation, and in the interest of fairness to the people of the United States this amendment should be and must be adopted.

There is no reason for language as unique and different as this language happens to be being in a bill which serves no wholesome or useful function or purpose in the legislation; and I say that this language should therefore be stricken from the bill, and that we should enact today a bill without this language so clearly and manifestly in conflict with the public interest.

Mrs. GREEN of Oregon. Mr. Chairman, I ask unanimous consent to extend my remarks at this point in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

Mrs. GREEN of Oregon. Mr. Chairman, I support the amendment of my colleague, the gentleman from California [Mr. Moss], and at the same time I wish to add my protest against H.R. 11040.

Mr. Chairman, we are confronted once again in the Congress of the United States with a giveaway in the guise of legislation. I refer to H.R. 11040, which would, if enacted in its present form, turn over to a few large private corporations, mainly the American Telephone & Telegraph Co., the fledgling space communication satellite system. This communication system to date is a federally developed enterprise. It was conceived, researched, and developed with the tax moneys of the American people. To now turn it over to these corporations is inequitable and unjust. It may be scientifically unsound.

The research and development for this communications program is largely a Federal Government-financed one. For example, the combined budgets of NASA and Defense Department for fiscal 1963 total about $185.4 million for space communications. In the years 1959–63, the comparable sum totals more than $470 million toward development of a communication space satellite system.

There unfortunately seems to be a preponderance of uninterest, if not sentiment, in the turning of a major new revolutionary communications system, which will have to be dovetailed internationally, over to oligopolies. The latter, principally A.T. & T., will fund the proposed operating corporation for the communications system. The result will be to sanctify the indefensible concept of public payment for private control. It will result in increased industrial concentration, about which even now we profess to be alarmed. It will place in private hands an international system of communications which properly falls within the competence of our foreign policy. The Congress after World War II properly rejected all this after a raging fight over public or private control of our federally financed atomic energy establishment.

The bill before us is objectionable on scientific, economic, and public policy grounds.

I have already, Mr. Chairman, pointed out my objections on the last two aspects.

As for scientific grounds, Mr. Chairman, it should be realized that the communications space satellite system is more than a means of relaying long-distance communications. It will be of great significance in the astounding space age for navigation, meteorology, and in space research.

Under the terms of the legislation now before us, the Federal Government would still of necessity be required to continue its leading role in the development of the system. For example, the Government would furnish launching vehicles, launching crews, and supporting services. It would launch the satellites. It must insure the satellite system is technically compatible with existing facilities with which it will interconnect. It will set technical specifications for satellites and the number and location of ground stations. The Senate version, in fact, requires supervision by the Government of the relations of the proposed corporation with foreign governments and with international bodies. The Government will be a major user of its nonmilitary aspects which will become increasingly inseparable from military aspects. As to the latter, of course, our Government is the user.

Now, why is the bill before us today, Mr. Chairman? Why the haste? Why the rush? The answer, it seems to me, is to give legislative protection to private profiteering from this communications system before the Americans wake up to what is being done.

The House Committee on Science and Astronautics concluded in a report last October:

> Because of the many significant questions of public policy raised, and the absence of precedents on which to rely, the Government must retain maximum flexibility regarding the central question of ownership and operation of the system. No final decision should be made during the early states of development which might prejudice the public interest or U.S. international relations.

Now, Mr. Chairman, it should be realized that there is a difference within the scientific community over the best method of establishing the communications system in space.

A.T. & T., for example, does not plan to test its low-orbit system until this June. This system, if adopted, would probably mean launching anywhere from 30 to 400 satellites to circle the earth at a low altitude of 100 to 3,000 miles. This system is both more expensive and may not be as reliable. If this bill is passed, the A.T. & T.-favored approach may be adopted.

But there is a preponderance of opinion for a high-orbit system under which two or three active satellites—which, unlike the A.T. & T. satellites, would receive and transmit messages instead of merely reflecting messages—would orbit the globe at extremely high altitudes. The first experiment of this system is not scheduled until January 1963.

Let the United States, Mr. Chairman, not instigate a rivalry among space communication satellite programs that might result in a number of technically incompatible systems for communications in our universe. We all remember the railroad systems of Europe. The Russian and Spanish track gages did not accommodate themselves of the railroad gages of other rail systems of European nations. International travel was thereby impeded.

Here is a magnificent opportunity, given the time that is available to us, for international cooperation in the development and establishment of a revolutionary communications system.

I support the amendment offered by the gentleman from California but at the same time do not see the reasons for the rush and would hope that action would be postponed until more knowledge is available to us and to the American people.

Mrs. CHURCH. Mr. Chairman, a point of order.

The CHAIRMAN. Does the gentleman from Michigan yield to the gentlewoman from Illinois?

Mr. DINGELL. I yield.

Mrs. CHURCH. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Mr. HARRIS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose, and the Speaker having resumed the chair, Mr. WALTER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill H.R. 11040, to provide for the establishment, ownership, operation, and regulation of a commercial communications satellite system, and for other purposes, had come to no resolution thereon.

AMENDING THE HILL-BURTON ACT

Mr. RYAN of New York. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. RYAN of New York. Mr. Speaker, yesterday I introduced a bill which would amend the Hill-Burton Act to prohibit granting funds to any hospital that discriminates in "the employment of personnel, selection of professional and nonprofessional staff, or in permitting the use of the facilities of such hospitals by physicians and other professional health personnel."

This bill is a companion to my bill H.R. 10407 which prohibits the use of Hill-Burton funds for construction of separate but equal facilities.

The Hill-Burton program, as it is presently administered, has sanctioned segregation in hospitals. The program has helped finance more than 2,000 medical care facilities in the 11 old Southern States. These States have received $562,921,000 of the $1,550,214,062 spent or obligated by the Federal Government under the act. It has been pointed out that in these institutions there is widespread discrimination against Negro citizens. These hospitals have segregated facilities for Negroes; they refuse to allow Negro doctors and other Negro health personnel the use of hospital facilities. In addition, the hospitals discriminate in their employment practices.

It is shameful that such procedures are federally supported.

It is almost 100 years since the Emancipation Proclamation. I urge all of my colleagues to support legislation to eliminate segregation and discrimination under the Hill-Burton Act.

GENERAL LEAVE TO EXTEND REMARKS

Mr. RYAN of New York. Mr. Speaker, I ask unanimous consent that all Members who desire to do so may have permission to extend their remarks on the amendment which I offered earlier in the day and have 5 legislative days in which to do so.

The SPEAKER. Is there objection to the request of the gentleman from New York [Mr. RYAN]?

There was no objection.

THE AMERICAN ESTABLISHMENT

Mr. NELSEN. Mr. Speaker, I ask unanimous consent that the gentleman from California [Mr. ROUSSELOT] may extend his remarks at this point in the RECORD and include an article.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. ROUSSELOT. Mr. Speaker, yesterday I placed in the CONGRESSIONAL RECORD an article by Mr. Richard H. Rovere entitled "Notes on the Establishment in America." Mr. Rovere has written a followup article for the May 1962, issue of Esquire magazine, the title of which is "The American Establishment."

I will insert this article at this point in my remarks:

THE AMERICAN ESTABLISHMENT [1]

(By Richard H. Rovere)

(Of this article, Gore Vidal says: "Richard H. Rovere has done it again. Not since J. Edgar Hoover's "Masters of Deceit" has there been an exposé of such startling impact as Rovere's daring perscrutation of the American Establishment. Every geninuely troubled American must read this fearless analysis—twice."

[1] Some of this material originally appeared in the American Scholar ("Notes on the Establishment in America," vol. 30, No. 4, autumn 1961, pp. 489–495). Many readers professed to be puzzled by my approach. Some even asked if I intended my work to be taken seriously. I found their questions disheartening and, I might as well add, more than a bit offensive. They cast doubt not only on my own integrity but on that of the distinguished journal which had the courage to publish my findings. The American Scholar is, after all, an official publication of the United Chapters of Phi Beta Kappa. Its editors, of whom I am one, would certainly not be parties to a hoax. I might add, however, that the present work entirely exhausts my knowledge of the subject. Readers wishing further information are advised to get in touch with their friendly FBI agent or the House Committee on Un-American Activities. They may also buy the New York Times and read between the lines.

("To understand the United States today, it is necessary to know something about the establishment. Most citizens don't realize it exists. Yet the establishment makes its influence felt from the President's Cabinet to the professional life of a young college teacher who wants to obtain a foundation grant for research. It affects the Nation's policies in almost every area."—The News and Courier of Charleston, S.C., Oct. 18, 1961.)

It is now, of course, conceded by most fair-minded and objective authorities that there is an establishment in America—a more or less closed and self-sustaining institution that holds a preponderance of power in our more or less open society. Naturally, establishment leaders pooh-pooh the whole idea; they deny the existence of the establishment, and disclaim any connection of their own with it, and insist that they are merely citizens exercising citizens' rights and responsibilities. They often maintain that the real power is held by some other real or imagined force—the voters, the Congress, the comsymps, Madison Avenue, the rich, the poor, and so forth. This is an ancient strategy; men of power have always known how to use it. "Wouldst thou enjoy first rank?" St. John Chrysostom wrote. "Then cede it to another."[2] The News and Courier is absolutely right.

Conceptions of the establishment, to be sure, differ widely, just as do conceptions of the church, the state, and other important institutions. Hilary Masters, a leading member of the Dutchess County School of Sociologists, defined it in a recent lecture[3] as "the legitimate maffia."[4] To William F. Buckley, Jr., and his collaborators on the National Review it is almost interchangeable with the "liberal machine," which turns out the "liberal line." Their establishment includes just about everyone in the country except themselves,[5] and the great hidden, enlightened majority of voters who would, if only they were given the chance, put a non-establishment man in the White House and have John Kenneth Galbraith recalled from India, or left there and relieved of his passport. Galbraith, himself a pioneer in the field of establishment studies, sees the establishment as a rather small group of highly placed and influential men who embody the best of the conventional wisdom and can be trusted with substantial grants of power by any responsible group in the country. The perfect establishment type, in his view, would be the Republican called to service in a Democratic administration (e.g., the present Secretary of the Treasury, Douglas Dillon) or the vice versa. "They are the pivotal people," he observed in one of his earlier studies. That was before his appointment as the establishment's man in New Delhi. (He is not a member of his own establishment, however, for he could not hope to be held over in a Republican administration.)

The fact that experts disagree on exactly what the establishment is and how it works does not mean that they are talking about different things or about something that does not exist. Experts disagree about the Kingdom of God. This is not an argument against its existence; plainly the Kingdom of God is many things. Differences of opinion over the meaning of "justice" has given rise to one of the most honored professions in the world. One dogmatic Marxist may quarrel with another over the proper "role of the proletariat" and even about who should and who should not be counted as belonging to the "bourgeoisie." This does not make a fiction or a meaningless abstraction of either the proletariat or the bourgeoisie. The establishment can be thought of in many different ways, all of them empirically valid in one or another frame of reference. Masters, Buckley, Galbraith, and Corradini[6] look upon the establishment from quite different points of view—which grow in the main out of their differing disciplines—but they would have no difficulty in agreeing that Douglas Dillon is true blue or that, say Senator THOMAS J. DODD, of Connecticut, is on the outside looking in—disapprovingly, in his case. Despite their differences of emphasis and approach, none of them would have many reservations about the News and Courier's definition:

"The establishment is a general term for those people in finance, business, and the professions, largely from the Northeast, who hold the principal measure of power and influence in this country irrespective of what administration occupies the White House. [It is] a working alliance of the near-socialist professor and the internationalist Eastern banker calling for a bland bipartisan approach to national politics."[7]

For my own part, I think the definition is a pretty good one. I would cavil a bit at the notion that "the establishment is a general term," and so forth. It is a good deal more than a collective noun, as I shall make clear. Moreover, there is a slight ambiguity in the phrase "principal measure of power." Too many journalists, awed by their observations of the establishment at work, leap to the conclusion that its power is not only great but invariably decisive. This is by no means the case. There are powerful antiestablishment forces at work, and frequently they prevail. It seems to me perfectly clear, for example, that the establishment has never found a way of controlling Congress.[8] Indeed, there are times when Congress appears to be nothing more or less than a conspiracy to louse up the plans of the establishment. Whatever the establishment wants, it often seems, Congress mulishly opposes.

Nor has the establishment ever made much headway in such fields as advertising, television, or motion pictures. The basic orientation of the leaders in all these fields is antiestablishment, and what establishment strength exists is concentrated mainly on the lower levels—in advertising, the copywriters; in television, certain of the news departments (most notably at Columbia Broadcasting); and in the motion pictures, a few writers and actors. Still, establishment strength in these areas is generally unimpressive. In Hollywood, to take a simple example, the Independent Committee of the Motion Picture Arts for Freedom and Peace With Justice, an establishment front, held a fundraising meeting in the Beverly Wilshire Hotel on November 20, 1961. Only 28 persons attended, and the take for the evening, after eloquent pleas for support from Paul Newman and Joanne Woodward, was $3,067.50. (Of this amount $2,900 was in the form of pledges, only about 15 percent of which, in all likelihood, were actually redeemable). On the very same evening, at the Beverly Hilton, the National

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[2] Homilies, 388.

[3] Before the Edgewater Institute, Barrytown, N.Y., July 4, 1961. Vide "Proceedings," 1961, pp. 37–51. Also see Masters' first-rate monograph "Establishment Watering Places," Shekomeko Press, 1957.

[4] It was the figure of speech, not the actual analogy, that seemed so striking and appropriate. Actually, the analogy was not actual—and doubtless was not intended to be regarded as such. The establishment exists; the maffia does not exist. Modern scholarship has pretty well destroyed the myth of the maffia. (Vide, "The Myth of the Mafia," in "The End of Ideology," by Daniel Bell, the Free Press, Glencoe, Ill., 1960.) Bell cites a report by Serrell Hillman, a journalist who went all over the country to find out if there really was a maffia at work in this country. He checked in at the Federal Bureau of Investigation and asked the top men there if they believed in the maffia. They said they did not. Chicago Crime Commission—same story. [Hillman could not check with Central Intelligence Agency because it is forbidden by statute to intervene in domestic affairs.] But he did talk with innumerable police officials, criminal lawyers, criminals, private detectives, and the like—none of whom could put him on the trail of the maffia. He was eventually forced to the conclusion that the only people who believed in it were (1) Senator ESTES KEFAUVER, of Tennessee; (2) Hearst crime reporters; and (3) the Treasury Department's Bureau of Narcotics. Senator KEFAUVER once described the maffia in concrete terms. "The maffia," he said, "is the cement that helps to bind the Costello-Adonis-Lansky syndicate of New York and the Accardo-Guzik-Fischetti syndicate of Chicago." This sounds good but isn't. Note that tricky word "helps." Besides, it is unproved that there is any cement. If I may interject a purely personal note here, I may say that I have done a bit of work on my own. One day, in the summer of 1960, I was on an airplane (United Air Lines, flight 420) and learned that the Honorable Frank S. Hogan, district attorney of New York County, was a fellow passenger. The air was turbulent, and seatbelts had to be fastened, so I could not approach the famous prosecutor myself. I asked a stewardess if she would deliver a note to Mr. Hogan. She said she would be delighted. My note read: "Dear Mr. District Attorney: Is there a maffia?" His reply was prompt and categorical. "No, Virginia, there is not," he wrote. Still and all, I think that Masters' phrase caught the spirit of the thing admirably. Dante's "Inferno" was a product of the imagination, but it has helped many men to approach the reality of beauty and even the beauty of reality. The establishment really is the cement that binds the Rockefeller-Gill-Sulzberger syndicate in New York to the Stevenson-Field-Sandburg syndicate in Chicago.

[5] It is characteristic of most thinkers and writers on the subject to define the establishment in such a way as to keep themselves outside it and even victimized by it. Werner von Fromm has suggested that they all tend toward a mild paranoia, and what little clinical evidence there is tends to support him. The one exception known to me is François Grund, a French economist of conservative leanings, who has applied to the establishment Burke's phrases for the nobility—"an ornament of the civil order—the Corinthian capital of society." Both Von Fromm's and Grund's observations are to be found in the 1961 Edgewater "Proceedings."

[6] H. D. Corradini, author of "Patterns of Authority in American Society" (Gainesville Press, 1958). Corradini, an anthropologist, draws striking parallel between the American Establishment and the Ydenneks, an intertribal council that still functions in Canada.

[7] The newspaper's antiestablishment bias is plain enough, as is the editorialist's sense of exclusion. "Southerners have no place in the establishment," he writes "except for a domesticated handful who have turned their backs on regional beliefs." For "regional beliefs" read Senator STROM THURMOND and Gov. Orval Faubus.

[8] From time to time, it has managed to hold a balance of power in the Senate, but it has never done even this much in the House. The Congressional Monthly for January 1962, surveying the entire performance of the 1st sess. of the 87th Cong., found that only 19 Members of the House had establishment voting records of better than 80 percent. Of the 19, who accounted for less than 5 percent of the total membership, 12 were Democrats, 7 were Republicans; 14 were from the eastern seaboard, 2 from California, and 1 each from Oregon, Louisiana, and Minnesota.

Foundation for Amoebic Dysentery raised more than five times as much, all in cash or checks of that date, from three times as many people.

The establishment does not control everything, but its influence is pervasive, and it succeeds far more often than its antagonists in fixing the major goals of American society. Though it does not, as I have noted, come anywhere close to controlling Congress, Congress is everlastingly reacting to it. Within the next couple of years, for example, Congress will spend a good part of its time fighting the establishment program for a great revision of American trade practices and for eventual American association with the European Common Market. This whole scheme was cooked up at a 3-day meeting of the executive committee at the Sheraton-Park in Washington immediately after President Kennedy's inauguration on January 20, 1961.[9] The odds are heavily against the establishment winning this battle in 1962 or even in 1963. The important thing, though, is that the establishment has taken the initiative and put its great antagonist on the defensive. Practically everyone is agreed that in time the victory, even in this difficult matter, will go to the establishment.

The establishment is not, of course, at any level a membership organization in the sense that it collects dues, issues cards, or holds meetings openly under its own auspices. It is a coalition of forces, the leaders of which form the top directorate, or executive committee—referred to sometimes as "central." At the lower levels, organization is quite loose, almost primitive in some cases, and this is one of the facts that explains the differences in definition among experts. In the upper reaches, though, certain divisions have achieved a high degree of organization. For instance, the directors of the Council on Foreign Relations make up a sort of presidium for that part of the establishment that guides our destiny as a nation.[10] (The unimpeachable source, a dissident executive committee member who leaked the story about the Common Market decision, said that the Gist subcommittee appointed to work on the Common Market matter had only two members not drawn from the council.) The presidents and senior professors of the great eastern universities frequently constitute themselves as ad hoc establishment committees. Now and then, the executive committee regroups as an establishment front for some particular end. In the summer of 1961, as a case in point, when anti-establishment forces in Congress and elsewhere threatened the President's foreign aid program, the establishment, at the request of the White House, hastily formed the Citizens' Committee for International Development and managed to bull through a good deal of what the President wanted. The establishment has always favored foreign aid. It is, in fact, a matter on which establishment discipline may be invoked.

Summing up the situation at the present moment, it can, I think, be said that the establishment maintains effective control over the executive and judicial branches of Government; that it dominates most of American education and intellectual life; that it has very nearly unchallenged power in deciding what is and what is not respectable opinion in this country. Its authority is enormous in organized religion (Roman Catholics[11] and fundamentalist Protestants to one side), in science, and, indeed, in all the learned professions except medicine. It is absolutely unrivaled in the great new world created by the philanthropic foundations—a fact which goes most of the way toward explaining why so little is known about the establishment and its workings. Not one thin dime of Rockefeller, Carnegie, or Ford money has been spent to further establishment studies.[12]

If it were not for the occasional formation of public committees such as the Citizens' Committee for International Development, establishment scholars would have a difficult time learning who the key figures are. Committee rosters serve establishmentologists in the same way that May Day photographs of the reviewing stand above Lenin's tomb serve the Kremlinologists. By close analysis of them, by checking one list of names against another, it is possible to keep tabs quite accurately on the executive committee. A working principle generally agreed upon by establishment scholars is this: If in the course of a year a man's name turns up 14 times in paid advertisements in, or collective letters to, the New York Times, the official establishment daily, it is about 14 to 1 that he is a member of the executive committee. (I refer, naturally, to advertisements and letters pleading establishment causes.) There are, to be sure, exceptions. Sometimes a popular athlete or movie actor will, innocently or otherwise, allow himself and his name to be exploited by the establishment. He might turn up 20 times a year and still have no real status in the institution. But that is an exception. The rule is as stated above.

One important difference between the American establishment and the party hierarchy in Russia is that the establishment chairman is definitely not the man in the center of the picture or the one whose name is out of alphabetical order in the listings. The secret is astonishingly well kept. Some people, to be sure, have argued that when, as happens most of the time, the establishment has a man of its own in the White House, he automatically becomes chairman just as he automatically becomes Commander in Chief of the Armed Forces. I am quite certain that this is not the case. For one thing, the establishment rarely puts one of its tried and trusted leaders in the White House. Dwight Eisenhower and John F. Kennedy have both served the establishment and been served by it, but neither is or ever was a member of the innermost circle. Both, indeed, were admitted with some reluctance on the part of senior members, and Eisenhower's standing has at times been most insecure.

I am not sure who the chairman of the establishment is today, although I would not be altogether surprised to learn that he is Dean Rusk. By a thrust of sheer intuition, though, I did get the name of the 1958 chairman and was rather proud of myself for doing so. In that year, I discovered that J. K. Galbraith had for some time been surreptiously at work in establishment studies, and he told me that he had found out who was running the thing. He tested me by challenging me to guess the man's name. I thought hard for a while and was on the point of naming Arthur Hays Sulzberger, of the New York Times, when suddenly the right name sprang to my lips. "John J. McCloy," I exclaimed. "Chairman of the board of the Chase Manhattan Bank, once with Cadwalader, Wickersham & Taft, and a partner in Cravath, de Gersdorff, Swaine & Wood, as well as, of course, Milbank, Tweed, Hope, Hadley & McCloy; former U.S. High Commissioner in Germany; former President of the World Bank; liberal Republican; chairman of the Ford Foundation and chairman—my God, how could I have hesitated—of the Council on Foreign Relations, Inc.; Episcopalian." "That's the one," Galbraith said. He congratulated me for having guessed what it had taken him so much patient research to discover.

The establishment is not monolithic in structure or inflexible in doctrine. There is an establishment "line," but adherence is compulsory only on certain central issues, such as foreign aid. On economic affairs, for example, several views are tolerated. The accepted range is from about as far left as, say, Walter Reuther to about as far right as, say, Dwight Eisenhower. A man cannot be for less welfareism than Eisenhower, and to be farther left than Reuther is considered bad taste.[13]

Racial equality is another matter on which the establishment forbids dissent. Opposi-

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[9] The meeting had been called not for this purpose alone, but to review the state of the world generally at the start of the new President's term. The question of American intervention in Cuba, for example, was discussed at length and, eventually, tabled because the committee members were so divided among themselves. A resolution was passed urging President Kennedy to meet with Nikita Khrushchev "at an early date with a view to determining whether any basis for negotiations to reduce tensions presently exists." The Common Market matter came up when Roscoe Gist reported that George Ball, Under Secretary of State for Economic Affairs, wished to pressure the United Kingdom into joining the Common Market and looked to a day when we, too, might belong. By a vote of 23–5, with two abstentions, he was authorized to go ahead.

[10] The President, of course, has constitutional responsibility for foreign affairs, and I am not suggesting that any recent President has abdicated to the CFR. But policy and strategy are worked out in the council and reach the President by way of the State Department, which, of course, is largely staffed and always directed by council members.

[11] It should be noted, though, that it is becoming influential in Catholic journalism. A content survey of 12 leading Catholic periodicals showed 38 percent of the text to be establishment inspired.

[12] The situation approaches scandal at times. The foundations and universities have subsidized a number of first-rate establishment scholars. Daniel Bell, H. E. Corradini, Alfred Kazin, and Mary McCarthy have received Guggenheim fellowships or other such benefactions, but always for something other than establishment studies. A few universities—Florida, Southern Methodist, Ramona, Virginia Military Institute, and Michigan State—have done what little they could to help out, and so have a few of the less-well-heeled foundations. But there is a general lockout in the richer and better known institutions. Some have even gone so far as to encourage what might be called red-herring scholarship—efforts to prove that something other than the establishment dominates the country. A notorious example is C. Wright Mills' "The Power Elite" (Oxford University Press, 1956). It was subsidized by the Huntington Hartford Foundation, Columbia University's Social Science Research Council, and Brandeis University. Even the parent body, the British Establishment, got into the act through the Oxford University Press, which, Mills admits, went "beyond the ordinary office of publisher in helping me get on with this."

[13] Setting the limitations on the left is not much of a problem nowdays, for the left has been inching toward the center at the rate of about 7 inches per year; the only extreme positions in this epoch are on the right, and these are inadmissible. It is interesting to consider the change that has come over the establishment in the last 20 years. In their views on government intervention and related questions, Wendell Willkie in the early forties and Dwight Eisenhower in the early sixties seemed peas from the same pod. But Willkie in his time was regarded as an economic liberal, whereas Eisenhower in ours is clearly a conservative. It has been estimated that by 1968, views such as Eisenhower's will be considered excessively rightist—as BARRY GOLDWATER'S are today—and will not be tolerated.

tion to integration is a cause for expulsion, or at least suspension for not less than a year, unless it is mere "token" opposition. The only white southern members of the establishment in anything like good standing are reconstructed southerners or southerners the establishment has reason to believe would be reconstructed if political circumstances would allow it. Take Senator WILLIAM FULBRIGHT, of Arkansas. He is a pillar of the establishment even though he votes with the unenlightened on racial matters. The Council on Foreign Relations gave him an "A–1" rating when he was up for chairman of the Senate Foreign Relations Committee.[14] The executive committee accepts him because it assumes his heart is in the right place. He is, after all, a former Rhodes scholar and a former university president. Moreover, the Fulbright scholarships have provided an enormous subsidy for establishment intellectuals.

The establishment has lately been having a most difficult time with those of its members—clergy, scientists, and academicians, in the main—who have joined the Committee for a Sane Nuclear Policy. The executive committee—in particular that powerful "hard-line" faction led by Dean Acheson and Roscoe Gist—has no use at all for this organization and would deal very sharply with its supporters if they did not include so many people who incorporate most of the establishment virtues. Exactly what stand it will take remains to be seen.

In nonpolitical affairs, great doctrinal latitude is not only tolerated but encouraged. In religion, the establishment is rigorously disestablishmentarian. Separatism is another matter on which discipline may be invoked.[15] Like a citywide ticket in New York, the executive committee is carefully balanced religiously as well as racially. (The only important difference is that several places are kept for nonbelievers.) The only proscribed views are the noisier ones. Though he now and then gets an audience in the White House, Billy Graham is persona non grata in establishment circles. Msgr. Fulton J. Sheen is regarded as a Catholic Billy Graham and is similarly a pariah.

Reinhold Niebuhr is the official establishment theologian, and Bishop Angus Dun is the chaplain.

In matters of public policy, it may be said that those principles and policies that have the editorial support of the New York Times are at the core of establishment doctrine. And those irregularities and eccentricities that receive sympathetic consideration in the Times (not only on the editorial page but in the Sunday magazine and the book review) are within the range of establishment doctrinal tolerance.

It is essential to an understanding of the establishment to recognize its essentially national characteristics. The whole of its power is greater than the sum of its parts. Its leading figures have national and international reputations, but very often are persons of only slight influence or standing in the cities and States from which they come. Former Chairman McCloy, for example, cuts a lot of ice in Washington, Geneva, Paris, London, Rio de Janeiro, Bonn, Moscow, and Tokyo, but practically none in Manhattan. In Albany, he is almost unknown. The relative weakness of the establishment in the States undoubtedly helps to explain the shellackings it repeatedly gets in Congress. Statewide—or one might say, statewise—it is often torn by a kind of factionalism that seldom afflicts its national and international operations. In New York, for example, Averell Harriman and Nelson Rockefeller have often found themselves locked in combat like Grant and Lee; in Washington, they are Alphonse and Gaston. And so it goes.

A State-by-State canvass of establishment strengths and weaknesses was conducted by Perry Associates, a St. Louis firm, in 1959. Some of the highlights follows:

In three States—Texas, Oklahoma, and North Dakota—the establishment is virtually outlawed. There are no restrictive or repressive measures on the statute books, but there is persistent harassment by police and other officials. The American Civil Liberties Union had expressed some interest in arranging a test case, but no suitable one was found. Despite constant police surveillance, there is considerable underground establishment activity in the Dallas area and in San Antonio.

The Indiana authorities are openly hostile to the establishment, and there has been continuing agitation for a law requiring establishment agents to register with the attorney general and be fingerprinted. It is hard to see what would be accomplished by this, for the Perry people could find no trace of establishment activity anywhere in Indiana, except at Indiana University, in Bloomington. The faculty people there are State employees anyway and can quite easily be dealt with. In neither Nebraska nor Idaho could any establishment influence be found. There were only the faintest traces in Wyoming, New Hampshire, Utah, and Florida.

Florida was the one Southern State in which establishment forces seemed exceedingly weak. Elsewhere, it was learned, nearly all those who described themselves as "moderates" were actually connected with the establishment.

The big centers are, as one might expect, the States with large cities and large electoral votes: New York, California, Illinois, Pennsylvania, Ohio, and Massachusetts. A rather surprising case, though, was Kansas, which ranked ahead of New Jersey and Maryland.

For some reason, establishment studies have attracted few historians. Most of the work thus far has been undertaken by journalists, economists, sociologists, and psychologists. In consequence, very little has been done to uncover the origins of the establishment. One British historian, Keith E. D. Smith-Kyle, maintains, in "America in the Round" (Polter & Polter, Ltd., London, 1956), that "the American pretense to equality was, to speak bluntly, given the lie by the formation in the early days of the Republic of the sort of 'command' group similar in most respects to what Britons nowadays speak of as 'the establishment.' By 1847, when the Century Association was founded in New York, power had been consolidated in a handful of hands. From then on, whenever there was a 'laying on of hands,' the blood in those extremities was the very blood that had coursed through those that had molded the clay of life in the so-called Federal period."

It is plain that Smith-Kyle is trying to say, in a roundabout British way, that a hereditary aristocracy runs the show here. He is as wrongheaded in this matter as he is in most others.[16] American students, though they number few trained historians[17] among them and none of a celebrity that compares with Smith-Kyle's, subscribe almost unanimously to the proposition that the establishment came into being at a far later date—to be exact, as well as neat, at the turn of the century. They see the institution forming during the administration of Theodore Roosevelt, who by common consent was the first establishment President—and in a way the last.[18] The founding fathers of today's group zeroed in on T.R. as if they had caught him in a perfect bombsight. Consider them all, a few of them still alive, all of them within living memory: Henry L. Stimson, William Allen White, Nicholas Murray Butler, Robert Frost, Albert Beveridge, Abraham Hummel, Joseph Choate, William Travers Jerome, Jacob Riis, Charles Evans Hughes, Felix Frankfurter, Ida M. Tarbell, Joseph Pulitzer, Martin Provensen, Lincoln Steffens, Benson Frost, Learned Hand, W. Adolphe Roberts, Jane Addams, Nelson W. Aldrich, Eleanor Alice Burgess, John Hay, John Ray, John Jay Chapman, Van Wyck Brooks, Carl Schurz, Hamlin Garland, Oscar Straus, Winthrop Chanler, James R. Bourne, Whitelaw Reid, and Gifford Pinchot.[19]

There, plainly, was the first executive committee.

Some uninformed publicists confuse the establishment with the organization. The two could not be more different. The establishment man and the organization man could not be more different, or more at odds. The establishment uses the organization from time to time, as a ruling group must in an industrial and commercial society. But it devoutly hopes that in time the organization will wither away. The organization would like to overthrow the establishment. It had a near success when it ran its 1960 chairman, Richard M. Nixon, for President of the United States.

The New York Times has no close rival as an establishment daily. Technological advance is making it possible for the Times to become a national newspaper. This development should add immeasurably to the growth of the institution's powers.

Most establishment personnel get at least one newspaper besides the Times, in order to keep up with Walter Lippmann. Papers that carry both Lippmann and Joseph Alsop are in good standing with the establishment and get a lot of advertising that way.

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[14] It exercised the veto power, though, when he was proposed as Secretary of State. It wanted Dean Rusk to get the job, and used FULBRIGHT's record on racial questions as an argument against FULBRIGHT's candidacy.

[15] "The establishment," the Reverend F. Q. Shafer said, in the first of his 1961 Geist lectures at Brownlee Seminary, "takes the view that religion is a matter of conscience and has no place in politics or in education. It evidently sees no contradiction between this and its endlessly repeated dictum that politics and education must always be informed by conscience."

[16] Vide, his revolting apology for Munich, "The Noble Experiment" (Heineken, London), and his blatantly Stalinist "The Bear and the Jug" (Bafer & Bafer, 1949).

[17] Arthur Schlesinger, Jr., has done some fairly decent work in the past, vide "The General and the President" (with Richard H. Rovere), but his judgments are suspect because of his own connections with the establishment.

[18] This is a rather fine point. Since Roosevelt's time, every President except Harding and Truman has taken office with full establishment approval. So far as can be determined though, no one has ever gone directly from the executive committee to the office of Chief Executive. Woodrow Wilson is sometimes cited as an exception, but it is dubious in the extreme that he was one. Charles Evans Hughes, his 1916 opponent, was an executive committeeman.

[19] I am indebted for this list to F. W. Dupee's illuminating study "The Suckleys of Wildercliff and the Origins of the Establishment," No. IV in the "Occasional Papers" published by the Mid-Hudson Historical Society. Mr. Dupee is professor of English at Columbia University and perhaps the country's leading authority on Henry James.

There are some specialized magazines but none of general circulation that can be described as official or semiofficial organs. I have pondered long over the case of Time magazine and have concluded that it has no real place in the establishment. It goes too far in attacking establishment positions and it has treated many establishment members with extreme discourtesy and at times with vulgarity. The establishment fears Time, of course, and it now and then shows cravenness in its attempts to appease it by putting Henry Luce on some commission or other (on freedom of the press, national goals, and so forth), or by giving his wife some political job. But the Luce publications generally must be considered as outside the establishment.

Now that control of Newsweek has passed to Philip L. Graham, publisher of the Washington Post, it may be that the establishment will adopt it as an official weekly.

U.S. News & World Report is widely read, but held in low regard.

Foreign Affairs has, within its field, the authority of Pravda and Izvestia.

Harper's, the Atlantic, and the New Yorker all have establishment clienteles, but none can be regarded as official. The Saturday Review was once heavily patronized but no longer is. The New Republic is coming up. The Nation has long since gone down. A few of the younger establishment intellectuals read Partisan Review, but the more sophisticated ones regard it as stuffy and prefer the Noble Savage, edited by Saul Bellow and issued in April and November by the World Publishing Co.

As Thomas R. Waring, the noted southern journalist, has pointed out, "The significance of the establishment can be discovered by finding out who is not a member." No one has yet compiled a complete list of nonmembers, but the following names may help significance seekers to get their bearings. These people are known to be nonmembers:

The Honorable LYNDON B. JOHNSON, Vice President of the United States.

The Honorable Richard M. Nixon, former Vice President of the United States.

The Honorable John Nance Garner, former Vice President of the United States.

Cus D'Amato, prominent New York sportsman and manager of Floyd Patterson, the heavyweight champion of the world.

J. Edgar Hoover, Director, Federal Bureau of Investigation.

General of the Army Douglas MacArthur.

Allen Ginsberg, poet.

The Honorable James A. Farley, former chairman, Democratic National Committee.

Fowler Harbison, president, Ramona College.

James Hoffa, president, International Brotherhood of Teamsters.

Hetherington Wells, chairman of the board, Consolidated Hydraulics, Inc.

Spruille Braden, diplomatist. (Here is a curious case indeed. Former Ambassador Braden has held many leading positions in the establishment and is even now a member of the council on foreign relations. But he is also a member of the national council of the John Birch Society. He was read out of the establishment on April 14, 1960, before his John Birch connections were known.)

Sherman Adams, formerly the assistant to the President of the United States.

Drew Pearson, syndicated columnist.

Edgar Queeny, chairman of the board, Monsanto Chemical Corp.

Charles Goren, bridge expert.

Charles A. Lindbergh, aviator.

The Honorable JOHN MCCORMACK, Speaker, House of Representatives.

The Reverend Norman Vincent Peale, pastor, Marble Collegiate Church of New York (Dutch Reformed) and author of "The Power of Positive Thinking."

Cyrus S. Eaton, industrialist and philanthropist.

The Honorable EVERETT MCKINLEY DIRKSEN, U.S. Senator from Illinois and the minority leader of the Senate.

Dr. Edward Teller, nuclear physicist, often known as "father of the hydrogen bomb."

Conrad Hilton, hotel executive.

The Honorable Richard J. Hughes, Governor of New Jersey.

Michael J. Quill, president, Transport Workers Union.

Morris Fishbein, M.D., editor and official, American Medical Association.

George Sokolsky, syndicated columnist.

Duke Snider, Los Angeles Dodgers.

John L. Lewis, president, United Mine Workers of America.

Carleton Putnam, writer, former chairman of the board, Delta Airlines.

The establishment has in its top councils some people who appear to the unsophisticated to be oppositionists. For example, Norman Thomas, the Socialist leader; Norman Mailer, the self-styled "hipster" novelist; and Norman Podhoretz, the firebrand editor of "Commentary" all enjoy close relations with leading figures on the executive committee. The Reverend Martin Luther King has been proposed for membership on the executive committee. On March 3, 1962, a planning committee that met for 3 days at the Royalton Hotel in New York reported that "we need informed, constructive criticism fully as much as we need support" and urged the recruitment of "people who will take a long, cold look at our policies and procedures and candidly advise us of any weaknesses they see. We recommend that in the cases of people playing this indispensable role of 'devil's advocate,' all discipline be suspended."

It is interesting to observe the workings of the establishment in presidential politics. As I have pointed out, it rarely fails to get one of its members, or at least one of its allies, into the White House. In fact, it generally is able to see to it that both nominees are men acceptable to it. It is never quite powerful enough, though, to control a nominating convention or actually to dictate nominations. National conventions represent regional interests much as Congress does, and there is always a good deal of unarticulated but nonetheless powerful anti-establishment sentiment at the quadrennial gatherings of both Republicans and Democrats. Nevertheless, the great unwashed who man the delegations understand—almost intuitively, it seems—that they cannot win without the establishment, and the more responsible among them have the foresight to realize that even if they did win they couldn't run the country without assistance from the executive committee. Over the years, a deal has been worked out that is almost an operating rule of American politics. The rule has been formulated by the novelist Margaret Creal in this way:

"When an establishment man is nominated for the Presidency by either party, the vice-presidential candidate must be drawn from outside the establishment. When, as has occasionally happened, the establishment is denied the presidential nomination, it must be given the vice-presidential nomination."

The system has worked almost perfectly for the last 30 years. In that time, the only nonestablishment man in the White House has been Harry Truman, and he had been Franklin Roosevelt's nonestablishment Vice President. Putting Henry Wallace aside as a pretty far-out case and not counting Alben Barkley (a Vice President's Vice President), the Vice Presidents have all been nonestablishment: John Nance Garner, Harry Truman, Richard Nixon, and Lyndon Johnson.

Now observe what happens when the establishment has to yield first place, as it had to do at the Republican Convention in 1960. Richard Nixon, a nonestablishment Vice President, simply could not be denied the presidential nomination. So the establishment Republicans demanded and of course obtained Henry Cabot Lodge. There was a similar case in 1936, when the Republicans went outside the establishment to nominate Alf Landon for first place. The vice presidential candidate was Col. Frank Knox, the publisher of the Chicago Daily News, and later Roosevelt's Secretary of the Navy.

Four years later, the establishment nominated Wendell Willkie on the Republican ticket and agreed to Charles McNary, distinctly nonestablishment. In 1944, it was Dewey (establishment) and Bricker (non). The establishment was particularly powerful in 1948 and not only got Dewey again but Earl Warren. In 1952, the usual deal was made in both parties: Eisenhower versus Stevenson (establishment) and Nixon and SPARKMAN (non). Same thing in 1956, with ESTES KEFAUVER in for SPARKMAN.

The Russians have caught on to the existence of the establishment and understand some of its workings quite well. Nikita Khrushchev showed himself to be no slouch when he told Walter Lippmann, last spring, that President Kennedy was controlled by Nelson Rockefeller. Many people regarded this as depressing evidence of the grip of old-school Marxism on Khrushchev's mind. They thought he was mistaking a faded symbol of industrial and mercantile power for the real wielder of authority under people's capitalism. He was doing nothing of the sort. He was facing the facts of establishment life. Not as a Standard Oil heir but as an establishment agent, Nelson Rockefeller had forced the Republicans to rewrite their platform so that it conformed very closely to Chester Bowles' Democratic platform and provided for a vigorous anti-Communist defense program. Where did the central ideas of both platforms originate? In—where else?—the studies made by the Rockefeller panel for the Rockefeller Bros. Fund and published as "Prospect for America." Who was on the Rockefeller panel? Here are just a few of the names:

Dean Rusk; Chester Bowles; Jacob Potofsky; Anna Rosenberg; Henry Kissinger, director of the project; Lucius D. Clay; Arthur F. Burns; Henry Luce[20]; Oveta Culp Hobby; and David Sarnoff.

And when Kennedy became President, from what foundation did he get his Secretary of State? The Rockefeller Foundation, of course.

DEPRECIATION ALLOWANCES

Mr. NELSEN. Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania [Mr. SCRANTON] may extend his remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

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[20] The outsider inside. I once asked an authority on the parent body, the British Establishment, how he accounted for the sudden eminence of Barbara Ward. He explained that every establishment agency (the BBC directors, for example) had to have at least one woman and one Roman Catholic. Miss Ward was a neat package deal.

Mr. SCRANTON. Mr. Speaker, the intense excitement sparked by the steel price rise announcement smothered potential solutions to the problems of our steel industry. Instead, America was first subjected to an untimely big steel decision possibly furthering inflation, and then a dramatic series of hair-raising activities by the administration, threatening the steel industry with reprisals of unprecedented magnitude. Both the action and the extreme reaction were not in the national interest.

In place of dramatics, we ought to be taking well-considered steps to solve the steel industry's pressing problem of obsolesence.

To frame the present situation, I reach back to November 16, 1961, and an address by David Rockefeller, president, the Chase Manhattan Bank, a portion of which reads as follows:

Business must work out new methods of cooperating with Government in pursuing policies which will achieve basic national objectives such as a high level of employment, a rate of economic growth that meets the needs of the times, and price stability. This calls for a greater, a more realistic, and a more effective presentation by business of its position on broad issues of public policy than it has made in the past.

There are some in business who feel that everything that is done by Government is wrong. But such a point of view fails to see the world as it is. We could not, if indeed we would, turn the clock all the way back to the days when the role of Government was a half or a quarter of what it is today. Yet society in our time must be concerned lest Government extend its sway too far into affairs that properly belong to private initiative. The ever-present problem is one of achieving a balance in which Government and business work together, each assuming the role and the responsibilities which will contribute most efficaciously to the general welfare. It is here that business needs to assert its leadership. Business leaders must point out forcefully and persuasively those Government policies or actions which prevent the private economy from achieving its full potential and from making its maximum contributions to the common good. To be effective, the approach must be forward-looking and realistic—not mere nostalgia for the past, or a rear-guard action to preserve positions of narrow self-interest. Businessmen, above all, have a vital stake in progress, in the constructive development of the fabulous new vistas being opened by technology.

To be more concrete, let us look at some of the specific fields in which businessmen can appropriately assume leadership in securing effective action. For example, there is the maintenance of price stability. By now there is ample evidence to prove that inflation is a deadly enemy of economic progress, as well as of social and political stability, both of which are so essential in our society if the free world is to measure up to its challenges.

Inflation can be held in check and economic growth can be fostered by policies which are well known and have been thoroughly tested over and over again. They include responsible monetary and fiscal policies linked with appropriate policies to hold increases in wages and other costs in line with the economy's ability to pay them without raising prices. Businessmen need to give vigorous support to these policies, for the arguments in favor of creeping inflation are highly seductive to men seeking elective office.

A second field where business must exercise leadership is that of tax reform to encourage saving and investment and to provide broader scope for initiative and enterprise. It is clear that the Nation suffers from an outmoded tax system which holds back investment and plant modernization to the detriment of all members of our society. Here again, sound policy often is at odds with what is made to have popular appeal from the soap box.

Third, business should press for the removal of unnecessary and unwise restrictions and controls. To pick only one example, our economic advance is held back in needless fashion by far too many controls and restrictions on agriculture. It is ironic that, in a field where the Soviet system has failed most abysmally, we have not pressed to the utmost our basic advantage in agricultural productivity.

These three fields for action do not begin to exhaust the list. Yet I am sure that they strike a responsive chord in most of your minds and experience. And I am equally sure that effective action in these fields would make a profound contribution to the solid economic growth and well-being of our Nation.

And again a brief paragraph from a statement of the American Iron & Steel Institute—January 1962:

The present wide gap between American and foreign employment costs and the greater burdens in the United States of unrealistic and obsolete depreciation and taxation policies are fundamentally the reasons why the American steel industry finds it increasingly difficult to compete with foreign steel producers, in spite of any tariff reductions which can be made here or abroad. Labor and government, as well as management, must cooperate in the solution of these problems, if the American steel industry is to share in the benefits of increased international trade.

And finally, three paragraphs from an address by E. J. Hanley, president, Allegheny Ludlum Steel Corp., before the Economic Club of Detroit on February 5, 1962, as follows:

The shortsighted, modernization-killing tax laws of the United States—which have proved to be the biggest single deterrent to the modernization of the American industrial plant—must be changed. For years the U.S. Treasury has used every means to minimize depreciation charges until we have probably the most restrictive rules of any industrialized country. Consequently, we who have long-lived assets find ourselves replacing 1945–50 equipment with the 50-cent dollars of 1962. Obviously we have only half enough of the funds we need to do this job. Had we been permitted to accumulate adequate funds, our profits over the years would have been substantially lower than those we reported with inadequate depreciation charges, and we would have not paid taxes on phantom profits.

So now we find it necessary to obtain new capital to replace the losses in our capital structure, growing out of inadequate depreciation rates, or letting the modernization of our plants and equipment, so badly needed in the competitive battle, await a better year. Unfortunately, too much of the latter has been done in our Nation.

This problem of funds has much to do with the noncompetitive condition of much of the plant of American industry. It is estimated that $100 billion worth of our industrial plant and equipment is obsolete today, and $60 billion worth more will become obsolete by 1970. If we continue down the road we have been going, in just a few years we face the dismal prospect of having $160 billion worth of obsolete manufacturing plants in the American economy. Our foreign competitors, favored with more realistic depreciation policies on the part of their governments, are installing new plant and equipment at unbelievable speed to beat us at our own game of cost reduction.

Mr. Speaker, the administration has been telling us for months now that liberalized depreciation allowances for industry are forthcoming. But first they insisted on a hodge-podge tax reform bill in which even the desirable provisions were secondary in importance to the need for liberalized depreciation schedules.

America's problems with international trade and tariffs, balance of payments, gold outflow, deficit spending, and unbalanced budgets are heightened by the intense competition from Western Europe and the Common Market, in particular. Our industry must be modernized to meet this competition.

Liberalized depreciation allowances for all industry are long overdue. There is a new investment potential in this, of $100 billion, an enormous boost to our economy. Most important of all, this would mean jobs for many Americans now unemployed.

CITIZEN INTEREST IN OUR GOVERNMENT

Mr. NELSEN. Mr. Speaker, I ask unanimous consent that the gentleman from Minnesota [Mr. LANGEN] may extend his remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. LANGEN. Mr. Speaker, whoever said that the average citizen is no longer interested in government should have spent recent weeks in my office. My staff has completed the time-consuming but rewarding task of tabulating the recent questionnaire that was sent to all constituents in my home district. Let me assure you that the good people in the 23 counties surveyed are interested in government and showed their interest by responding by the thousands. Not only did they answer the questions, but many added lengthy comments that will be of considerable value to me in the important days ahead. The response was truly rewarding.

One of the most heartening things we learned is the tremendous interest in fiscal responsibility. A whopping 94 percent feel that the Federal budget should be balanced during peacetime years, and an overwhelming majority believe planned domestic programs should be postponed if the country needs more money to support defense and foreign policies. I also noted a concern by our people over the increasing encroachment by the Federal Government into the affairs of State and local governments. Many wrote at length in opposition to this trend.

It is good when the people speak. And it is time we stopped to listen. Here are the results of that opinion poll.

1962 public opinion poll covering 23 counties in Minnesota comprising the current 9th Congressional District and the counties to be added this year as a result of redistricting

	Percent		
	Yes	No	No opinion
1. Do you believe the Federal budget should be kept in balance in peacetime?	94	2	4
2. If greater Federal expenditures are required to support this country's defense and foreign policies, should revenue be raised from—			
a. Increased taxes?	29	31	40
b. Deficit spending?	17	33	50
c. Postponement of planned domestic programs?	62	13	25
3. Should Communist China be admitted to the United Nations?	8	84	8
4. Has U.S. foreign policy been firm enough in meeting the Communist threat?	13	78	9
5. Should greater authority to negotiate trade agreements be given the President?	24	67	9
6. Should the Federal Government—			
a. Provide funds for public school construction?	26	65	9
b. Provide funds for public school teachers salaries?	11	80	9
c. Provide loans or scholarships to college students?	48	44	8
d. Leave full responsibility for primary and secondary education to the State and local communities?	79	14	7
7. Should Congress abolish the Un-American Activities Committee?	13	71	16
8. Generally, are there enough laws regulating business?	71	16	13
9. Generally, are there enough laws regulating labor unions?	21	69	10
10. Should postal rates be increased to make Postal Department self-supporting?	66	29	5
11. If you answered "yes" to No. 10, would you increase—			
a. 1st-class mail rates to 5 cents?	57	43	--------
b. 2d- and 3d-class mail rates?	83	17	--------
c. Other postal rates?	74	26	--------
12. Do you believe farm income should be stabilized by—			
a. Curbing imports of commodities already in surplus?	72	12	16
b. Decreasing new acreage by curtailing irrigation projects	61	22	17
c. More Federal control with the Government having the means by which it can establish orderly markets?	16	66	18
d. Less Federal control, more emphasis on supply and demand?	79	11	10
13. Do you believe medical care for the aged should be handled by—			
a. Increased social security taxes, regardless of need?	22	65	13
b. Increased Federal grants to States to be administered by the respective State and local units of government?	23	54	23
c. Leave full responsibility for additional funds to State and local governments?	62	22	16

POLISH CONSTITUTION DAY

Mr. NELSEN. Mr. Speaker, I ask unanimous consent that the gentleman from North Dakota [Mr. NYGAARD] may extend his remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. NYGAARD. Mr. Speaker, the Poles are proud of their glorious achievements. They are known not only as diligent and skillful workers, but they are equally well known as accomplished masters in the arts and the sciences. They are no less famous as gallant warriors for great human causes. As a nation they have constantly struggled for their freedom and independence. This was particularly true during the last half of the 18th century when their very existence as a nation was seriously threatened by Russia, Prussia, and Austria. After they had lost part of their territory to their autocratic and greedy foes in the 1770's, they made strenuous efforts to strengthen themselves, thus hoping to face their adversaries more successfully than heretofore. So their leaders began to reshape and remodel their governmental machinery. It was at this time, in the late 1780's, that they began to draw up a new constitution. Thus was born the famous constitution of 1791.

This constitution as adopted and promulgated, represented a decisive advance step over anything yet attempted in Poland's modern history. By it the unlimited powers of the monarch were drastically reduced, and Poland became a constitutional monarchy. A responsible cabinet type of government was provided for, parliamentary representation was expanded, the towns regained their long-lost local autonomy, and the peasantry was placed under the protection of the law. Freedom of conscience as well as religious toleration were guaranteed. These liberal and progressive provisions marked the constitution as a pioneering document.

But the international situation was not conducive for the birth and growth of liberalism in that part of the world at that time. There was hardly any chance to put to the test the constitution of 1791. No sooner had its provisions become known, then Poland's enemies seemed determined to eliminate Poland as an independent entity by partitioning it among themselves. Unfortunately this is what happened, and by 1796 Poland had ceased as a sovereign and independent state; it was partitioned by Austria, Prussia, and Russia. But the end of the Polish state did not mean the death of the ideas and ideals embodied in that memorable document. Since then these goals have lived on in Poland, and it is the hope of all Poles and their friends everywhere that they again attain their freedom and independence. That is my ardent hope and my sincere wish to my American friends of Polish ancestry on the 171st anniversary of the adoption of the Polish Constitution of 1791.

RETIREMENT OF DR. FLOYD S. DAFT

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from Rhode Island [Mr. FOGARTY] may extend his remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. FOGARTY. Mr. Speaker, I would like to draw the attention of the House to the retirement on May 1 of this year of one of our distinguished commissioned officers of the Public Health Service.

This man is Dr. Floyd S. Daft, who is leaving the position of Director of the National Institute of Arthritis and Metabolic Diseases—NIAMD—after more than 25 years of outstanding service to the health of this Nation.

Dr. Daft is internationally known for his research in the field of nutrition and through his long career with the Public Health Service has combined a high level of scientific competence and achievement with the outstanding executive skill, initiative, and leadership required by the important programs of his Institute.

Dr. Daft was appointed to the Public Health Service in 1937 and spent 3 years as Chief of the Laboratory of Biochemistry and Nutrition at the old Hygienic Laboratory, where he participated in the important nutrition research which began with Dr. Joseph Goldberger's classic studies on pellagra.

These studies were later expanded by Dr. Goldberger's associate, Dr. William Sebrell, into the general field of nutrition, including research on the B vitamin complex. Dr. Daft soon became associated with Dr. Sebrell in these studies.

Under Dr. Daft, today's work on nutrition at NIAMD reflects the direct continuity of research started by Dr. Goldberger and extended by his protege, Dr. Sebrell.

In 1940 Dr. Daft was named Assistant Director of the Experimental Biology and Medicine Institute. This Institute formed the nucleus of NIAMD when the latter was established in 1950.

When the National Institute of Arthritis and Metabolic Diseases was created it incorporated many of the oldest and most productive laboratories of the Public Health Service. Through the years these laboratories have made an outstanding record of accomplishment in basic research, developing new pain-killing compounds, performing some of the earliest work on the lifesaving sulfa drugs, and helping to eliminate the vitamin deficiency disease, pellagra, as a health hazard in the United States.

Although originally created for the study of the arthritic disorders and metabolic diseases such as diabetes, the Institute has continued to expand its activities to the point where it now is conducting and supporting research in a great variety of disorders. These include thyroid disease, peptic ulcer, ulcerative colitis, cystic fibrosis, and disorders of blood and bone. In addition, and of equal importance, a great deal of basic research is carried on—fundamental studies in biochemistry, enzymology, physical biology, nutrition. The nature of the arthritic and metabolic diseases makes such studies vitally necessary, for there is still too little known about their fundamental cause and nature.

An authority on nutrition, Dr. Daft's work in directing and conducting nutrition studies has contributed to the understanding of dietary deficiencies causing anemia and cirrhosis of the liver.

He was a pioneer in the study of an unidentified substance later shown to be folic acid. This essential B complex vitamin is widely used today in treatment of blood disorders. He also played a major role in research on pantothenic acid, another essential B vitamin.

Dr. Daft's most recent work has concerned the relationship of bacteria to nutrition through studies with germ-free animals. He was instrumental in setting up a germ-free research laboratory at NIAMD to examine the role of intestinal bacteria in supplying essential nutrients to their hosts. It was here that he and his associates developed new techniques in germ-free research.

He also initiated many studies which have indicated that some bacteria are helpful to animal nutrition and, presumably, to human nutrition as well.

His outstanding role in nutrition research was recognized last year when he was the only American among a group of internationally known nutritionists invited to participate in a Swedish symposium on intestinal bacteria and nutrition. He was also a recent visitor to the Soviet Union as part of a five-man American team surveying Russian progress in metabolic research.

Dr. Daft's role as scientist-administrator in furthering research progress was praised last year at ceremonies marking NIAMD's first decade of operation.

At a program capping these ceremonies, he was presented a silver plaque by the American Rheumatism Association and the Arthritis and Rheumatism Foundation in recognition of his "constant devotion to, and effective support of, a national program of research, training, and education in arthritis and connective tissue diseases."

Before joining the Public Health Service, Dr. Daft engaged in teaching and research at Yale, Harvard, the University of Rochester School of Medicine, and the Carlsberg Laboratories in Copenhagen, Denmark.

He has been a member of the Public Health Service commissioned officer corps since 1945, is associated with numerous scientific and professional organizations, and has received many honors and awards, including an honorary doctor of science degree from Simpson College in Indianola, Iowa, from which he was graduated in 1921, and, most recently, the Distinguished Service Medal, the top honor of the Public Health Service commissioned corps.

Personally modest and self-effacing, his dedication and sincere interest in people and their welfare has earned him the respect of fellow workers and acquaintances throughout the world. On behalf of the American people, I would like to thank him sincerely for his research accomplishments, his outstanding scientific leadership, and his continuing dedication to the health of the Nation. I want to wish him every success in his "second" career, in which he plans to continue his important germ-free research and engage in university work.

ESTABLISHMENT OF A HOSPITAL AT ELLIS ISLAND, N.Y.

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from New York [Mr. ADDABBO] may extend his remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. ADDABBO. Mr. Speaker, today I have introduced legislation which would provide that the Surgeon General of the United States establish a hospital at Ellis Island, N.Y., for the treatment of persons addicted to the use of habit-forming narcotic drugs.

I believe that it is essential that this hospital be established due to the great increase of those addicted, especially in the New York area. The latest survey by the Federal Bureau of Narcotics for the period ending December 31, 1961, showed that, of the known addicts, New York led with 46.6 percent. California 16.2 percent, Illinois 14.8 percent, Michigan 4.2 percent, and the other States 18.2 percent.

The survey clearly indicates that the greatest need for additional facilities is in the New York area. Surveys also indicate that all present facilities have long waiting lists for those wishing to be admitted for help through care and treatment.

The problem of drug addiction has long been with us and possibly too long overlooked as a true menace to our youth and Nation.

I know that the establishment of a hospital for the care of the drug addict is not the complete answer to this problem, for reports indicate that the ratio of those cured is very small, but I believe, as many others do, that, if given proper care and treatment and then with a complete program of rehabilitation and training, the ratio of those cured would greatly increase.

The establishment of a hospital at Ellis Island could easily be effected for we have there Government-owned land and facilities which can be utilized without too great a cost and, more importantly, delay to set into being a full program of treatment, aftercare, rehabilitation, training, and education, so that these lost beings may be returned to normal social life.

I believe much of the failure in the past has been the failure to provide for a complete program, and I have on this date written to the Secretary of Health, Education, and Welfare, Hon. Abraham Ribicoff, asking for a full investigation and report of the workings and programs at the hospital for addicts at Lexington, Ky., for recent reports indicate a great failing and possible misdoings at that hospital.

I believe, to stop this increase in addiction, we must do our utmost to cure and rehabilitate those already addicted to curtail the market for those who deal in this insidious crime, the illegal sale of narcotics.

I further believe that a program of education and alerting the public to this great menace must be instituted to stop this menace at its inception, and, at this point, I wish to compliment the newspapers in New York City, especially the Long Island Press, Journal-American, and World-Telegram, to name a few, and a county organization in my county of Queens, N.Y., the Queensboro Federation of Parents' Clubs, Inc., for their great work in trying to alert the public to this great menace, for laws and law enforcement agencies alone cannot accomplish this work without the understanding and the help of the public.

Mr. Speaker, to fight this growing menace, for it is spreading as recent newspaper accounts show that other States are now, for the first time, setting up special narcotic divisions, we must immediately institute this crash program of education, treatment, and rehabilitation. I respectfully pray that the committee and this Congress will quickly adopt and pass the legislation I have this day introduced which is greatly needed.

REQUIRING CERTAIN TESTS BEFORE THE ISSUANCE OF A MARRIAGE LICENSE

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the gentleman from Rhode Island [Mr. ST. GERMAIN] may extend his remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. ST. GERMAIN. Mr. Speaker, the bill I introduced today will promote the health and welfare of the people of the District of Columbia and protect the health of the children who will be born in the District.

The bill requires a physical examination and other tests of applicants for a marriage license in the District. A marriage license will not be issued until the intended bride and groom have had the examination and tests at least 30 days before the issuance of the license.

These requirements will detect the presence of any tuberculosis or venereal disease of any of the applicants. The examination and tests will also show the presence or absence of the Rh factor in

the blood which will be an invaluable aid in the birth of children resulting from the marriage.

Venereal disease is becoming an increasing problem in the District and should be curtailed. The communication of these social diseases is detrimental to the health and welfare of the District and the bill further provides that in cases where the applicants cannot afford the service of a private physician the Board of Commissioners of the District of Columbia shall provide for the examination and tests at no cost to the applicants. The examination is necessary for all the citizens of the District and where the means are not available the requirement should still be fulfilled, if not for the benefit of the applicants then for the welfare of the citizens of the District.

The tests required will disclose whether or not the woman applying for a license has the Rh present as well as disclosing the presence of tuberculosis or venereal disease in the communicable stages. The test for the Rh factor will disclose whether or not special care and consideration must govern in the pregnancy of the woman. When the woman and the physician know whether or not Rh is present the immediate care and medication necessary in such cases can be given and possibly a baby that would have been lost, or a mother, will be saved.

The bill also provides that the records of the examination and the tests shall be confidential and there is a penalty imposed for one who discloses the information without the proper authorization. The information as to the Rh factor is to be recorded on the marriage license and is for the use of the applicants and their physician.

I am amazed, Mr. Speaker, at the number of instances in which the District of Columbia, the Capital of the Nation, is so far behind the rest of the Nation in its laws and regulations. The States and local communities have long recognized their responsibilities but the Congress has long neglected to make needed regulations for the District. Washington should be a symbol of the best in America and should lead the Nation, not lag miles behind, in promoting and providing for the health and welfare of the residents. It is my hope that the District Committee will act favorably on this measure as soon as possible, for the need for the legislation is present and action must be taken as soon as possible.

CAPTIVE NATIONS WEEK, JULY 15–21, 1962; AND A SPECIAL HOUSE COMMITTEE ON CAPTIVE NATIONS

The SPEAKER. Under previous order of the House, the gentleman from Illinois [Mr. DERWINSKI] is recognized for 15 minutes.

Mr. DERWINSKI. Mr. Speaker, in many sections of our country preparations are now underway for the most successful observance yet of Captive Nations Week. This year's week falls on July 15 to July 21. One of the most significant facts of our day is the consistent and unremitting attacks made by Moscow, Peiping, and their puppets against this week and the resolution which Congress passed in July 1959. Even at the recent 22d Party Congress, Khrushchev denounced vehemently both the week and the resolution. He evidently fears something very deeply.

THE WEEK AND OUR RESPONSIBILITY

By passing the Captive Nations Week resolution in 1959, Congress performed one of the greatest services to this Nation and to the free world. It disclosed for all free minds to see the most penetrating weakness in Soviet Russia's totalitarian empire; namely, the captive nations both within and outside the Soviet Union. The record on this is indisputable and unmistakable. Now the Congress has the grand opportunity to perform another valuable service both to our Nation and the free world, and that is to form a Special House Committee on the Captive Nations.

Mr. Speaker, in view of all the data and evidence submitted this past year to establish such a special committee in the House of Representatives, it is quite evident that we bear a heavy responsibility toward our constituents in this regard. The rudimentary blunders of the Secretary of State and his letters to the distinguished chairman of our Rules Committee, the contradicting stand taken by our U.N. Ambassador in the United Nations on the captive nations in the U.S.S.R., the manifest confusion of thought shown on this subject by the Department of State, and the glaring fact that virtually nothing can or is being done by our present committees on the aggregative subject of the captive nations are only a few of the points we should ponder when we face our constituents.

We know the pressures of work opposing early action on this proposal by the Rules Committee. I am convinced that some sources fear the efficient and practical results of such a Captive Nations Committee. However, with all the detailed material already presented to the Rules Committee, it appears to me that the members of this committee must weigh carefully the somewhat ridiculous position the Department of State placed itself in with the two Rusk letters and the Stevenson memo in the U.N. With all this evidence and more, the Rules Committee must come to a decision on this matter soon. Too much has been said and written about this vital subject to permit any evasion from a final decision. Not only to us, their colleagues in this Chamber, but to all of our constituents, the members of the Rules Committee have now a clear-cut responsibility. The clear-cut evidence is in.

THE WEEK AND OUR OPPORTUNITY

Mr. Speaker, on the basis of the evidence submitted, we in this session of Congress have not only a responsibility but also another splendid opportunity to advance the cause of freedom. With Captive Nations Week approaching this July 15, this House can make another valuable contribution by implementing the 1959 Captive Nations Week resolution. This implementation would take the form of an established House Committee on Captive Nations. The highlight of this year's Captive Nations Week observance will be the formation of such a committee. Our citizens look forward to constructive action on our part in this regard, and I feel certain that we shall not fail them. Of course, Khrushchev will not like this, nor those among us who fear him and are willing to conceal the truth. Our decision is clear. What remains is the exercise of a determined will to do what all evidence shows must be done.

In support of my remarks, I include the article written by Dr. Lev E. Dobriansky, of Georgetown University, on "Progress in Captive Nations Ideology" to be printed at this point. I commend this article, which appeared in a recent issue of the Ukrainian Quarterly, to the careful reading of my colleagues. I also include the article, "There Are No Giants," written by Frank Gannon in the February issue of the Georgetown University Foreign Service Courier.

The articles follow:

[From the Ukrainian Quarterly, Autumn 1961]

PROGRESS IN CAPTIVE NATIONS IDEOLOGY

(By Lev E. Dobriansky)

On net balance the events of 1961, both international and national, register further progress in the captive nations ideology. That ideology is well summed up in the Captive Nations Week resolution passed by the U.S. Congress in 1959. Its alpha and omega are that Moscow's vast imperio-colonial system is the base of further Soviet Russian aggressions against the nontotalitarian free world and that to liquidate this base gradually and to crush Soviet Russian totalitarianism in the cold war, the prime target of free world polwar attention and concern is necessarily the two dozen captive nations in Eastern Europe and Asia. The ramifications of this outlook are totalistic, ranging into the economic, political, diplomatic, cultural, scientific, athletic, and many other spheres.

The points of evidence educed here are selectively representative of multiple events and developments. In the course of the year there were many acts and declarations which militated against the further cultivation of captive nations consciousness and thought. Circles within and outside the United States striving to appease Moscow, overemphasizing the political consequences of foreign aid, and propagating falsehoods about substantial changes in the Soviet Russian Empire contributed heavily to this dangerous tendency. Fortunately, there were many other significant events to offset this tendency toward false coexistence. The year can be best characterized as a natural ebb and flow of contending forces, one checking out the other, with a net result of progressive movement in the right direction.

THE IZVESTIA INTERVIEW AND STEVENSON IN THE U.N.

An excellent example of this characterization is provided by two recent concurrent actions of the Kennedy administration. The first is the Izvestia interview in which President Kennedy entertained questions posed by Alexei Adzhubei, the editor of Izvestia and also Khrushchev's son-in-law. "Who Interviewed Whom" may be an appropriate caption to this dialog, but there can be no question about the merits and demerits of the President's answers to the Russian's questions. The editorials and reports of Moscow criticizing the President attest to the advantages reaped from the interview. However, as concerns the captive nations,

the score was almost completely on the demerit and disadvantage and loss side.

There was no reason, for example, to assert that "Now we recognize that today the Soviet Union does not intend to permit reunification, and that as long as the Soviet Union has that policy Germany will not be reunified." As one of our leading columnists puts it, "This unnecessary concession will dash the hopes of the German people and indicate to the world that the United States accepts indefinitely Communist domination not only of East Germany, but of Hungary, Rumania, Poland, Bulgaria, Czechoslovakia, and of the other captive nations of Europe and Asia."[1] The impact of this utterly unnecessary concession on the captive peoples far exceeds any wished-for gain to be derived from contact with the Russian people.

Worse still are the concepts and conceptions revealed by the President in regard to our chief adversary. These fundamental aspects have been completely overlooked by critical observers and analysts. There is no doubt that Moscow will capitalize heavily on them. One, the President could have displayed a more valid understanding of the Soviet Union when with reference to World War II, he said: "I will say that the United States also suffered, though not so heavily as the Soviet Union, quite obviously." We can well imagine Adzhubei's reaction to the valid answer: "Though not so heavily as Ukraine, Byelorussia, Lithuania, Georgia, and Russia."

Second, the President's misconception of the Soviet Union, which Adzhubei nurtured skillfully with these carefully phrased questions, was put into full relief when he replied: "If the Soviet Union had lost the war, the Soviet people themselves would object to a line being drawn through Moscow and the entire country. If we had been defeated in war, we wouldn't like to have a line drawn down the Mississippi River."[2] It is evident from this that the President believes that the Soviet Union is a nation like ours, the Volga having the same significance as the Mississippi. Aside from his own contradictions in thought and verbiage on this basic subject, it is a sad commentary for the head of state to reveal to our chief enemy such acute limitations of knowledge and understanding concerning the enemy's environment.

The further assertions by the President that the "Soviet Union is a strong military power" and that "No one is ever going to invade the Soviet Union again. There is no military power that can do that," not only furnish propaganda bonanza to the totalitarian Moscow regime but also betray a highly deficient familiarity with the military history of the Russian empires and what essentially constitutes military power in any empire. These, too, were plainly gratuitous and detrimental statements which can only give comfort and encouragement to the enemy and depressed hopes to the captive nations, particularly those in the Soviet Union.

While the President was exuding these false notions about the Soviet Union, our Ambassador to the United Nations, Adlai Stevenson, stunned the Russian delegation with a factual recital of Soviet Russian imperialism and colonialism in Eastern Europe and Asia. He faced the colonialism issue squarely and courageously, and produced the finest and best U.S. presentation in the U.N. yet on Moscow's colonialism within the Soviet Union. For instance, citing the 1917 Declaration of Rights issued by the People's Commissariat on "the right of the nations of Russia to free self-determination, including the right to secede and form independent states," Mr. Stevenson raises the question, "How did this right work in practice?" To which he answers: "An independent Ukrainian Republic was recognized by the Bolsheviks in 1917, but in 1917 they established a rival Republic in Kharkov. In July 1923, with the help of the Red Army, a Ukrainian Soviet Socialist Republic was established and incorporated into the U.S.S.R."[3] He goes on to cover the conquests over Azerbaijan, Armenia, Georgia, and other now captive non-Russian nations in the Soviet Union. "During the war," he says, "the Soviets deported entire ethnic groups to the East, fearful that they would use the occasion to fight for their independence."[4]

In sharp contrast to the President's conception of the Soviet Union, Mr. Stevenson's memorandum on Soviet Russian colonialism described Moscow's empire as being barbaric and as enslaving nations in the Soviet Union as well as outside. To be sure, the President in his brilliant U.N. address raised this signal: "Let us debate colonialism in full—and apply the principle of free choice and the practice of free plebiscites in every part of the globe."[5] But judging by the Izvestia interview his measure of fullness didn't measure up to the conception disclosed by Ambassador Stevenson. This example of comparative strides in the development of the captive nations ideology is seen over and over again.

WHY A CAPTIVE NATIONS WEEK?

The 1961 Captive Nations Week observance in this country represented another marked stride in the cultivation of the captive nations ideology.[6] In connection with examples similar to that given above we may well ask ourselves, "Why do we need a Captive Nations Week?" From time to time many people ask, "What is the meaning and significance of this work?" "What do you hope to achieve and accomplish by it?" Complete answers to these questions require a number of preconceptions and perspectives. One requirement is a fixed conviction about the nature and independence of our own Nation. A second is an appreciation of the impact of our history upon Eastern Europe and Asia. Third, an understanding of the ideas of Captive Nations Week is necessary. And fourth, a restless will seeking the translation of our ideas and convictions into concrete, imaginative, and fearless action is indispensable.

Considering the first requisite on the nature of our own Nation, one can't help but recall the President's remarks concerning our Revolution, "We dare not forget today that we are the heirs of that first Revolution."[7] If you will reread the clauses of the Captive Nations Week resolution, which is now Public Law 86–90, you will again be impressed by its initial emphasis on the revolutionary symbol of American independence. Based on this resolution and law, President Eisenhower issued proclamations, both in 1959 and 1960, giving eloquent expression to this symbol. And in 1961 President Kennedy issued a stirring proclamation. The revolutionary symbol of American independence cannot be anything but a living and dynamic symbol, signifying strong motivation to action itself. We were soundly advised early in 1961, "Ask not what your country can do for you—ask what you can do for your country." Some time ago millions of Americans asked themselves this question, and their answer was in part given in these annual observances of Captive Nations Week.

Their answer to this bestirring question is founded on a fixed conviction about the nature and independence of our Nation. We celebrate our Independence Day, and we look inward, reexamining our souls and consciences as a free and responsible people. Two weeks hence we look outward and with our blessings give thought to the millions who have actually lost their independence and freedom in the past 42 years.

Many who give purpose and direction to the Captive Nations ideology are living evidence of the history of Soviet Russian aggression.[8] Calvin Coolidge once said, "Whether one traces his Americanism back 3 centuries to the Mayflower or 3 years to the steerage is not half so important as whether his Americanism of today is real and genuine." Whether many of these citizens are products of the Hungarian Revolution, the free voices of a conquered Poland, the escapees of a Russian-genocided Latvia, Lithuania, Estonia, past fighters of a Ukrainian or White Ruthenian underground, or past victims of tyranny and oppression in Czechoslovakia, Rumania, Bulgaria, East Germany, Yugoslavia, or in the Caucasus and Asia and now Cuba—or indeed, freedom-loving Russians who have found a haven here—their Americanism is no less than that of those born and reared here. Together we share a common conviction about the nature and independence of our Nation.

Our Day of Independence symbolizes for us, under God, our national freedom, the untampered will of a sovereign people, our firm determination to meet any enemy who would attempt to destroy our independence. It symbolizes, too, the spiritual and moral power of our great tradition, the just institutions of our country, and the warm humanism of its laws. Often different peoples throughout the world see the meaning and essence of this Nation more objectively and even more appreciatively than many of us do.

As the Captive Nations Week resolution indicates, our Nation, built on the free and creative energies of people drawn from every quarter of the globe, is a unique historical experiment—in short, the great experiment of mankind. Our Nation is a living revolution that moves the hearts and minds of freedom rather than just peace-loving peoples everywhere, particularly those in captive Eurasia. Placed against this revolution, the so-called Communist revolution is but a dressed-up phantom shielding the most reactionary, barbaric and feudal forces of all time. Significantly, the Stevenson memorandum emphasizes this. Our society, to be sure, is not perfect. But, by all evidence, it is unquestionably one that has given so much in so many ways to so many within a short span in the history of man.

Contrary to some false notions, we do possess an ideology which inspires our continued growth as a morally leading nation and remarkably equips us to contend sucessfully with the present threat of imperialist Red totalitarianism. This ideology is plainly and precisely spelled out in our Declaration of Independence and the Bill of Rights. It is vitally important for us to reflect continually upon the moral and political principles embodied in these historic documents. Nuclear weapons, missiles, luniks and the whole array of new technological innovations—which by nature are only instruments and means—cannot possibly reshape or antiquate these natural norms of civilized human existence.

But at this time even more important is the conscious application of the perennial

[1] Lawrence, David, "Kennedy Talk With Soviet Editor," syndicated column, December 1961.

[2] Text of Kennedy interview with editor of Izvestia, Nov. 28, 1961, Washington, D.C.

[3] "U.S. Delegation to the General Assembly," press release No. 3862, Nov. 28, 1961, p. 4.

[4] Ibid., p. 5.

[5] Text of President Kennedy's address to General Assembly, United Nations, New York, Sept. 25, 1961.

[6] For a substantial report on the observance see the CONGRESSIONAL RECORD, volume 107, part 10, pp. 13168–13196.

[7] President Kennedy, text of inaugural address, Jan. 20, 1961.

[8] See Dobriansky, Lev E., "A History of Communist Aggression," Vital Speeches, Sept. 15, 1961, pp. 719–723.

principles of national independence and personal liberty to other nations and peoples. For not only is the living application of these principles crucial to the further growth and development of our Nation, but it is also indispensable to the existence and survival of the nontotalitarian free world. A persistent application by every conceivable medium of communication and contact would dwarf the inflated accomplishments and pretensions of Moscow and its colonial puppets.

THE LIVING FORCE OF THE AMERICAN REVOLUTION ON EASTERN EUROPE AND ASIA

This conviction about our own Nation and about the revolutionary symbol of American independence is, of course, not enough. It is a base that in these times demands a structure of appreciation, understanding, and a will to act in the community of mankind. The captive peoples of Eastern Europe and Asia form a major and, in the cold war sense, a primary part of this community.

Many events of 1961 have therefore stressed the additional need of a vivid appreciation of the profound impact of our history upon Eastern Europe and Asia. In Congress and elsewhere they pointed out what a moving and powerful force our Declaration of Independence was on the various nations which were subjugated in the empires of the last century and a half. They cited the nations in the Russian, Austro-Hungarian, and Ottoman Empires which rose at the beginning of this century to declare their independence with a will to pursue an independent national existence similar to ours. But, in significant part, this tendency was shown to be short lived as the unchecked surge of totalitarian Russian imperialism since 1918 once again reduced the many non-Russian nations of Eastern Europe and Asia to servility.

It is vitally significant that stress was placed also on the first major counterattack against the ravenous forces of Soviet Russian imperialism by the Polish-Ukrainian alliance between Pilsudski and Petlura. Had this alliance destroyed Trotsky's Red army completely and decisively, the course of world developments would surely have been different. The myths of communism and Marxism-Leninism would have only been a peep in the arena of human history. As it was, this alliance gave Europe and other parts of the world a breather of some 20 years before the Soviet Russian scourge began to spread again.

Today, the United States is itself seriously threatened by this barbaric peril, which, as in past centuries, poses as the wave of the future, as the Third Rome of mankind, as the Slav center of culture, power, and might. Worst of all, in our confusion, generated in the greatest degree by the unsurpassed propaganda skill of the enemy, we aren't even aware of the tremendous opportunities we have to defeat this menace in the cold war and thus stave off an otherwise inevitable hot global war. The prime and chief forces of patriotic nationalism in central Europe, in the Soviet Union itself, in central Asia and east Asia are our paramount ally. As the facts of 1961 show, Moscow has had to kill off representatives of these forces.[9] We haven't even begun to tap the enormous potential of non-Russian nationalism within the Soviet Union. The insecurity of Moscow's imperialist and colonial domination over the captive non-Russian nations from the Danube to the Pacific would be permanently sealed and intensified once we seriously begin to direct the words of the President to the peoples of these over 20 captive nations: "Fellow citizens of the world, ask not what America will do for you, but what together we can do for the freedom of man."

THE IDEAS OF CAPTIVE NATIONS WEEK

This necessary togetherness for freedom is best expressed in the Captive Nations Week Resolution. This observance gives a crystallized expression to the necessity for working together for freedom, especially in the one area of the world that thirsts for it. Above everything else Khrushchev craves to have his captive world undisturbed and neglected by the free world. This is much of his motive behind his effort toward negotiations. But it should be obvious that we must never allow him to consolidate his farflung empire. We must never forget that his growing insecurity about the captive nations is our great weapon in the cold war, not to speak of a hot one. Nor must we ever forget that the field of the cold war is also eastern Europe and Asia, not only between imperialist Moscow and the free world but also between the captive peoples and the colonial puppets imposed on them.

Captive Nations Week, as its powerful observances demonstrated in 1961, means all this and more. And an understanding of the ideas of Captive Nations Week must be transmitted to all Americans. What Public Law 86–90 calls for is, in essence, a universalized Declaration of Independence. It is based on the knowledge that the captive peoples of central and southern Europe—the Poles, Hungarians, Slovaks, Czechs, East Germans, Rumanians, Bulgarians, Serbs, Croats, Slovenes, Montenegrins, Macedonians and Albanians—have a common bond for freedom with the captive peoples in the Soviet Union and Asia. For the first time our Government recognized the fundamental fact that the Soviet Union itself is an empire, in which the majority of people constitute captive non-Russian nations.

Most of us recall how in 1959 the self-confident, blustering and cocky Khrushchev reacted violently against the resolution. At every turn he harried Vice President Nixon with the question: "Are these captives?" Isn't it strange that this colonial and imperialist ruler of a vast empire, forever boasting about his missiles, sputniks, aircraft, steel—and even donning an ill-fitting military uniform to press his points—should be alarmed and explosive over a mere congressional resolution. Ask yourselves what, except for the U–2 incident, has stirred Khrushchev more to this explosive point of fear and anxiety than the ideas contained in the resolution? The fact is that we have focused the spotlight of imperialism and colonialism on the only important center where it today belongs—Moscow. Ambassador Stevenson underscored this in the U.N.

As in Poland, Hungary and elsewhere, there is a serious colonial problem within the Soviet Union. To this day Khrushchev is concerned about this when he attacks "Those who say the Soviet Union's Asian Republics are colonies."[10] And if this is emphasized more and more in the forum of world opinion and attention, the proper characterization of Russian Moscow as the last major colonial and imperialist power in the world would be devastating to its propaganda and cold war efforts. Khrushchev well understands this and rants endlessly. However, many in this country remain puzzled and bewildered by all this. We muffed our opportunities on this score before and do so now.

The hour of decision is rapidly approaching. An increasing number of Americans are convinced that only a policy of emancipation and liberation of Khrushchev's captives is the decision for freedom-loving men. Many have come to hold that a policy of liberation is inescapable for victory in the cold war. And the horrors of a nuclear war only reinforce this position. Our opportunity will come once we realize a number of basic truths. The first is that the issues of colonialism and imperialism in Moscow's empire are prime targets for our national concern and effort.[11] Second is the fact that the Soviet Union, which poses as an equal to the United States, is an empire in itself, holding in bondage the captive nations of Latvia, Lithuania, Estonia, White Ruthenia, Ukraine, Georgia, Armenia, Azerbaijan, Turkestan, Cossackia, North Caucasia and Idel-Urel. Incessantly the peoples of these captive nations are being attacked by Moscow for "bourgeois nationalism."[12] It should also be recognized that the only types of warfare that Moscow can wage with success are propaganda and guerrilla warfare. The fourth truth is that the cold war will be as permanent as the colonial imperium maintained by Moscow from the Danube to the Pacific. And, lastly, the universalization of our Declaration of Independence is the most formidable weapon in this type of war. Initiative, positive action, imaginative ideas can be ours with these fixed and new dimensions of thought.

Although it is said that "the fool's treasure is in his tongue," Khrushchev has never uttered a more complete truth when he said in the summer of 1961 that his tongue is his chief weapon. The typical Russian potemkin village tactics practiced by him, whether in economic, military, space, cultural, or other fields, should frighten no one. In each of these areas a persistent, continuous, and popular concentration and study by us would easily reveal the breadth and depth of the Russian con game. For instance, the economic boasts of Khrushchev could be easily exploded by revelations of the rampant economic imperialism and colonialism within the U.S.S.R. itself, a matter that appears to frighten him most.

ADDITIONAL 1961 EXPRESSIONS OF THE IDEOLOGY

In Congress, in the public forum, in periodicals and books these and additional ideas were consistently advanced and disseminated through the year. It is often said by some that the American people haven't the will to prepare for and do the tasks that these ideas imply. We don't believe this. The Captive Nations Week observances alone demonstrate in themselves a restless will in many sections of our country, seeking the translation of these ideas and convictions into concrete, imaginative and fearless action. Our best defense in the cold war is the offense. There are many things that are required for the successful development of a cold war strategy.

For example, considerable emphasis was placed in 1961 on the necessity of a firm stand without any compromise on West Berlin. The issue of West Berlin is part of the issue of a free reunited Germany, and this is an integral part of the general issue of the captive nations. Initiative in expressing our rights in East Berlin was underscored. Heavy stress was also placed on a determined opposition to the admission of Red China to the United Nations. Mainland China is the largest of all captive nations. Its hope of eventual freedom is in Taiwan. There is nothing inevitable about Peiping being in the U.N. Here, too, no compromise; here, too, no illusions about any mutual suicide pact between Peiping and Moscow.

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[9] Reports on Moscow-instigated assassinations: "Former Soviet Spy Confesses Two Assassinations in Munich," Daily Mail, London, Nov. 18, 1961; "Bonn Holding Russian in Munich Murders," New York Post, Nov. 20, 1961.

[10] Ensz, Reinhold G., "K Suggests To Boost Cotton Crop," Associated Press, Moscow, Nov. 19, 1961.

[11] "Captive Nations—Moscow's Achilles' Heel," the Manion Forum, No. 372, Nov. 12, 1961.

[12] E.g., "Latvians Accused," Reuters, Moscow, Nov. 21, 1961.

Essential to the development of the ideology is the passage of H. Res. 211 and similar resolutions proposing the creation of a Special House Committee on Captive Nations. The necessity for such a committee has been ably set forth in congressional discussion.[13] There is no agency in government or private life that continually and persistently studies and investigates all of the captive nations. We desperately need such a body. As was often shown in 1961, this also applies to the passage of the Freedom Academy Bill in Congress. We shall surely continue to lose the cold war unless we decide to develop a cold war strategy and apparatus. The Captive Nations Resolution is the basis for such a strategy; the establishment of a Freedom Academy is an essential of the apparatus.

Months before Castro made his public confession, proper attention was given to Cuba as a captive nation.[14] This attention was focused on the activation of the Kersten Amendment to the Mutual Security Act with reference to Cuba. What we failed to do 10 years ago with regard to the European captive nations, we must do now with regard to Cuba. The fact of a new captive nation existing at our doorstep should awaken us to the need of forming units of Free Cuba, prepared for guerrilla warfare and the process of liberating Cuba. Related to this on the basis of the ideology is the expansion and improvement of the Voice of America broadcasts to the non-Russian nations in the U.S.S.R. It is strange, indeed, that the enemy in effect determines the shifts in Voice of America frequencies as, for example, in Africa and Latin America, while we virtually leave his vulnerable areas untouched, e.g., Turkestan and the Caucasus. There are over 30 million Moslems in the U.S.S.R. who deserve our closest attention and whose significance for the entire Islamic world is immense.

Captive Nations action in 1961 was also directed at the restoration and extension of the Champion of Liberty Stamp series. The goodwill impact of these stamps has been well demonstrated. The decision of our postal authorities to downgrade the series is mystifying and even irrational, especially when many fighters of freedom among the captive nations should be appropriately honored. This action aimed also at the creation of an executive agency on the self-determination of the Captive Nations. Such an agency would steadily focus world attention on the captive nations of Europe and Asia and, by deed, attest to our policy of never acquiescing to their permanent captivity. By all evidence such an agency is more important than a disarmament agency.

These and other issues were forcefully expressed. There is no question but that in time most of them will be realized. They stand in the best interests of our Nation, for the survival of freedom, and for the avoidance of a cataclysmic hot global war. Colonial Moscow knows best from decades of experience and evidence that it cannot trust its own armed forces. This was shown in World War I, World War II, and in Hungary. The momentous conflict of our day will not be resolved by military arms but, instead, by nonmilitary means, particularly in the field of propaganda. But we seek to propagate a diplomacy of truth, the dynamics of freedom, and the certainty of victory in the most essential area of the cold war—the area of Moscow's colonial empire. And the greatest contribution we could make to the independence and freedom of the 100 million Russian people is to work for the independence and freedom of all the captive non-Russian nations now under the heel of imperialist Moscow.

In 1962 and the years ahead the tone and character of the Captive Nations ideology will be cultivated in terms of a posture suggested decades ago. President Theodore Roosevelt was entirely right when he advised, "Speak softly and carry a big stick." But let us, for the sake of world freedom, speak—continuously, persistently, truthfully; and as he also said, "Fear God and take your own part"—for the freedom of the captive nations, for, in reality, our own freedom.

[From the Georgetown University Foreign Service Courier, February 1962]

THERE ARE NO GIANTS—A CONVERSATION AND SOME NOTES ON A CONVERSATION WITH DR. LEV E. DOBRIANSKY

(By Frank Gannon)

With his characteristic intensity and verve, Dr. Lev Dobriansky is, as chairman of the National Captive Nations Committee, attempting to create a public awareness of the facts of international life.

"People have been led to believe—and, since it's the most comfortable thing to do, have believed—that we face an impregnable and monolithic opponent in the Soviet Union. Nothing could be further from the truth. Make no mistake about its strength, but don't be fooled by the monolithic part. Marx himself described Russia as 'a prison-house of nations,' and that, in fact, is what the so-called Soviet Union is."

The present roll of nations subjected to Moscow domination is impressive indeed in its covering a multitude of peoples of extremely different and extremely non-Russian heritage and culture. Included are Turkestan (west central Asia); Ukraine, Moldavia, Byelorussia, Lithuania, Latvia, Estonia, Karelo-Finland, Georgia, and Azerbarjania (all in Eastern Europe). These numerous and largely unfamiliar countries include more racially different groups than in any other country except India. There are some 174 ethnic groups and nationalities. The second largest group, the Turko-Tartar, is utterly non-Russian. "These people are the descendants of a distinct heritage, from the 13th century, and Ghengis Khan and Tamerlane. Then there are the non-Russian Japhetic groups of the Caucasus regions, and the Finno-Ugiran groups of Eastern Europe. Then you must consider the Jewish group, Iranians, Germans, Mongolians, Greeks, Bulgarians, Koreans, Gypsies, Kurds, Chinese, Czechs, Arabs, Assyrians, and even the Chuckchi, people of Siberia who are thought to be related to the Eskimo and the American Indian." Concluding the list, Dr. Dobriansky pointed out that some 200 dialects are spoken within these countries. "And that list doesn't include the puppet regimes like Germany, Hungary, Poland, North Vietnam, Red China, and so on."

NO UNION AT ALL

The Soviet Union is in fact an imposed organization which is at very best simply alien to most of its constituents. Many actively hate and work against it.

The uprisings in East Germany, Hungary, Poland, and Tibet are only the overt formulations of activities and hopes of many hundreds and thousands trapped behind the Iron Curtain. The empty faces staring across the wall can be endlessly multiplied and projected across the entire map of the Soviet Empire.

"And that is exactly what the Soviet Union is," Dr. Dobriansky explained, "an empire the likes of which have probably never been known. Unlike the empires of antiquity which depended upon sheer force for constant control, the Russians have been able to use all the modern weapons as well as the insidious psychological methods and the pol-war techniques as well as the gruesome niceties of diplomacy which have developed since the First World War."

The Soviet Empire is staggering in its extent and conception. It is dedicated to an absolutely untrue theory of history; through both treachery and stupidity (largely on the part of the United States), it has spread its pall over 30 percent of the globe, and today poses a far more serious threat to western civilization than Hitler's empire even at its height; a threat the more serious because (again treachery and stupidity) we refuse to recognize either that (a) it is a threat or, (b) it even exists. But the most appalling fact is that through sheer psychological manipulation and simple gall, the West has been convinced that it faces a monolith whose power is supreme and uncontestable, rather than a prison-house fraught with fear and suspicion and slowly but certainly becoming aware that the Marxist-Leninist vision is in fact illusion. In Poland today, the joke is told (albeit furtively) about the powerful ruler who, once upon a time, ordered his portrait painted. This ruler had no right eye and no right arm. The first painter painted the ruler as he was, without an arm and an eye. He was hanged for bourgeois formalism. A second artist painted the portrait with both arms and eyes; he was shot for bourgeois idealism. A third painted the ruler facing toward the right, with only the good arm and eye showing; he was given the state prize for Socialist realism.

Socialist realism is being painted everywhere in terms of squalor and deprivation, of fanatical capital formation and military development rather than rising or even improving consumer standards.

"We just don't seem to be conscious, much less awake," Dr. Dobriansky lamented. "The number of opportunities to exploit the many chinks in the Iron Curtain that we have let pass is vast. We continue to accept all of Moscow's dictates, and passively continue to play the cold war game as the Kremlin calls it. Laos, Cuba, Tibet, Indochina, the Congo—their great importance to Khrushchev is not that they serve as forward posts of the Communist conspiracy, but rather that they serve the much greater purpose of diverting our attention from the area that is most important as well as most vulnerable to Khrushchev—the non-Russian nations in the U.S.S.R. Why do you think that Khrushchev was so furious when Congress at last passed the captive nations resolution in July 1959? Why was it that as recently as the 22d Party Congress, last October, that Khrushchev ranted and raved about the efforts of the United States to exploit the non-Russian captives?"

CAPTIVE NATIONS RESOLUTION

The story of the captive nations resolution is, like most congressional stories, a long and involved one. Beginning in August 1959 under the sponsorship of Congressman Cretella, of Connecticut, one might say that its first climax came with Khrushchev's violent reaction as registered by the then Vice President Nixon on his famous Moscow visit. Since its passing, a continuous stream of propaganda articles, speeches, and denunciations—many of the latter at the United Nations—has broken forth from Khrushchev and his puppets. As late as this past summer, President Kennedy was severely denounced for proclaiming Captive Nations Week. This kind of action really puts Khrushchev on the defensive, and this is, truth be told, a position with which he is generally unfamiliar. It demonstrates irrefutably that we do not accept the Moscow geography which divides the world into two zones: theirs, the peace zone in which no interference is to be allowed, and ours, the war zone in which anything goes.

Our record has been far from admirable. The abortive Hungarian revolution marked a very definite psychological turning point in East-West relations. After sanctimonious

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[13] E.g., "U.S. Government Policy and a Special Committee on Captive Nations," the CONGRESSIONAL RECORD, vol. 107, pt. 11, pp. 14610–14620.

[14] Dec. 2, 1961, speech: "I am a Marxist-Leninist and will be one until the day I die."

exhortations to captive peoples to make themselves free, we sat back on our hands while brutal Soviet intervention, in what is ostensibly an independent country, put down the revolt. We didn't even threaten with the possibility of support. As the then Senator John F. Kennedy put it, "We did not warn that intervention in Hungary might threaten world peace * * *. We did not even try to make the Soviets feel we might resist their intervention to do as much for Hungary as Russia was doing for Egypt by bluffing the Western powers away from the Suez Canal." This policy of inaction and indecision carries right up to April 18 and the debacle at the Bay of Pigs.

"Our blindness, our utter bumbling stupidity, our inability to perceive even the forest or the trees, may be ascribed to faulty knowledge, basic misconceptions, outright policy contradictions, and, consequently, a heavy dose of specious reasoning. Let me consider each of these briefly.

"To simply demonstrate the problem of faulty knowledge, let me quote to you from a State Department research newsletter on the Soviet Union called "Soviet Affairs Notes." The notes are done by research staffs to keep Department officials up to date while at the same time sparing them from reading the copious pertinent materials. Issue 158, on the first page, informs the reader that:

"The term 'Ukraine' is itself a modern political rather than a historical term. It was invented in the 19th century by nationalists seeking to detach the southwestern borderlands of Russia from the Tsarist empire.

"Now need I say that many volumes have been written by German, English, French, and other writers of the 16th, 17th, and 18th centuries, using the term 'Ukraine.' The term of reference may be traced back to the 12th century. But for our State Department experts, it is a 19th century invention. You can draw your own conclusions from this.

"Basic misconceptions are rampant, but I can begin at the top by quoting a letter written last summer from the Secretary of State to Mr. SMITH, chairman of the House Rules Committee. The letter expressed the hope that the House would not set up a special captive nations committee at this time, because it might upset Moscow and this would be particularly inadvisable given the Berlin crisis. Also, the Secretary of State wrote, private and governmental sources have long been reviewing this subject. Now I repeat the challenge to Mr. Rusk that I first made over the air on the Manion Forum: I challenge Mr. Rusk to produce any comprehensive study on, for example, Russian economic colonialism within the Soviet Union. To quote Mr. Rusk's letter:

" 'The U.S. Government's position is weakened by any action which confuses the rights of formerly independent peoples or nations with the status of areas, such as the Ukraine, Armenia, or Georgia, which are traditional parts of the Soviet Union. Reference to these latter areas places the U.S. Government in the undesirable position of seeming to advocate the dismemberment of a historical state.'

"The statement should be thoughtfully read—it will be a classic on how to lose the cold war. The poor state of knowledge, interpretation and vision reflected by it is well nigh appalling at this perilous juncture of our history. Each of the countries mentioned was independent in the post-World War I period, was recognized by Soviet Russia and numerous other countries, and has fought valiantly to this day to regain its independence. But the Secretary says, in effect, so what, they are traditional parts of the Soviet Union.

"The Soviet Union has scarcely been in existence for 40 years, but Mr. Rusk deems this traditional enough to seal the fate of the first victims of Soviet Russian imperialism. If he tries to wiggle out of this by interpreting the Soviet Union as a successor of the 'historical state' of the Tsarist Russian Empire, he is even worse off. Armenia was not a traditional part of this historical state and since when has our State Department become the sanctifier of the Russian Empire, whether white or red?

"The President has declared that we support 'the just aspirations of all people for national independence and freedom.' The Congress did the same in the captive nations resolution, which lists, among others, Armenia, Georgia, and Ukraine. Khrushchev, deeply stung by these declarations, grows hoarse telling these captives that they are 'independent.' But some in the State Department obtusely brush all this aside and, in effect, say—don't bother about them, don't even study their plight, for they are 'traditional parts' of the Russian Empire. Can you imagine what would have been the course of our history if the revolutionaries of 1776 had swallowed similar talk about traditional parts of the British Empire—not for 40 years, not for a century, but for almost two centuries?"

CALLS FOR INTERVENTION

"As far as basic policy contradictions are concerned, simply compare Kennedy's interview with Khrushchev's son-in-law for Izvestia and Stevenson's great statement on colonialism at the U.N.—both made in the same week, both utterly opposed; which is right? Which do we mean? Or more important, which will we stand by, the Bridge of Andau or the Bay of Pigs?"

All the above and more, Dr. Dobriansky feels merit, nay, demand, a full-scale congressional investigation into State Department policy regarding the Soviet Union.

WHAT TO DO

Our course of action must be reset, and by clever, careful, and coordinated moves, much can be gained. We have tools at our disposal, like the U.N., and diplomatic recognition, which we have yet to even begin to use.

Much will be done about the captive nations committee in Congress next session. Postponed because of the quoted Rusk letter, Congressman MADDEN, of Indiana, has demanded that a representative of the State Department appear before the Rules Committee, but only a letter was sent.

"The original captive nations resolution was introduced by Congressman DANIEL J. FLOOD, of Pennsylvania, and to date there are about 39 similar resolutions. The Republican Congressional Policy Committee is on record as favoring such a committee. Letters to members of the Rules Committee, individual Congressmen, and copies of these letters to Congressman FLOOD are most vital. As a matter of fact I heartly suggest that the reader put this article down now and write his or her Congressman about the captive nations committee. Such a committee will perform invaluable informational work—keeping our people informed—and also serve to focus worldwide attention on the writhing millions yearning to be free under the yoke of Moscow's colonial empire. The committee would produce recommendations of the greatest value to our national interest."

AFTERTHOUGHT: THERE ARE NO GIANTS

In the Fourth Book of Moses, the 12 spies sent out to investigate the promised land report that it is truly a land of milk and honey, but that it is peopled by "giants, sons of giants" and that "we felt like mere grasshoppers beside them, and must so we have seemed to them." "Disbelieving Moses when he insisted that there are no giants, the people were sent wandering in the desert for 40 years before being again permitted to view Canaan.

In the 40-odd years since the Bolshevik revolution, we have been wandering aimlessly about in a desert of "faulty knowledge and basic misconceptions, outright policy contradictions, and, consequently, a heavy dose of specious reasoning." These, together and separately, account for the grave losses in initiative and lost opportunities for the expansion of freedom which seem to have been the hallmark of our policy for the last four decades.

But the Kremlin is not peopled with "giants, sons of giants," but rather with men—and highly fallible and even scared men at that. We must remember that Khrushchev told an East German Communist Party delegation a few years ago:

"If anyone believes that our smiles involve abandonment of the teaching of Marx, Engles, and Lenin, he deceives himself poorly. Those who wait for that must wait until a shrimp learns to whistle."

And we must use that knowledge and all the problems vis-a-vis the non-Russian captives inhering in it to make Mr. Khrushchev sweat. Nothing less than the fate of Western civilization rests upon our shoulders.

And we had better start soon, for time is wasting.

PENNSYLVANIA NATIONAL GUARD

The SPEAKER. Under previous order of the House, the gentleman from Pennsylvania [Mr. SAYLOR] is recognized for 15 minutes.

Mr. SAYLOR. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. SAYLOR. Mr. Speaker, the people of Pennsylvania, and in particular, those who reside within the 22d Congressional District, were shocked to learn that the Defense Department has proposed a drastic reduction of National Guard units.

The effect has been felt in many homes in my area because one of the specific units marked for elimination is the entire 876th Engineer Battalion of the Pennsylvania National Guard located at Johnstown, Indiana, Ford City, and Ridgway. This highly trained unit has had an outstanding record from a State whose National Guard has always maintained an excellent rating.

A brief history of the 876th Battalion discloses these highlights:

The Army National Guard of Pennsylvania was first introduced in the Johnstown area with the organization of the 1902d Engineer Battalion in April 1949 under the command of Lt. Col. Joseph E. Lindsay. The guard unit was housed initially at the Oakhurst School in Morrellville, where it trained and increased its strength to over 150 men. The construction of a new $240,000 armory was started in the spring of 1950 at the Johnstown Cambria County Airport. On October 1, 1950, the organization was called to active duty, during the buildup of the armed services for the Korean war. The battalion departed for Fort Leonard Wood, Mo., with a strength of approximately 250 officers and men from the Johnstown, Pa., area; these were H and S and C Companies. At Fort Wood, two other companies of the battalion joined the two companies

from Johnstown. The other two companies, part of the 1902d Engineer Battalion, were A Company from the Texas National Guard, stationed at Dallas, and B Company from the Ohio National Guard, stationed in Cincinnati, Ohio.

On May 29, 1951, upon the completion of basic training, the engineer battalion moved to Wolters Air Force Base, Tex., with a strength of approximately 900 officers and men. At Wolters a vigorous advance training program was conducted which included the construction of a complete runway on the home base; the construction of a troop living area at Donaldson Air Force Base, S.C.; a troop area at Alexandria Air Force Base, La.; and participation in the Longhorn maneuver, one of the largest military exercises ever conducted. Commendations were received for the speed and excellence of construction projects completed at Donaldson and Alexandria Air Force Base and the Longhorn maneuver headquarters at Fort Hood, Tex.

On September 30, 1952, the National Guard members were released from active duty and returned to their homes.

On December 1, 1952, the 876th Engineer Battalion was organized under the command of Lt. Col. Joseph E. Lindsay and moved into its new armory at the airport, with a strength of 73 officers and men. All of these officers and men were members of the former 1902d Engineer Battalion. To date this strength has been increased to over 700 men, the largest nondivisional battalion in the Pennsylvania National Guard. The battalion consists of five companies with battalion headquarters, Headquarters Company and Company A located in Johnstown, Company B in Ford City, Company C in Ridgway, and Company D in Indiana, Pa.

The 876th Engineer Battalion—construction—was originally activated as an engineer aviation battalion on November 15, 1942, at Camp Claiborne, La. Upon completion of intensified training, the battalion was assigned to the European theater of war in September 1943. There the organization proved itself under fire while participating in the campaigns of Normandy, northern France, Rhineland, and Central Europe. The 876th Engineer Battalion returned to the United States and was deactivated at Camp Miles Standish, Mass. The battalion was then alloted to the National Guard.

The 876th Engineer Battalion—construction—trains annually at Indiantown Gap Military Reservation. During these annual periods this battalion has constructed a taxiway, extended the existing runway by some 800 feet, constructed a recreational area, and engineer training site, various roads and parking areas. Combat training is also conducted in the defense of airfields in case of enemy attack. The battalion is one of the highest rated battalions in the Pennsylvania Army National Guard and the Nation.

Its strength report is as follows:

Strength report, Headquarters, 876th Engineer Battalion (Construction), Johnstown, Pa.

Unit	Location	Officers	Warrant officers	Enlisted
Headquarters and Headquarters Company.	Johnstown, Pa.	11	3	96
Company A	do	2	3	174
Company B	Ford City, Pa.	3	2	136
Company C	Ridgway, Pa.	4	2	153
Company D	Indiana, Pa.	3	2	107
Total		23	12	666
Aggregate			701	

The 876th unit was one of four separate engineer battalions to serve during the Korean conflict. Over 80 percent of its officers and enlisted men, as veterans of that war, are personally familiar with combat and guerrilla tactics. This type of training is considered so important that the Defense Department has just announced that a new training program of guerrilla warfare will have to be given to selected units of our Army. It seems strange that a National Guard unit already possessing this type of training and experience should suddenly be liquidated.

In addition to this background and training, the 876th Engineering Battalion has received an excellent rating in field training and in the annual armory inspections. It received the highest proficiency rating in the Pennsylvania National Guard for field training in 1961 by the 2d Army inspection teams.

Adj. Gen. Malcolm Hay, of Pennsylvania, stated in an interview Friday:

I am particularly upset about the possible loss of the engineer battalion headquartered in Johnstown. It's a finely trained unit with the right kind of equipment, and the men who know how to use it.

He stated further that he would urge Gov. David Lawrence, upon his return from a world tour this week, to join in the opposition to the elimination of this outstanding National Guard unit.

I call upon all Members of the Pennsylvania congressional delegation to join me in a protest against the elimination of this outstanding military unit—the 876th Engineer Battalion of the Pennsylvania National Guard. I have pledged to the Adjutant General every available assistance I can render in setting up an effective plan of action. I have also requested to be heard before the House Armed Services Subcommittee, which is making a study on Reserve posture, and intend to protest vigorously the action of the Defense Department in this instance.

This is a serious flaunting of professional military judgment, and of demonstrated military requirements, by the civilian secretariat of the Defense Department, and, in my opinion, this constitutes an ex posto facto impediment to the life plan of many of our families who committed themselves to military obligations.

Under unanimous consent, I include letters and telegrams sent to me by the individual members of the various units of the 876th Engineer Battalion:

JOHNSTOWN, PA., *April 28, 1962.*

Representative JOHN P. SAYLOR,
Washington, D.C.:

It has been proposed by the Department of Defense to eliminate the 876th Engineer Battalion located in Johnstown, Cambria County, Pa. Over 80 percent of the officers and noncommissioned officers served in World War II and/or the Korean war. All of its enlisted men are highly qualified in their military occupational specialty. The strength of this battalion is 701 officers and enlisted men. All of their valuable training and experience will be lost to the country if this battalion is included in any reduction proposed by the Department of Defense.

This type military organization is best equipped for service in case of natural disasters. This has been proved in several instances when this battalion was called upon to render assistance during the winters of 1958 and 1960. During the Stroudsburg flood of 1955, elements of this unit, with equipment, were on duty there for a period of 7 days.

We ask your immediate action to oppose this proposed reduction in this depressed area.

SEVEN HUNDRED AND ONE OFFICERS AND MEN, 876TH ENGINEER BATTALION, CONSTRUCTION, JOHNSTOWN, PA.

INDIANA, PA., *April 29, 1962.*

Representative JOHN P. SAYLOR,
Washington, D.C.:

I would like to request your support and influence against the recently announced action by the Department of Defense to eliminate units of the Pennsylvania National Guard, including units of the 876th Engineering Battalion. There has been a National Guard unit located here at Indiana, Pa., since 1875, and in the past years the community has benefited from its existence in many ways. Since this area is considered a critically unemployed area it would mean the loss of over $29,000 annually to the members of this unit and the community. Without the availability of a National Guard unit at Indiana many young men would not have the opportunity to complete their military obligations in a reserve component. Thus this would result in the creation of many personal hardships to future members and those already assigned. The officers and enlisted men of this unit presently numbering 120 solicit your favorable support against the announced defense cuts to the National Guard.

DEAN L. LAMBING,
Commanding Officer, 876th Engineer Battalion, Indiana, Pa.

COMPANY B, 876TH ENGINEER BATTALION (CONSTRUCTION), PENNSYLVANIA ARMY NATIONAL GUARD,
Ford City, Pa., April 29, 1962.

Hon. JOHN P. SAYLOR,
House of Representatives,
Washington, D.C.

DEAR MR. SAYLOR: Now as in the past the National Guard has served a worthwhile as well as useful position in the community as well as the country. It would be a great disservice to all concerned if this unit in Ford City were to be disorganized.

There are many different aspects that we must look at. There is defense of the country which is everybody's business, there are boys who must serve their Reserve obligations, and taking of money out of a depressed area as we have here would be precarious indeed.

We feel as our elected Representative you have an obligation to us the voters as well as active members of the Pennsylvania Army National Guard. Anything that you might do to prevent such a catastrophe would be greatly appreciated.

Sincerely yours,

JACK I. LENAVITT,
First Lieutenant, CE PARNG.

JOHNSTOWN, PA., *April 30, 1962.*

Congressman JOHN P. SAYLOR,
Washington, D.C.:

Request every effort be extended to save 876th Engineering Battalion from being eliminated as proposed by the Army.

The 876th would be very valuable to the airport and the community in the event of enemy attack or national disaster.

ROBERT L. BURMAN,
Manager, Johnstown Cambria County Airport.

JOHNSTOWN, PA., *May 2, 1962.*

Hon. JOHN P. SAYLOR,
House of Representatives,
Washington, D.C.:

Please exert your influence toward the reconsideration of the abolition of the 876th Engineering Battalion. Headquarters, Pennsylvania National Guard now located in Johnstown. While we do not usually oppose a reduction in expenditures we are of the opinion that this unit should not be sacrificed, for it supplies in excess of one-quarter million dollars annually to our local economy. As you know, we have been depressed far enough without this additional burden. We believe other communities could better make the adjustment than we of the Greater Johnstown area. In addition the 876th has supplied this community with much needed volunteer help in reconstructing some of our unsightly areas as well as accepting many other community services. We hope you will give this matter your earnest consideration and support.

HOWARD M. PICKING, Jr.,
President, Johnstown Savings Bank.

APRIL 29, 1962.

Representative JOHN P. SAYLOR,
House Office Building,
Washington, D.C.

DEAR SIR: I am a member of Company B, 876th Engineer Battalion located in Indiana, Pa. I am violently opposed to the program that will disband any or all members of the above mentioned battalion. The Engineers are as important an outfit to the Army as the Infantry is. It would be a very foolish move to even attempt to eliminate the 876th. We are a highly trained organization and it would be an economic waste to even consider throwing the company out.

This is also a depressed area and many of the men depend upon the small paycheck we receive quarterly to help support their families.

I hope I have expressed my viewpoint on this issue quite clearly. Any help you can give us will be greatly appreciated.

Sincerely,

DARHL SAY.

INDIANA, PA.

INDIANA, PA., *April 28, 1962.*

Hon. JOHN P. SAYLOR,
House Office Building,
Washington, D.C.

DEAR SIR: At this time I feel that the 876th Engineers, Company D, should stay in Indiana. I would find it a great hardship to have to drive to another town for our weekly meetings. The National Guard unit of Indiana is a great asset to our community and provides a source of security to its people.

I am hoping that this will be of some help to hold our unit in Indiana, Pa., where it is needed.

Very truly yours,

Pvt. FRANCES F. MOREAU,
[redacted].

INDIANA, PA., *April 29, 1962.*

Hon. JOHN P. SAYLOR,
Washington, D.C.

DEAR SIR: I have been hearing that the 876th Engineers Battalion, Pennsylvania National Guard, is being considered one of the units to be done away with. I am a member of the unit and have an obligation to fulfill and it would be a disadvantage to me and my family if I had to go on active duty or in another location to train. This would also affect a lot of other people, not only myself. Our battalion is only one of a few like it in the United States and I am learning a lot about equipment that I would never know if it wasn't for the National Guard. If you would think this over and come up with the right decision. I believe the Government would be making a mistake if it abolished the 876th Engineers Battalion, Pennsylvania National Guard.

Respectfully yours,

LEWIS H. EDWARDS, Jr.

BLAIRSVILLE, PA., *April 29, 1962.*

Hon. JOHN P. SAYLOR,
Washington, D.C.

DEAR MR. SAYLOR: As a member of Company D, 876th Engineers, in Indiana, Pa., I feel that the unit should be kept in Indiana. The employment in this area is poor and the pay which the Guardsmen receive helps them and also helps other businesses in the area. Some $29,000 pass through the hands of this unit each year. I realize that you are very busy with other problems and are trying to do the best in your position and I feel that writing this letter is my part in helping you in your duties. Please send a reply to this letter.

Respectfully yours,

GEORGE MCELHOES.

Representative JOHN P. SAYLOR,
House Office Building,
Washington, D.C.

DEAR SIR: Cutting back on Armed Forces is something. But doing away with the National Guard is another thing. I think this is one of our first lines of defense. I belong to the 876th Engineer Battalion Company D of Indiana, Pa.

I understand this unit is one to be done away with.

I served my country during the Second World War. I love my country and this is one way I have of showing it. I think that this is a grave mistake, and I hope you can help do something about it.

Sincerely,

THOMAS M. REDINGER.

SHELOCTA, PA.

Representative JOHN P. SAYLOR,
House Office Building,
Washington, D.C.

DEAR SIR: This letter is concerning the 876th Engineer Battalion. If the 876th Engineer Battalion is aborted it will put a hardship on me and many others. And the 876th Engineer Battalion, Pennsylvania National Guard, is of great importance to so many in this area. So please think it over as the 876th Engineer Battalion means so much to so many people.

Sincerely,

JOHN R. GALLAGHER.

R.F.D., CLARKSBURG, PA.

APRIL 28, 1962.

Hon. JOHN P. SAYLOR,
House Office Building,
Washington, D.C.

DEAR SIR: As a soldier and member of Company D, 876th Engineer Battalion, of Indiana, Pa., I am extremely interested in seeing that our unit is not disbanded. This would work a hardship in my case, if I had to attend drill in another city. Also, the money spent by the members of our unit in Indiana, is a great factor in our local economy.

Please do everything in your power to see that these various units of the Pennsylvania National Guard are not disbanded.

Thank you,

DONALD BERKEBILE.

INDIANA, PA.

JOHN P. SAYLOR,
House Office Building,
Washington, D.C.

DEAR SIR: I am writing to you in regard to the dismissal of the 876th Engineer Battalion, Pennsylvania National Guard unit.

I have been in regular service for 3 years and have a 3-year obligation to fill with the Army in a Reserve unit and I feel by doing away with my unit it will be too much of a disadvantage to the safety and welfare of this community in the face of a war or a community disaster. We would have no one to give any kind of support at the most needed time.

For these reasons I am asking your help in keeping the 876th Engineer Battalion, Pennsylvania National Guard unit, an active unit.

Sincerely yours,

HOWARD CLEVINGER.

INDIANA, PA.

HOMER CITY, PA., *April 29, 1962.*

Representative JOHN P. SAYLOR,
House Office Building,
Washington, D.C.

DEAR SIR: I was sorry to hear that there is a possibility of the 876th Engineer Battalion, Pennsylvania National Guard, being disbanded. I am a member of Company D of this organization. This company is located in Indiana, Pa.

If this disbandment takes place, it will cause a great inconvenience to many members of the battalion. Besides, the area of Indiana County is a depressed region because of the fact that there are few industries and the unemployment rate is high. The disbandment of the 876th Engineer Battalion will only cause this area to be further depressed. I think an organization of this caliber should be continued for the benefit of the community as well as the men of the organization.

Thank you,

ARTHUR E. GEMMELL.

CROOKSIDE, PA., *April 29, 1962.*

Hon. JOHN P. SAYLOR,
Washington, D.C.

DEAR MR. SAYLOR: I have just joined the 876 Engineering Company in Indiana, Pa., National Guard. I am truly disappointed in the news of banning the company from here and am personally objecting to the idea for many reasons. It will cause many hard feelings and inconveniences not only from me but from the whole company and anyone connected to it. Anything I can do to possibly object and help keep the unit here I am willing to go out of my way. I feel myself that it is unnecessary to do this to us.

Just think (not only of me) but the other boys in the 876 Company that have been putting in their time to serve their State and country and what it would mean to

most all of us. If this unnecessary idea goes through think of the things that it will mean to our town of Indiana, our county, our State, as well.

Please do what I am willing to do and keep a good Company 876 active in Indiana. Really consider this matter before acting because it is really something important to us, Company D, 876.

Please do all you can in keeping us here in Indiana as 876.

Yours truly,

HAROLD L. WELCH.

Hon. JOHN P. SAYLOR,
Washington, D.C.

DEAR SIR: I am in the 876th Construction Engineer Battalion, Company D, of Indiana, Pa.

I have been in the Regular Army for 2 years and in this 876th Construction Engineer Battalion, Company D, for 10 months. I still have a 14-month military obligation to my country. I am sure that this would be a hardship for me if this unit was to discontinue its training.

I will appreciate if you will look into this situation.

Thank you sir,

JOHN H. DITCH,

SALTSBURG, PA.

INDIANA, PA.

Representative JOHN P. SAYLOR,
House Office Building,
Washington, D.C.

SIR: It is my understanding that the Department of Defense has recommended a general cutback of the number of men in the National Guard and that the 876th Engineer Heavy Construction Battalion of the Pennsylvania National Guard is one of the units which would be eliminated in this move.

This would cause a real hardship to many people. The unit payroll is a lift to a depressed area. Also, many of its members are students with no other source of income.

The deactivation of this unit would cause the loss of the services of a large number of trained, prior-service men who received their training at Government expense. Many of these men have fine service records in World War II and Korea. These men have completed their military obligation and they would be totally lost and their training wasted.

For those who have not completed their 8 years, the elimination of the 876th Engineer Heavy Construction Battalion would cause a serious problem since it would become necessary for some of these men to drive as much as 50 miles to attend drills.

The fact that a great number of Pennsylvania National Guard units were placed on alert or called to active duty clearly demonstrates the value of this organization to national defense.

I am sure that you will give this matter your careful consideration.

Thank you,

WILLIAM S. CARLSON.

Representative JOHN P. SAYLOR,
House Office Building,
Washington, D.C.

DEAR SIR: I am a member of the 876th Engineer Battalion, Pennsylvania National Guard. We have received word that this unit may be done away with. This would be a great inconvenience. It would have a great effect on me financially. There would be a problem of transportation if I had to transfer to another unit. It would also have an effect on the area as a whole. It is already very hard hit by unemployment.

I was just recently married and my wife is expecting a child. I have just started working and this means I may have to move somewhere else closer to another unit. It would be very difficult to find another job.

I would appreciate it if something could be done to keep this unit intact.

Thank you.

Respectfully yours,

TERRY BARNETT.

INDIANA, PA.

Representative JOHN P. SAYLOR,
House Office Building,
Washington, D.C.

DEAR SIR: I am sorry to hear that they are considering dropping the 876th Engineering Battalion. It is hard enough for us working men to make a living but alone worry about failing our military obligation. This does not only affect me, but many around me. I hope that you and your staff can do something to help now, not only me but everyone else in this unit, will surely appreciate it.

Sincerely yours,

DALE MOORHEAD.

INDIANA, PA.

Representative JOHN P. SAYLOR,
House Office Building,
Washington, D.C.

DEAR SIR: I am writing this letter concerning the fact that the Defense Department plans to disband certain Reserve and National Guard units. One of these units is the 876th Engineer Batallion, Pennsylvania National Guard. And that is why I am writing this letter. For the simple reason that this concerns me.

Not only does it concern me but a lot of others like me. One reason it deeply concerns me is because I've just gotten a job after finishing a trade school. Should the disbanding of this unit actually occur it would work a hardship on me. Due to the fact that I would have no place to attend my meetings in order to fulfill my military obligation. The slightest recognition of this letter would be deeply appreciated.

RICHARD C. BLANKENSHIP.

CLARKSBURG, PA.

APRIL 29, 1962.

Hon. JOHN P. SAYLOR,
Washington, D.C.

DEAR MR. SAYLOR: Upon hearing of the doing away with the 876th Engineer Battalion, I am concerned. If you abandon the 876th Engineer Battalion in Pennsylvania, I as well as others will have a great deal of difficulty fulfilling our military obligation. I live many miles from any other unit and with my job I can't afford that much time not mentioning the traveling expense involved.

I will do everything I can to keep this unit in existence, and I hope you can help also.

Yours truly,

KENNETH D. BEATTY.

CLARKSBURG, PA.

Mr. Speaker, I also insert in the RECORD an editorial from the Daily Leader Times, Kittanning, dated April 30, 1962:

IS GUARD DISPENSABLE?

There can be little joy for Armstrong Countians in the Defense Department proposal to cut back the National Guard.

The 876th Engineering Battalion, of which the unit headquartered at Ford City is a part, is among 19 Pennsylvania National Guard groups ticketed for the discard.

The blow is one to sentiment as well as to the economic well-being of this vicinity.

The time when there was not a National Guard company headquartered in the vicinity is beyond the memory of anyone now living.

Through two great conflicts, World War I and World War II, the nucleus of brave and distinguished fighting units emerged from the armory at Ford City. Although rarely called upon for peacetime duty, the unit was a ready and competent one for whatever duties befell it—in war or peace.

Equally vital to the community the guard unit served has been the steady flow of dollars that has funneled into the Kittanning-Ford City environs as pay of the citizen soldiers.

Although never an astonishing amount, the Federal and State money in an amount of more than $60,000 a year has been an important supplement to the income of guard members, and a constant pick-me-up to an area that often enough in the past has wanted for steady spendable income.

This country's citizen soldier heritage has been a proud one, standing the Nation in good stead in its every hour of peril. The Defense Department, in revealing details of its plan for President Kennedy's proposed National Guard cut, seems certain to run into influential opposition.

It could be that the United States can no longer afford the maintenance of National Guard units, for show, sentiment, or economic reasons.

But it could also be that even in an age of automated weaponry, the Nation can ill afford to throw away the esprit and know-how which, through weekly drill repetition, is built into the National Guard.

This is a plus that should not be lightly dismissed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mrs. GRANAHAN (at the request of Mr. BARRETT) for Wednesday, May 2, 1962, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. SAYLOR, for 15 minutes, today.

Mr. CURTIN (at the request of Mr. NELSEN), for 10 minutes, on May 3.

EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the CONGRESSIONAL RECORD, or to revise and extend remarks, was granted to:

(The following Members (at the request of Mr. NELSEN) and to include extraneous matter:)

Mr. CLANCY.

Mr. FINO.

Mr. ELLSWORTH.

(The following Members (at the request of Mr. ALBERT) and to include extraneous matter:)

Mr. TOLL.

Mr. DENT in two instances.

Mr. GILBERT.

Mr. SHELLEY.

Mr. ROOSEVELT.

ENROLLED BILL SIGNED

Mr. BURLESON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3008. An act for the relief of Hom Hong Hing, also known as Tommy Joe.

ADJOURNMENT

Mr. ALBERT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 55 minutes p.m.) the House adjourned until tomorrow, Thursday, May 3, 1962, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2021. A letter from the Administrator, Foreign Agricultural Service, U.S. Department of Agriculture, transmitting a report on title I, Public Law 480, agreements concluded during March 1962, pursuant to the provisions of Public Law 85–128; to the Committee on Agriculture.

2022. A letter from the Secretary of Defense, transmitting a proposed draft of legislation, entitled "A bill to amend the Career Compensation Act of 1949 with respect to the residency requirement of dependent parents and with respect to quarters allowances payable when both husband and wife are members of the uniformed services"; to the Committee on Armed Services.

2023. A letter from the Comptroller General of the United States, transmitting a report on a followup review of the Post Office Department's Money Order Center, Kansas City, Mo., with comments on action taken by the Department on recommendations included in prior report on review of the Money Order Center, which was submitted to the Congress on February 29, 1960, pursuant to authority contained in the Budget and Accounting Act, 1921 (31 U.S.C. 53), and Public Law 86–682, section 1 (39 U.S.C. 2206); to the Committee on Government Operations.

2024. A letter from the Assistant Secretary of the Interior, transmitting a proposed concession contract with Fred Harvey to continue to provide concession facilities and services in Petrified Forest National Monument, Ariz., for a term of 20 years expiring December 31, 1981, and conditioned upon certain stated improvements; to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CELLER: Committee on the Judiciary. House Joint Resolution 688. Joint resolution providing for the designation of the week commencing October 14, 1962, as "National Public Works Week"; without amendment (Rept. No. 1647). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ADDABBO:

H.R. 11557. A bill providing that the Surgeon General of the United States shall establish a hospital at Ellis Island, N.Y., for the treatment of persons addicted to the use of habit-forming narcotic drugs; to the Committee on Interstate and Foreign Commerce.

By Mr. COLMER:

H.R. 11558. A bill to promote the general welfare, foreign policy, and security of the United States; to the Committee on Ways and Means.

By Mr. DANIELS:

H.R. 11559. A bill to amend the act of August 30, 1890, to eliminate the provisions thereof authorizing Federal contributions for the maintenance of schools of higher education in which racial segregation is practiced; to the Committee on Education and Labor.

By Mr. HERLONG:

H.R. 11560. A bill to amend section 4216 of the Internal Revenue Code of 1954 with respect to the exclusion of certain local advertising charges from sales price for the purpose of computing manufacturers' excise taxes; to the Committee on Ways and Means.

By Mr. GEORGE P. MILLER:

H.R. 11561. A bill to amend the act of March 3, 1901 (31 Stat. 1449), as amended, to incorporate in the Organic Act of the National Bureau of Standards the authority to make certain improvements of fiscal and administrative practices for more effective conduct of its research and development activities; to the Committee on Science and Astronautics.

By Mr. PELLY:

H.R. 11562. A bill to make clear that fishermen's organizations, regardless of their technical legal status, have a voice in the ex-vessel sale of fish or other aquatic products on which the livelihood of their members depends; to the Committee on Merchant Marine and Fisheries.

By Mr. RIVERS of Alaska:

H.R. 11563. A bill to authorize the construction, operation, and maintenance of the Crater-Long Lakes division of the Snettisham project, Alaska, and for other purposes; to the Committee on Public Works.

By Mr. ROGERS of Colorado:

H.R. 11564. A bill to promote the general welfare, foreign policy, and security of the United States; to the Committee on Ways and Means.

By Mr. ROOSEVELT:

H.R. 11565. A bill to authorize the Administrator of the Housing and Home Finance Agency to assist States, counties, cities, political subdivisions of States, and public corporations established under State law in providing mass transportation services in those metropolitan areas which have planned and developed a mass transportation system; to the Committee on Banking and Currency.

By Mr. ST. GERMAIN:

H.R. 11566. A bill to promote the health and safety of the people of the District of Columbia and to protect the welfare of their issue by requiring a physical examination and certain tests before the issuance of a marriage license, and for other purposes; to the Committee on the District of Columbia.

By Mr. VINSON:

H.R. 11567. A bill to amend sections 510 and 591 of title 10, United States Code; to the Committee on Armed Services.

By Mr. DAGUE:

H.R. 11568. A bill to amend the Civil Service Retirement Act to provide for the adjustment of inequities and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. FORRESTER:

H.R. 11569. A bill to repeal section 13a of the Interstate Commerce Act; to the Committee on Interstate and Foreign Commerce.

By Mr. LANE:

H.R. 11570. A bill to reunite families in the United States by granting nonquota status to certain aliens entitled to a preference under the Immigration and Nationality Act, and for other purposes; to the Committee on the Judiciary.

H.R. 11571. A bill to amend the Immigration and Nationality Act to provide that the unused annual quota of any quota area shall be available for use in quota areas where the annual quota is oversubscribed so as to permit the entry of brothers, sisters, married sons, and married daughters of citizens of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. WALTER:

H.R. 11572. A bill to amend the Tariff Act of 1930 to protect the interests of consumers and the public and for other purposes; to the Committee on Ways and Means.

By Mr. ZELENKO (by request):

H.R. 11573. A bill to make clear that fishermen's organizations, regardless of their technical legal status, have a voice in the ex-vessel sale of fish or other aquatic products on which the livelihood of their members depends; to the Committee on Merchant Marine and Fisheries.

By Mr. O'HARA of Illinois:

H.R. 11574. A bill to amend the law relating to pay for postal employees; to the Committee on Post Office and Civil Service.

By Mr. ZELENKO:

H.R. 11575. A bill to amend the Civil Service Retirement Act to provide for the adjustment of inequities, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. KEARNS:

H.R. 11576. A bill to protect postal patrons from obnoxious mail matter; to the Committee on Post Office and Civil Service.

By Mr. RHODES of Pennsylvania:

H.R. 11577. A bill to amend the Civil Service Retirement Act so as to provide for increases in annuities, eliminate the option with respect to certain survivor annuities, and provide for interchange of credits between the civil service retirement system and the insurance system established by title II of the Social Security Act; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

By the SPEAKER: Memorial of the Legislature of the State of Hawaii, memorializing the President and the Congress of the United States relative to extending congratulations and thanking the President of the United States for his prompt and effective action in holding the line on steel prices; to the Committee on Banking and Currency.

Also, memorial of the Legislature of the State of Hawaii, memorializing the President and the Congress of the United States relative to requesting the Congress of the United States to amend the Agricultural Adjustment Act of 1938, as amended, to include coffee under the parity payment program; to the Committee on Agriculture.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. LANE:

H.R. 11578. A bill for the relief of Don C. Jensen and Bruce E. Woolner; to the Committee on the Judiciary.

By Mr. MOELLER:

H.R. 11579. A bill to authorize the Secretary of the Interior to convey certain lands in the State of Maryland to the Holy Cross Lutheran Church, Greenbelt, Md., and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. O'BRIEN of Illinois:

H.R. 11580. A bill for the relief of Antoinette Tremblay; to the Committee on the Judiciary.

SENATE

WEDNESDAY, MAY 2, 1962

The Senate met at 12 o'clock meridian, and was called to order by Hon. J. J. HICKEY, a Senator from the State of Wyoming.

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

Eternal God, Father of all, who art above all and through all and in all, without whom life has no spiritual source or destiny, but with whom there is power for the present and hope for the future, we seek Thee as our fathers before us have sought Thee in every generation.

When the problems which front us seem insoluble, when the very principles for which brave men have died are betrayed, when the seamless robe of world unity is rent in twain, when even the shining river of our fairest dreams seems to sink into the sands of futility, still may we labor on, serene and confident, knowing that while the weeping of hopes deferred may endure for a night, the joy of Thy sure victory cometh in the morning. In the Redeemer's name we ask it. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 2, 1962.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. J. J. HICKEY, a Senator from the State of Wyoming, to perform the duties of the Chair during my absence.

CARL HAYDEN,
President pro tempore.

Mr. HICKEY thereupon took the chair as Acting President pro tempore.

THE JOURNAL

On request of Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Tuesday, May 1, 1962, was dispensed with.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States submitting a nomination was communicated to the Senate by Mr. Miller, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session,

The ACTING PRESIDENT pro tempore laid before the Senate a message from the President of the United States submitting the nomination of Louis C. LaCour, of Louisiana, to be U.S. attorney for the eastern district of Louisiana, which was referred to the Committee on the Judiciary.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had passed the bill (S. 1595) to amend the Natural Gas Act to give the Federal Power Commission authority to suspend changes in rate schedules covering sales for resale for industrial use only, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 5456. An act to provide for the conveyance of certain real property of the United States to the former owners thereof; and

H.R. 11413. An act to amend the Agricultural Act of 1961 to permit the planting of additional nonsurplus crops on diverted acreage.

ENROLLED BILL SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled bill (H.R. 3008) for the relief of Hom Hong Hing, also known as Tommy Joe, and it was signed by the Acting President pro tempore.

HOUSE BILL REFERRED

The bill (H.R. 5456) to provide for the conveyance of certain real property of the United States to the former owners thereof, was read twice by its title and referred to the Committee on Agriculture and Forestry.

ORDER FOR ADJOURNMENT UNTIL NOON, TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate concludes its session today, it adjourn until 12 o'clock noon tomorrow.

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

LIMITATION OF DEBATE DURING MORNING HOUR

On request of Mr. MANSFIELD, and by unanimous consent, statements during the morning hour were ordered limited to 3 minutes.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

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

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

PROHIBITION OF COMMITTEE MEETINGS DURING SENATE SESSIONS

Mr. DIRKSEN. Mr. President, I wish to take only a minute to remind the Senate that there has been objection to committees meeting when the Senate is in session. I understand that notwithstanding the objection some of the committees have been meeting, and I wish to have it noted for the RECORD that I have objected to the meetings of committees while the Senate is considering the pending business, and it would be a violation of the rule if the committees were to meet.

EXECUTIVE COMMUNICATIONS, ETC.

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

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

A letter from the Administrator, Foreign Agricultural Service, Department of Agriculture, transmitting, pursuant to law, a report on title I agreements under the Agricultural Trade Development and Assistance Act of 1954 (with an accompanying report); to the Committee on Agriculture and Forestry.

AUDIT REPORT ON HYDROELECTRIC POWER AND RELATED ACTIVITIES, MISSOURI RIVER BASIN PROJECT

A letter from the Comptroller General of the United States, transmitting, pursuant to law, an audit report on hydroelectric power and related activities, Missouri River Basin project, Corps of Engineers (Civil Functions), Department of the Army, and Bureau of Reclamation, Department of the Interior, fiscal years 1959 and 1960 (with an accompanying report); to the Committee on Government Operations.

PROPOSED CONCESSION CONTRACT IN PETRIFIED FOREST NATIONAL MONUMENT, ARIZONA

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed concession contract in the Petrified Forest National Monument, Arizona (with accompanying papers); to the Committee on Interior and Insular Affairs.

PETITIONS AND MEMORIALS

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

By the ACTING PRESIDENT pro tempore:

A concurrent resolution of the Legislature of the State of Hawaii; to the Committee on Agriculture and Forestry:

"Whereas the Congress of the United States has passed numerous legislative measures assisting farmers in the production of specific agricultural commodities; and

"Whereas such assistance and support through programs authorized by the Agricultural Adjustment Act of 1938, as amended, is necessary to encourage the growing of coffee in the State of Hawaii: Now, therefore, be it

"Resolved by the House of Representatives of the First Legislature of the State of Hawaii, regular session of 1962 (the Senate concurring). That the Congress of the United States is hereby respectfully requested to enact legislation to include coffee among the basic agricultural commodities assisted and supported by programs under the Agricultural Adjustment Act of 1938, as amended, and to authorize parity payments to coffee growers in the State of Hawaii; and be it further

"Resolved, That certified copies of this concurrent resolution shall be sent to the

President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the Secretary of Agriculture and to Senator OREN E. LONG, Senator HIRAM L. FONG, and Congressman DANIEL K. INOUYE."

A resolution of the House of Representatives of the State of Hawaii; ordered to lie on the table:

"Whereas an increase in the basic price of steel is soon reflected in subsequent increases in the prices of many consumer goods such as automobiles, refrigerators, and certain building materials; and

"Whereas such increases would further burden the economy and people of Hawaii and retard the development of the 50th State; and

"Whereas President Kennedy, by speedy and forceful action, has forestalled an unnecessary increase in basic steel prices, to the benefit of the people of the Nation and of Hawaii: Now, therefore, be it

"Resolved by the House of Representatives of the First Legislature of the State of Hawaii, budget session of 1962, That the President of the United States be congratulated and thanked for his prompt and effective action in holding the line on steel prices; and be it further

"Resolved, That a duly certified copy of this resolution be forwarded to the President of the United States, to the President of the Senate, and to the Speaker of the House of Representatives of the Congress of the United States."

A resolution adopted by the City Council of the Town of Los Altos Hills, Calif., remonstrating against the imposition of a Federal income tax on income derived from public bonds; to the Committee on Finance.

A resolution adopted by Four Flags Barracks No. 1093, Veterans of World War I of the U.S.A., Inc., of Niles, Mich., favoring the discharge of the House Committee on Veterans' Affairs from further consideration of the bill (H.R. 3745) to amend title 38, United States Code, to provide for the payment of pensions to veterans of World War I; to the Committee on Finance.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

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

S. 1485. A bill to authorize the Secretary of the Interior to sell certain public lands in Idaho (Rept. No. 1381).

BILLS AND JOINT RESOLUTION INTRODUCED

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

By Mr. ELLENDER (by request):

S. 3235. A bill to facilitate the work of the Forest Service, and for other purposes; to the Committee on Agriculture and Forestry.

By Mr. PROUTY:

S. 3236. A bill to assist in the reduction of unemployment through the acceleration of public works programs of the Federal Government and State and local public bodies; to the Committee on Public Works.

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

By Mr. KEFAUVER (by request):

S.J. Res. 182. Joint resolution extending the duration of copyright protection in certain cases; to the Committee on the Judiciary.

HEALTH CARE INSURANCE FOR CERTAIN RETIRED INDIVIDUALS—AMENDMENTS

Mr. JAVITS submitted amendments, intended to be proposed by him, to the bill (S. 2664) to provide a program of health care insurance for individuals aged 65 or over who are retired, which were referred to the Committee on Finance and ordered to be printed.

NUTRITIONAL ENRICHMENT AND SANITARY PACKAGING OF CERTAIN RICE—ADDITIONAL COSPONSOR OF BILL

Mr. ELLENDER. Mr. President, I ask unanimous consent that the name of the junior Senator from California [Mr. ENGLE] may be added as an additional cosponsor at the next printing of the bill (S. 3152) to provide for the nutritional enrichment and sanitary packaging of rice prior to its distribution under certain Federal programs, including the national school lunch program, which I introduced on April 11, 1962.

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

CONVEYANCE OF CERTAIN LANDS IN SOUTH CAROLINA TO FORMER OWNERS—ADDITIONAL COSPONSOR OF BILL

Mr. MANSFIELD. Mr. President, on behalf of the Senator from South Carolina [Mr. JOHNSTON], I ask unanimous consent that at the next printing of the bill (S. 3172) to provide for adjustments in the lands or interests therein acquired for the Hartwell Dam project, South Carolina and Georgia, by the reconveyance of certain lands or interests therein to the former owners thereof, the name of the junior Senator from Georgia [Mr. TALMADGE] may be added as a cosponsor.

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

NOTICE CONCERNING CERTAIN NOMINATIONS BEFORE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Robert C. Zampano, of Connecticut, to be U.S. attorney, district of Connecticut.

Joseph T. Ploszaj, of Connecticut, to be U.S. marshal, district of Connecticut.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Wednesday, May 9, 1962, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE OF HEARING ON S. 2813, IN REGARD TO WIRETAPPING LAW, AND S. 1495, A RELATED BILL

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for 10:30 a.m., Thursday, May 10, 1962, in room 2228, New Senate Office Building, on S. 2813, to prohibit wiretapping by persons other than duly authorized law enforcement officers engaged in the investigation or prevention of specified categories of criminal offenses, and S. 1495, a related bill.

NOTICE OF HEARING ON AMENDMENT IN THE NATURE OF A SUBSTITUTE TO S. 1396, TO AMEND THE ACT ENTITLED "AN ACT TO PROVIDE FOR THE REGISTRATION AND PROTECTION OF TRADEMARKS USED IN COMMERCE, TO CARRY OUT THE PROVISIONS OF CERTAIN INTERNATIONAL CONVENTIONS, AND FOR OTHER PURPOSES"

Mr. McCLELLAN. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, May 16, 1962, at 10 a.m., in room 2228, New Senate Office Building, before the Subcommittee on Patents, Trademarks, and Copyrights, on an amendment in the nature of a substitute to S. 1396, to amend the act entitled "an act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes" approved July 5, 1946, as amended.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from South Carolina [Mr. JOHNSTON], the Senator from Michigan [Mr. HART], the Senator from Tennessee [Mr. KEFAUVER], the Senator from Wisconsin [Mr. WILEY], the Senator from Pennsylvania [Mr. SCOTT], and myself, as chairman.

CONSTITUTIONAL AMENDMENTS—NOTICE OF HEARINGS

Mr. KEFAUVER. Mr. President, on May 10, 1962, the Subcommittee on Constitutional Amendments will begin hearings on proposals to amend the Constitution to provide representation for the District of Columbia in the Congress. Senate Joint Resolution 85 and Senate Joint Resolution 181 are now pending in the subcommittee on this subject.

The subcommittee will meet at 10 a.m. in room 457 of the Old Senate Office Building.

Those who are interested in testifying should contact the offices of the subcommittee at extension 5581 or room 141 of the Old Senate Office Building.

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. MUSKIE:

Statement relating to the expansion of leather and rubber footwear imports.

VISIT TO THE SENATE OF DISTINGUISHED VISITORS FROM THE FEDERAL REPUBLIC OF GERMANY

Mr. DIRKSEN. Mr. President, as a parliamentary body we are honored this morning to have present with us in the Chamber the very distinguished majority leader Dr. Heinrich von Brentano of the Bundestag of the Federal Republic of Germany and the onetime Foreign Minister of his country. We also are honored to have with us this morning the very distinguished Ambassador of the Federal Republic of Germany, to the United States, Ambassador Wilhelm G. Grewe. We also have Dr. Wolfgang Pohle with us, who was a member of the Bundestag.

I wonder if they will rise up and accept the plaudits of the Senate.

[The visitors rose and were greeted with applause.]

Mr. MANSFIELD. Mr. President, will the distinguished minority leader yield?

Mr. DIRKSEN. I yield to the distinguished majority leader.

Mr. MANSFIELD. I join my colleague in extending my best wishes and greetings to our distinguished guest. This is not the first time our distinguished visitor has visited us in this country, nor is it the first time he has honored us by appearing in this Chamber, but Dr. von Brentano is a man of illustrious background. He has served his country and the free world well, and we are delighted to welcome him, once again, and express the hope that his visit this time will prove to be fruitful and that he will visit us many times in the future. I also extend our welcome to Ambassador Grewe and to Dr. Pohle, who have accompanied Dr. von Brentano to the Chamber.

Mr. AIKEN. Mr. President I wish to add my word of welcome to our distinguished visitors from Germany, Dr. von Brentano, Ambassador Grewe, and Dr. Pohle, the latter of whom, incidentally, was on this floor 5 years ago as a visiting member from the Bundestag of West Germany.

We hope that the visit of our distinguished guests will be fruitful in cementing still further the already cordial relations which exist between our countries, and we hope that they may return and visit us in the near future.

Mr. FULBRIGHT. Mr. President, I join with my colleagues in welcoming our distinguished guests here today, I am sure the discussions which are going forward today between the representatives of the German people and their associates in the Common Market and our people are perhaps the most important development, certainly since World War II, for the future not only of our bilateral relations, but for all the people of the free world.

I cannot exaggerate the importance of these discussions, and from what I have learned this morning in our discussions, and from the attitude of our friends from Germany, I assure them we wish them well, and hope that all our plans succeed.

Mr. JAVITS. Mr. President, I have had the honor of being met and hospitably treated by Dr. von Brentano and the associates whom he has with him this morning, both in the Federal Republic of Germany at Bonn and in their Embassy in Washington. I join my colleagues in extending a warm welcome to Dr. von Brentano and his associates.

There is no more urgent problem in the world than the integration of Europe, and in that the German Federal Republic plays a key and vital role.

I join with the distinguished chairman of the Senate Foreign Relations Committee in recognizing these negotiations and developments as key conferences to the security of the free world, and as emphasizing the fact that the German Federal Republic thus far has shown a pan-European attitude, which is affirmatively reassuring to all of us who have assessed the results and record of World War II. Dr. von Brentano has been one of the leaders in that effort, strongly sustained by the German Ambassador, and under the fundamental policy guidance and direction of the leader of the German people, Dr. Adenauer. This represents a most significant development in our relations and is one of the most affirmative steps in the direction of solving the problems we have in the world.

Mr. DIRKSEN. Mr. President, I add to what I have said that, through understanding, I am sure the problems of the areas involved can be equitably solved; and I trust that as our visitors come back year after year I shall have the privilege of seeing them in the Senate.

THE ABUSE OF LITERACY

Mr. MANSFIELD. Mr. President, is morning business concluded?

The ACTING PRESIDENT pro tempore. Morning business is in order.

Mr. TALMADGE. Mr. President, there appeared in this morning's Wall Street Journal an outstanding editorial entitled "The Abuse of Literacy." This outstanding editorial concludes its excellently stated position with this statement:

> Passionate arguments about discrimination ought not to obscure the real question, which is whether a free society has the right to require that those who pass on public issues be, at the very least, not illiterate.
>
> For our own part, we think those who would deny society that right have not been very literate readers of the history of fallen democracies.

I ask unanimous consent that the editorial in its entirety appear at this point in the RECORD.

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

THE ABUSE OF LITERACY

Although you might never know it from listening to the impassioned oratory, the senatorial debates over the proposed literacy bill really involve two separate, and quite distinct, public questions. Indeed much of the passion of the debate is sparked by confusing the two.

There is first the question about the abuse of literacy tests in some of the many states which require them before they give a man the privilege of voting. It is said that in many localities these tests are merely subterfuges to disfranchise people because of the color of their skin or other irrelevant reasons.

The answer to this problem ought to be a simple one. Any requirement for voting—whether dealing with literacy, age or length of residence—must apply equally to all comers. If there are literacy tests the same questions should be put to every applicant and the same answers demanded. And the authorities ought to be vigilant to see that this is so.

The basic responsibility for this vigilance rests on the State governments, which by the Constitution are required to establish the voting requirements. But if they fail in a just administration of their laws, then it is difficult for any man to argue that the national authorities can stand aloof. If we need it, let us by all means have a Federal law—and Federal enforcement—to guarantee impartiality in this most basic privilege.

But here, as always, the abuse of a thing is not to be confused with the thing abused. The other and separate question is whether, as a matter of good public policy, we should ask that a man be able to read, and understand what he has read, before he is entitled to vote on public candidates and public issues. And if so, what those literacy requirements should be.

If there is any single cornerstone supporting a free society it is the existence of an informed public. We recognize this implicitly when we do not extend the voting privilege to children or when in local elections we ask that a man, however intelligent, live in the community a time before he passes judgment on local affairs.

We can also see, when we look around at the world, what happens when this cornerstone is absent. Achieving democracy among the emerging peoples, as in the Congo, is so terribly difficult precisely because the great mass of the people are illiterate or so poorly educated that they cannot understand what the issues are about. Even in some older nations, as in South America, the great obstacle to political stability and progress is the low educational level.

That is why the raising of the educational level has been a primary concern of this country since its foundation. It is the most powerful of all arguments for demanding high and equal educational opportunities for all our citizens. It is why in welcoming strangers to become citizens of our country we have wisely insisted that they demonstrate a literate understanding of the political principles of our society and of the language in which our affairs are conducted. It is why if anything we should raise, not lower, the requirements for voting.

Yet what is now proposed is the opposite. The proposed bill says that if a person attended as much as six grades in any elementary school, no literacy test could be required. And there are those who contend that the schooling need not even be in English.

The argument for all this is that literacy tests pose an obstacle for Puerto Ricans who speak only Spanish and for many Negroes whose schooling, through no fault of their own, has been inferior.

This is true. But is it not also true that an inability to read the language in which all our Nation's affairs are conducted also poses an obstacle to understanding what an election is all about. And it is certainly

curious to argue that a backward school gives an inadequate education but at the same time that six grades of any such school are automatically adequate to make an informed citizen. Any way you look at it, a man who cannot read is an easy prey for any demagog who can catch his ear.

New York and other States have long applied literacy tests sensibly and fairly, and the correction of abuses in other places is to halt the abuses. Passionate arguments about discrimination ought not to obscure the real question, which is whether a free society has the right to require that those who pass on public issues be, at the very least, not illiterate.

For our own part, we think those who would deny society that right have not been very literate readers of the history of fallen democracies.

A BERLIN AGREEMENT IS NOT AN IMPERATIVE AT THIS TIME

Mr. JAVITS. Mr. President, if I may have the attention of my colleagues, I ask unanimous consent that I may be recognized for 6 minutes, instead of the usual 3 minutes.

Mr. ROBERTSON. Mr. President, how long did the Senator say?

Mr. JAVITS. Six minutes.

Mr. ROBERTSON. Reserving the right to object, I am not going to object to this request, but I hope no other Senator will take more than the agreed to 3 minutes.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from New York? Hearing none, it is so ordered.

Mr. JAVITS. I am very grateful to my colleague from Virginia for his understanding of my desire to make this statement. I desire to address myself to the issue of Berlin.

The Berlin issue is the primary topic on the agenda at the ministerial conference of the North Atlantic Treaty Organization, which will get underway in Athens Friday. As the U.S. and allied policy on Berlin is being crystallized, it is imperative that our Government know the views of public officials who have followed events closely in this dangerous area for a long time.

In that constructive spirit, I should like to discuss today what in my view are the indispensable guidelines to an effective Berlin policy.

The recent preliminary meetings between Secretary of State Dean Rusk and Soviet Ambassador Anatoly F. Dobrynin have given rise to a disquieting tendency to accept as fact that a Berlin agreement with the U.S.S.R. must be the immediate and primary objective of our current policy on Berlin. I believe that action based on the assumption that we must somehow have an agreement is dangerous and ignores the fundamental principles and objectives of our Berlin policy, to which we have remained steadfast under three Presidents. The fact is that ultimatums by the Soviet Union on Berlin have lapsed from time to time and we are still where we were; therefore, apparently the U.S.S.R. also can live without a Berlin agreement.

A Berlin agreement would certainly be desirable if it would bring greater security to Europe and higher hopes of peace to the world, but it is not an indispensable condition of American policy at this time. Indeed, rather than make concessions that are inconsistent with our fundamental principles, it would be better to do without a Berlin agreement for the time being.

Our Berlin policy has been one of fidelity to the freedom of the people of West Berlin, respect for the integrity of the German Federal Republic and refusal to compromise the ultimate hope for self-determination of the Soviet satellites in central and southern Europe. In adhering to those principles, we have run risks and we have faced up to many crises. Impatience over continued tensions must not lead to a feeling that an agreement is now imperative—whatever may be the cost. We can live without an agreement; and we should make one only when we have reasonable grounds for believing that it contributes materially to the security of Europe and to world peace.

I believe the primary considerations for a Berlin agreement now must be based on the following:

First. Uncontrolled access to West Berlin from West Germany. This is the primary and immediate objective which the free world must seek in any negotiations which admittedly would be directed at an accommodation awaiting permanent settlement of the larger German and Central European questions.

Such access could be achieved through the establishment of a United Nations Commission, responsible directly to the General Assembly, to administer the uncontrolled access routes. Under such a plan, the United States, the United Kingdom, France, and the Soviet Union would bear the financial responsibility for the administrative costs. A clearly delineated United Nations Commission would avoid the impotence which has plagued such neutral commission as those in Korea and Laos which have failed in their jobs. An official complaint to the Secretary General of the U.N. by any of those four nations should be cause for an immediate reevaluation of the Commission, its members and functions, by the General Assembly. Should the Commission fail to get a vote of confidence from the Assembly, it would have to be reconstituted within a stated term by the Assembly or power over the access routes would devolve upon the four nations—the United States, United Kingdom, France, and the U.S.S.R.—having ultimate responsibility, and conditions would revert to their present state.

Second. Integration of West Berlin into West Germany. This could be symbolized by granting voting rights to the Berlin representatives in the Bundestag and Bundesrat and by making West German laws effective in West Berlin. It would represent a logical legal step forward. Nor need it interfere with the prewall status of the relation of the Soviet forces to the divided city and the divided Germany.

Third. Removal of the Berlin wall. The wall is illegal as a violation of the four-power agreement on Berlin, and it is an affront to the dignity of the United States, British, and French position in Berlin. It should be removed if there is to be any rational relationship between East Germany and West Germany. Substitute arrangements with the U.S.S.R., even if the dividing line were treated as a border, would still not be the foreboding horror of the wall.

Fourth. Maintenance of present U.S. troop strength in West Berlin. Our garrison is there to do a job: to defend occupation rights and the rights of the citizens of West Berlin. We need an effective force not only to serve as a deterrent to military action but also to prevent Communist-inspired subversion or violence.

Fifth. A nonaggression pact between NATO and the Warsaw Pact powers should not compromise NATO's internal capability for defense, including a nuclear capability, or give any legal sanction to the domination of central and southern European nations by Communist regimes installed by the U.S.S.R.

Negotiations always suggest hope. I am all for them and I want to encourage them when they offer even the slightest possibility of success. I want us to continue negotiations. But concessions made on Berlin which are not consistent with the basic objectives I have outlined will only lead to conjectures, false hopes, and more trouble.

Let us remember that the prime objective of Chairman Khrushchev's policy is to expand Soviet influence into the German Federal Republic just as the objective of our policy is to maintain the independence of the German Federal Republic under free institutions as a key basis for an integrated free Europe. The objective of our policy, therefore, must be to take careful account of what any Berlin agreement with the U.S.S.R. means to the people of the German Federal Republic. It must mean that we are adhering to our objectives as they have been stated successfully by Presidents Truman, Eisenhower, and Kennedy. If not, we are better off without an agreement at all at this time.

Mr. President, I thank my colleague from Virginia for his forbearance.

DIVERSIFICATION OF INDUSTRY ON LONG ISLAND

Mr. KEATING. Mr. President, much has been said before on the Senate floor and elsewhere with regard to the serious crisis now facing Republic Aviation Corp. and its employees as a result of an abrupt shift in Defense Department procurement. It is unfortunately evident that the Defense Department does not intend to alter its basic decision. Whether that decision is correct, only time and events will tell. What all those who are concerned with our national economy must continue to regret, however, is the manner in which many of these decisions are made and particularly the way in which the Defense Department permits defense work to accumulate in certain areas.

As Defense Secretary McNamara himself pointed out on my March 11 television program, "Defense business is an unstable business. For an area to build its economy on the foundation of defense seems to me contrary to the interest of that area." I would carry

that reasoning one step further and suggest that it is also contrary to the interest of the Nation and to the interest of strategic security. I would further suggest that the Defense Department has a responsibility to consider active policies that would discourage the concentration of procurement divisions and military installations, as well as defense-oriented industries, in a few parts of the country.

On a more optimistic note, however, Mr. President, I should like to make note of the fact that Long Island is not taking this blow lying down. A committee has been formed, consisting of local elected officials and Dr. Harold Gleason of the Franklin National Bank, to counteract the impact of Department of Defense methods by encouraging more diversified industries on the island. Although I am informed that Defense Department procurement on Long Island has increased by about a quarter billion dollars in fiscal 1962, and will go up by about $170 million in the next fiscal year, defense industries are always unstable and liable to shifts in defense technology.

Therefore, one of the main interests of the group is to find other areas in which Long Island efforts can be expanded and the great potential of local industries developed. One meeting has already been held at which representatives of the Federal Government, including the Defense Department, were present to explain how existing Federal programs could be utilized and coordinated with State efforts to meet the demand. At that time the Labor Department was asked to assist in a labor survey to determine what skills are most readily available and how they can best be channeled into the area's already growing economy. Another meeting is scheduled for this week.

To assist this important community effort, I directly contacted Labor Secretary Goldberg, urging him to support the project as rapidly as possible. He has indicated that a study may be undertaken soon. I have also been in touch with the State agency which has direct responsibility in initiating the study. I shall be following these efforts very closely to insure that all the available State and Federal resources are made available. Planning on the community level has been started in time and I take this opportunity to wish the group great success in their foresighted efforts to meet the economic challenge.

Mr. President, I ask unanimous consent to include in the RECORD the text of Secretary Goldberg's letter.

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

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, April 20, 1962.

Hon. KENNETH B. KEATING,
U.S. Senate, Washington, D.C.

DEAR SENATOR KEATING: In response to your letter about a labor survey in Nassau and Suffolk Counties, the Bureau of Employment Security of the Labor Department sponsors area skill surveys, as funds are available, as part of its national responsibility for development of skills and utilization of the work force.

The initial determination of where the studies are needed and the actual conduct of them, is the responsibility of the State employment security agencies.

In the Nassau and Suffolk case, these counties are part of the New York metropolitan area, for which it may be necessary quite soon to conduct a survey in connection with the Manpower Development and Training Act, to determine training needs. Such a survey would include data useful to Nassau and Suffolk, and perhaps could be made so as to provide information on them separately.

The responsible person in New York is Mr. Alfred L. Green, executive director, Division of Employment, New York State Department of Labor, and we are bringing the matter to his attention.

Yours sincerely,

ARTHUR J. GOLDBERG,
Secretary of Labor.

NEED FOR INTEGRATION OF NATIONAL GUARD

Mr. KEATING. Mr. President, I welcome the recent Defense Department move to integrate Reserve units throughout the country. This will rectify one serious and glaring area of discrimination in the Armed Forces of our Nation.

There still remains, however, another area, an area which admittedly does not come directly under Federal control, but an area in which State action has been deliberately used, with no Federal objections, to retain segregation. I am referring to the segregated National Guard units now maintained in 10 States. We can rejoice that there are only 10 States in which National Guard units are segregated today, but that is still 10 too many. No effort should be spared to bring an end to segregation in those units.

Mr. President, I have protested to the National Guard Bureau and have received a reply from Major General McGowan, Chief of the National Guard Bureau. I am very glad to note that within the last 2 months General McGowan has been in touch with the adjutants general of these 10 States urging serious consideration of the situation.

Frankly, however, I am disappointed by the implication of one of General McGowan's other comments. The general writes:

> The problems incident to integration in the National Guard are not easily separated from the problems of the community from which the membership is drawn. Fundamentally, the concept of the National Guard is that membership is voluntary. The strength of the National Guard can be assured only by making membership appealing to qualified men of the community.

I, for one, find it very hard to believe that qualified Americans are only interested in joining a segregated National Guard, that an integrated National Guard would not be "appealing" to qualified men of the community. To my mind, one of the most important qualifications for any serviceman or potential serviceman is the ability to accept other men on the basis of their individual abilities and achievements, regardless of race and to use their skills in the best interests of the national security.

Mr. President, we cannot afford to have any qualifications in any of our service requirements directly or indirectly based on racial discrimination. I urge General McGowan to step up his efforts and to make an appeal to the qualified men of the Nation's communities on the basis of fairness and equality for all those who wear the uniform of the United States.

Mr. President, I ask unanimous consent to have included in the CONGRESSIONAL RECORD the letter which I have received from Major General McGowan.

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

APRIL 25, 1962.

Hon. KENNETH B. KEATING,
U.S. Senate.

SENATOR KEATING: This will supplement my interim reply of March 7, 1962, in response to your request for information as to the procedures in progress to eliminate segregation in the National Guard.

At the present time there are only 10 States in which, because of State law, or practices and customs, the National Guard units are not integrated. This reflects a considerable advancement in recent years, both in the elimination of all Negro units and in the appointment and enlistment of personnel in National Guard units without regard to race. It is true that in some States there may be no Negroes in National Guard units. But this does not connote discrimination, and it is accounted for by such things as lack of applicants or, in some instances, little or no Negro population in the area from which the unit draws its personnel.

As I am sure you know, federally recognized National Guard units and personnel have dual State and Federal status. The Federal status stems from the State status. When the National Guard is in an inactive status—or, as the language of the Constitution provides, when not "called into the actual service of the United States"—there are constitutional and statutory provisions which make the attainment of the objective of our national administration with respect to integration more difficult than in the active Armed Forces where Federal authorities have the direct authority to require integration. The National Guard, not in Federal service, is composed of State forces serving under the command of a State Governor. Section 3079, title 10, United States Code, provides: "When not on active duty, members of the Army National Guard of the United States shall be administered, armed, equipped, and trained in their status as members of the Army National Guard." Section 8079 contains similar provisions for the Air National Guard.

As you mentioned in your statement, the National Guard units are organized and manned according to the structures of the active services. The procurement of personnel within these structures is the responsibility of the States. The State laws which authorize the organization, consolidation, or reorganization of National Guard units by State authorities are designed to permit them to reorganize their units to conform to the everchanging organization of the active Army and Air Force and the composition of Army and Air Force units, as envisioned by section 104 of title 32, United States Code. Since such laws are to be found in States where discrimination or segregation has never existed, it is apparent that they are not aimed at creating or maintaining segregation or discrimination.

The Federal recognition of a National Guard unit is a function of the Department of the Army or Department of the Air Force, respectively. To obtain or continue Federal recognition, all organizations and reorganizations of units must be approved by these Federal authorities. Support from Federal funds is contingent upon such Federal recognition.

The source of your statement that barely 5 percent of the financial support of the

National Guard comes from the local or State governments is not known. The total appropriation by the Congress for fiscal year 1961 was, in round figures, $663,500,000, for the Army and Air National Guard. Information furnished us by the States reveals that the State legislatures annually provide approximately $50 million for National Guard support. Not reflected in the uncalculated but tremendous additional support the States provide through making available a large number of State-owned camps and other areas for field training purposes, such as Camp Smith at Peekskill. As a single example, estimated conservatively the value of the land provided by State or local governments on which armories have been constructed exceeds a quarter of a billion dollars.

You mentioned the statutes of certain States. North Carolina is the only State in which the statute reads as you have quoted on page 3 of your statement. West Virginia is the only State in which the statute would seem to require the organization of separate Negro units; however, that State has for a number of years maintained integrated National Guard units.

To attempt by denial of Federal funds to enforce integration at this time in the 10 States referred to at the beginning of this letter would result in a serious weakening of our Nation's combat capability. This is a risk our Nation can ill afford at this time, and it does not appear to be justified as long as progress in integration can be made through such means as we are now using. I have within the past 2 months again communicated with the adjutants general of those 10 States, urging that they give this subject their most serious consideration. The responses reflect the full appreciation of the adjutants general of the urgency of the problem. There is a cautious optimism and a definite indication that the number of segregated States will be reduced in the coming months. Thus, I feel that integration is being accomplished on a gradual and relative basis which will in the reasonably near future assure that membership in the National Guard will be based entirely on ability and willingness to serve.

The problems incident to integration in the National Guard are not easily separated from the problems of the community from which the membership is drawn. Fundamentally, the concept of the National Guard is that membership is voluntary. The strength of the National Guard can be assured only by making membership appealing to qualified men of the community.

When National Guard units have been ordered into active Federal service, they are filled out by personnel assigned by the active services. Thus, there is no question as to the integration of these units when in Federal status, regardless of the State of origin. We hope that their active duty experience will demonstrate to the personnel in the units of all the States that, irrespective of race, qualification to perform the duties involved should be the overriding factor in the selection of personnel for membership to fill vacanices which will occur after the units have returned to their home States.

I trust the foregoing will be helpful to you.

Sincerely,

D. W. McGOWAN,
Major General, Chief, National Guard Bureau.

"THE GRAND JURY: SWORD AND SHIELD"—ARTICLE BY JUDGE IRVING R. KAUFMAN

Mr. KEATING. Mr. President, the April issue of the Atlantic Monthly contained an excellent article by Judge Irving R. Kaufman entitled "The Grand Jury: Sword and Shield."

The article explains the function and usefulness of the grand jury with great cogency and reflects unusual insight into this important subject.

I know that this article will be of interest to many Members and, therefore, I ask unanimous consent that it be printed in the RECORD.

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

THE GRAND JURY: SWORD AND SHIELD

(By Judge Irving R. Kaufman)

(NOTE.—As district judge for the southern district of New York, Judge Irving R. Kaufman presided over several prominent civil and criminal trials, among them the Rosenberg atom-spy case, the Apalachin conspiracy, and the New Rochelle segregation case. Last September, he was elevated to the U.S. Court of Appeals for the Second Circuit, which includes New York, Connecticut, and Vermont.)

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury." So begins the fifth amendment to the Federal Constitution, which also protects the individual against compulsory self-incrimination, double jeopardy, and the deprivation of life, liberty, and property without due process of law. Most State constitutions contain similar language, all attesting to the importance placed upon the grand jury by the architects of our Government. Yet in recent years the very institution of the grand jury has been under increasingly severe criticism.

There is no lack of provocation for these attacks. In one part of the country, a grand jury hands up a presentment subjecting the private conduct of individuals to scathing attack without an opportunity for retort. In another region, persuasive evidence is apparently ignored by a grand jury because of the racial overtones of the crime charged. Moreover, the criticism is by no means limited to exaggerated reaction to isolated instances. It goes to the very heart of the institution. Lawyers, scholars, and even judges charge that the grand jury is a useless vestige of another age, when the regime was the main enemy of its own people. It is said that the grand jurors themselves have acquiesced in this judgment by becoming mere rubberstamps for the prosecutors' cases. On the other hand, it is urged that the grand jury is at times guilty of nullifying important legislation because of the local popularity of the criminal or public lethargy to the crime. Other critics point out that the grand jury may occasionally run away on an irresponsible tear, using its tremendous power to muddle the law-enforcement process, not to mention the lives of innocent individuals. Even more basic is the thought that the grand jury is a sport among our legal institutions in that it operates in secret and its members are accountable to no one for their actions. The sixth amendment to the Federal Constitution assures a public trial in criminal cases, yet a grand juror could find himself in contempt of court for divulging the testimony he heard in the grand jury room. Star-chamber proceedings are feared.

All of this criticism has a certain degree of validity. It has led to the abolition of the grand jury in England, the land of its origin, and to the curtailment of the institution in certain of our States. Nevertheless, I believe that the grand jury, with all its acquired flaws, is well worth retaining. Its abolition, even if this could be achieved, could be a serious net loss.

Because the grand jury does its work in secret and because its function is so often misunderstood, it is important that this ancient institution be reviewed in its modern context and that its place in the criminal law be appreciated.

From the time the illegal act is committed, and for a long time after, a criminal case is in the almost untrammeled control of the executive branch of the Government. Generally it is the enforcement agency—the local police, the FBI, the Securities and Exchange Commission, or some other investigative agency—which first acts on suspicion of crime.

If at any time the police become satisfied that no crime has been committed, or that further pursuit is impractical, the case aborts.

Because this system is inevitable and rarely abused, few realize the tremendous power it confers upon the police. This becomes apparent enough when the sheriff of a corruptly governed county chooses not to investigate corruption, or when certain ordinances are enforced only against political enemies of a local administration. When the enforcers are satisfied that they have a criminal case, the matter is turned over to another arm of the executive department, the prosecutor. In the Federal system he is the U.S. Attorney, who operates under the Attorney General of the United States. He may take steps to bring the case to court, but he does not have to. If, in his judgment, the suspect's acts are not in law a crime, or if he believes that it is impossible to secure a verdict of guilty, he, too, has the power to let the matter drop. If he believes that he has a triable criminal case, he will then lay the facts before the grand jury and ask for an indictment.

The Federal grand jury, the type with which I am most familiar and to which I will direct most of my attention, is composed of 23 persons. For 12 years, I was U.S. District judge for the Southern District of New York. In that district, which covers a territory roughly from the lower tip of Manhattan to a point just south of Albany, N.Y., the grand jurors are selected by public drawing from a jury wheel containing names assembled from the same voter registration lists and other sources which provide trial jurors. The judge presides over this first session and passes upon requests by prospective grand jurors to be excused. Hearteningly, these are few. I have found that business and professional persons are more willing to serve on grand juries than they are to serve on petit, or trial, juries. As a result, the grand juries tend to have a high educational level with concomitant ability to follow complex cases.

The judge then selects a foreman and his deputy. In the case of a Federal trial jury in New York City, the first person selected is automatically the foreman; not so with the grand jury. Because the grand jury has much more initiative, and because the grand jury foreman may question witnesses and control the questioning by other grand jurors, the selection of a proper foreman may set the tone for everything that follows. Most judges try to select as a foreman a person with previous grand jury experience or some other background which fits him for this unusual responsibility. The 23 men and women will serve for at least 1 month, and may serve up to 18 months in an extended investigation.

The judge now charges the grand jurors, instructing them in general terms on their powers and duties. These are extremely broad. It is the grand jury's duty to investigate suspected crimes committed within its territorial jurisdiction. Following the charge, the grand jury retires to hear its first case. From now on the jurors will rely heavily upon the guidance of the prosecutor. Ordinarily the grand jury will investigate only suspected crimes brought to its attention by the prosecutor, and will pass upon the filing of the indictments which he prepares. Evidence, witnesses, and documents will ordinarily be brought before the grand

jury by subpena prepared by the prosecutor in the name of the grand jury. It is upon this subpena power, the ability to compel the attendance of witnesses and the production of records, that much of the grand jury's effectiveness depends. This is a power which the prosecutor himself lacks.

The prosecutor will begin by briefing the grand jury on the particular crime involved in the case and the law applicable. In a few minutes the grand jury is ready to hear the first of its witnesses. No witness hears the testimony given by any other witness. In fact, no one is permitted in the grand jury room except the jurors, the prosecutors, the witness being interrogated, and a court reporter. None of these persons may divulge what he has heard.

PRESENTING THE EVIDENCE

Someone familiar with courtroom procedure would find much in the grand jury hearing that seemed strange if he failed to keep in mind that this body is not passing on guilt or innocence but only on whether a minimal case has been made out. Leading questions are permitted. There is only one lawyer in the room, and he, the prosecutor, will present only one side of the case. A suspect is almost never called. In the rare instances when a suspect is granted permission to appear, he must do so without counsel. Moreover, television-trial aficionados would miss their favorite objection: "That question is irrelevant, incompetent, and immaterial." So broad is the grand jury's power to question that rarely is a question genuinely irrelevant.

Naturally, this doctrine cannot be attenuated indefinitely. The grand jury may not subpena clearly irrelevant documents. Neither may it demand evidence that is privileged, such as communications with one's lawyer or religious adviser.

But by far the most important limitation on the grand jury's power to demand answers is imposed by the privilege against self-incrimination, guaranteed by the fifth amendment. So complete is this privilege that without special immunity statutes, many important investigations would be entirely frustrated.

Basically, special immunity statutes allow a U.S. attorney, with the approval of the Attorney General, to make a choice. If he decides that the story that a particular witness may tell is worth allowing the witness' own crimes to go unpunished, he can make application to the court to compel the witness to answer all questions. But if he does, that witness can never be prosecuted for the crime under investigation. In the case of State grand juries, immunity statutes are often broad and are frequently invoked. The result is sometimes an "immunity bath," a situation in which the grand jury finds that it has given up the bird in the hand and is still unable to locate the two in the bush. In the Federal system, on the other hand, the immunity statutes are limited to particular types of cases—for example, espionage and narcotics.

Generally the grand jury hearings progress rapidly, with the average case consuming less than 30 minutes. The prosecutor lays out the bare bones of his case. The prosecutor, then the foreman, and the individual grand jurors may question the witness—usually a Federal investigative agent. The grand jurors may also request that the prosecutor call additional witnesses if they are not satisfied as to a doubtful point.

Sometimes the grand jury embarks on a full investigation. No one knows what the outcome will be. For example, a number of years ago one of the country's most famous and conservative drug houses was suddenly thrown into receivership. In a single day its bonds fell from 103 to 57, the stock from 7½ to 1¼. The Securities and Exchange Commission ordered an investigation, and for the next 8 days, one after another of the Federal, State, and local law-enforcement agencies began to investigate this corporation. At first the results were inconclusive. The U.S. attorney was not even sure that a crime had been committed, or if so, by whom. The grand jury was impaneled to consider the case. All the facts were presented, and a vast amount of new evidence was unearthed through the use of the grand jury subpena. This investigation took months to complete. Several hundred witnesses, 91 bank accounts, and 57 brokerage accounts were minutely examined before the details of an ingenious multimillion-dollar embezzlement emerged.

It is thus apparent that grand jury investigations are not always narrow. Sometimes State grand juries will broadly investigate a type of suspected illegal activity, such as wiretapping, ticket fixing, or municipal graft, with a view to eventual indictment.

Whether the investigation is long or short, broad or narrow, the prosecutor's job is only to present the evidence. When this has been done, the grand jurors dismiss everyone from the grand jury room and commence their deliberation in secret. Their job is to decide not the guilt or innocence of the suspect but only whether the prosecutor has presented sufficient evidence to permit the case to go on to the next stage, the trial. The judge has instructed them that they must not indict unless "upon the credible evidence which you have heard, absent an explanation by the defendant, you would be willing to convict * * *."

Sixteen of the grand jurors constitute a quorum. Unless 12 of them believe that the prosecutor has made out a case, a "no true bill" is voted. If 12 believe an indictment is proper, the grand jury votes a "true bill" and subsequently hands the written charge (indictment) to the judge.

At that moment, the secretly suspected becomes the publicly accused, bound to stand trial, with his liberty, and perhaps his life, turning on the decision of a 12-man trial jury. From this moment, too, the defendant is surrounded by the myriad safeguards subsumed under the phrase "due process." He need not speak a word in his defense, for the prosecutor carries the burden of proving guilt beyond a reasonable doubt. At trial, rules of evidence will be vigorously applied to exclude hearsay and prejudicial material, and the defendant has a constitutional right to counsel and to present his case. But none of this can change the fact that even if found innocent, he will have been a defendant in a criminal case, a fact that, unfortunately, will not be forgotten by many of the community.

The significance of the handing up of the indictment is reflected in procedural requirements. The document must be handed directly to the judge in open court and in the sight of a quorum of the grand jury. Our bewigged forebears were unwilling to let so important a document out of authorized hands even for a moment. They were concerned lest an enemy of the accused get possession of the indictment and write an additional crime at the bottom of it. In the days when courtrooms were more imposing than they are today, a direct reach between foreman and judge was impossible, and there are preserved in England several long poles with clamps which were used to make sure the passing of the indictment was direct.

With a picture of the workings of the modern grand jury in mind, we can now consider some of the criticisms that have been lodged against its functionings.

RUBBERSTAMPING

The grand jury's function of screening the prosecution's cases has been solidly established in this country from earliest times. In 1734, William Cosby, a particularly incompetent royal governor of New York, was stung by the attacks upon him carried in the New York Weekly Journal. Cosby had his handpicked chief justice indicate to the grand jury that John Peter Zenger, the paper's printer, had committed the crime of seditious libel. The grand jury refused to indict, and repeated its refusal when Cosby tried again several months later. The fact that Zenger was later charged in an information and that he won his acquittal through the heroic efforts of his lawyer, Andrew Hamilton, does not change the fact that for the best part of a year the grand jury stood between a thoroughly ruthless executive and an unjustly accused citizen.

There is little doubt that such cases as Zenger's were very much in the minds of the framers of the fifth amendment. They probably considered that the grand jury's most important function was its job of screening the prosecutor's cases.

But it is not necessary to go back to Peter Zenger to realize the importance of this function. The power to subject whomsoever the executive wishes to the ordeal of a criminal trial is the power to tyrannize. The grand jury is the people's check on that power. However, I am as much concerned with the possibility of sloppy police work and opportunistic prosecution as I am with the possibility of tyranny. Not every police officer is a J. Edgar Hoover, nor is every prosecutor one who believes it is his function not to obtain a conviction but to see that justice is done. If there were no check on the executive's power to bring citizens to trial, it is quite possible that the litigious tendency, which is unfortunately so prevalent in civil matters, would be imported into the criminal law.

Some power must screen the prosecutor's cases. The real question is, Does the grand jury accomplish this effectively?

I believe that it does the job, not perfectly, but probably as well or better than it could be done by any other body or person. Those who read rubberstamping into the fact that indictments are forthcoming in the great majority of cases presented to the grand jury are misinterpreting the evidence.

First of all, the vast majority of prosecutors are sufficiently conscientious to screen their own cases. They do not ask for an indictment unless they are convinced that the accused is guilty and reasonably sure that a trial jury will eventually convict. They realize that if a weak case does get by the grand jury, it will probably founder at the trial. The rare prosecutor who is too callous to care that a defendant suffers unnecessarily is probably tenderly solicitous of his conviction record. Thus, it is only in the unusual case that the grand jury's screening power comes into play. Furthermore, with the grand jury, as with other institutions, the existence of power is more important than its exercise. The power to refuse to indict need be used only often enough to demonstrate that it has not atrophied. This power-in-being automatically eliminates cases brought for improper motives and with no hope of success. The fact that the grand jury rarely refuses to indict may be more of a tribute to its success than evidence of a failure.

NULLIFICATION

The question remains why this admittedly important function must be performed by a group of 23 citizens. One well-trained man might do the job as well or better; one well-trained man does do the job in England, on the Continent, and, most of the time, in Michigan. Moreover, it is said that an indicting magistrate, or one-man grand jury, would be less likely to nullify important legislation because of local prejudice.

Critics of the present system point out that the ideal grand jury is a machine, a calculator for weighing the facts. All of the evidence is considered, weighed according to the credibility of its source, and then measured against the standard supplied by the judge in his charge. The answer—true bill

or no true bill—should follow automatically, they say, dependent only on the facts in the case, not upon the identity or the state of mind of the trier of those facts. These critics say that the employment of ordinary citizens as sifters of the evidence allows the mores of the time and place to permeate the judicial process. To that extent, they say, we dilute the evenhanded justice which is our pride.

There are those who would answer this argument by striking at its major premise. They urge that the grand jurors with their commonsense soften the sometimes cruel logic of the law. But I do not favor the grand jury because it reaches less logical results than would be reached by an indicting magistrate. After almost a quarter century of working with criminal juries and grand juries, I am convinced that in a difficult case a body of citizens is likely to reach the correct result.

The grand jury is sometimes deprecated as irresponsible, but it is this very "irresponsibility" which caused the institution to be so cherished by the framers of the Bill of Rights. The grand jury is answerable to no one. Its members are not subject to reelection or reappointment by one man. They owe no political debt to anyone, and when their job is done, they disperse. When a grand juror swears that he will present no one from envy, hatred, or malice; nor shall he leave anyone unpresented from fear, favor, or affection, for reward, gain, or the hope thereof, but shall present all things truly as they shall come to his knowledge, there is every reason to believe that he will fulfill his oath.

Some months ago the people of New York were justly incensed over a series of hit-and-run accidents. At the height of this indignation, a taxicab struck a small girl. The driver stopped, carried the injured child into his cab, and said he would take her to a hospital. Several hours later, the body of the girl was found abandoned beneath a parked car. A howl of rage arose from public and press. When the driver was apprehended, the newspapers pointed out that he might well be guilty of homicide. Evidence was presented to the grand jury, but a homicide indictment was not sought because there was no evidence of that crime. In fact, the grand jury did not even indict for the two less serious crimes charged, but sent the case to the court of special sessions instead. There the driver was charged by information with the two lesser crimes, to which he pleaded guilty. His sentence was 30 days (which he had already served pending trial) and 1 year, suspended.

The public accepted the judgment of its own representatives without a murmur. I cannot help wonder whether the reaction would have been the same had a decision not to prosecute for homicide not been accepted by a grand jury, but been made solely by an elected or appointed official. It is likely that such an official would have resisted the great pressures upon him. But it is best to minimize the number of times a man is called upon to choose between his honor and his future.

Finally, a decision to indict or not to indict must be more than just. It must be accepted as just by the public. One object of the criminal law is the achievement of a sense of security on the part of the community. As the hit-and-run case demonstrated, there are few cries of "foul" when unpopular decisions are made by grand jurors, selected at random and beholden to no one. The public has great confidence in this honored institution.

Certainly there are occasional cases where a grand jury is swayed by prejudice and so fails to indict. But I do not think that this is really a criticism of the grand jury as such. It is a flaw in our basic system of entrusting citizens with factual decisions in criminal cases, a system very few of us would change.

THE RUNAWAY GRAND JURY

The importance of the grand jury's role in screening cases stems from the fact that it is generally the first nonexecutive power to review criminal cases. Here it serves as the people's shield against unfair accusations. However, its unique position may also require that it be a sword against the unjustified refusal of an executive to prosecute. If the executive refuses to initiate criminal proceedings against wrongdoers, the grand jury may. The local district attorney who expects a grand jury tamely to confine itself to handling indictments in a few major cases may suddenly find that his own office is under searching investigation by that same body.

Occasionally we still read of such runaway grand juries. Sometimes they perform a valuable service; sometimes they merely represent 23 good citizens momentarily carried away by power. Sometimes the runaways must be restrained. In a fairly recent case in the West, one grand jury got completely out of hand. The Federal district judge sitting in the district concluded that the jurors' attacks on privacy had overstepped decent bounds. He decided that justice required the dismissal of the grand jury.

Runaway grand juries are faced with immense procedural difficulties. Modern investigation is a job for professionals, and when the grand jury takes off on its own, it cuts loose from the investigatory agencies which are its eyes and ears. Unless it somehow obtains facts, counsel, and a staff, substantial investigations are likely to be hopeless. Furthermore, its zeal may cause it to cut away from the restraints which bind all responsible investigators.

THE PRESENTMENT

A more serious problem, however, arises when a grand jury is active and vocal but does not indict. We recall that more than 2 years ago a New York State grand jury began an investigation of television quiz shows. In the course of 59 session days covering a 9-month period, the grand jurors heard 200 witnesses. It soon became clear to the panel that a shabby trick had been played upon the viewing public. It became equally clear that, aside from possible perjury, no crime had been committed. The grand jury decided that in lieu of an indictment it would hand up a presentment, or a report setting out its findings and its conclusions. It was hoped that the report would become a matter of public record, and public opinion might be expected to mete out its own punishment. Anticipating such a report, counsel representing certain television interests, the obvious subjects of such a report, sought to submit memoranda of law in opposition to its filing. Soon four bar associations, the Citizens Union, the Civil Liberties Union, two grand jury associations, and the district attorney's office had joined in an argument that vividly delineated the most controversial question involving grand juries. Should these bodies be permitted to inform the public upon immoral and undesirable conduct of private citizens where there is no evidence of the commission of a crime by these citizens?

Before the case could be decided, a congressional committee had laid bare the facts of the television quiz scandals. The public was justifiably incensed and eager for further details on how it had been duped. Nevertheless, a judge presiding in the court where the grand jury had been impaneled eschewed the easy solution. He suppressed the report. More recently, the highest court of New York has reaffirmed that grand juries may not report on misconduct if they do not indict.

Those who oppose presentments of the quiz-show type point out that numerous judges have used the term "foul blow" to describe this kind of presentment. They point out that any report issued by a grand jury is armored with tremendous prestige. For most people, no number of fine legal distinctions between accusation and conviction will change the fact that the person named has been accused by a public body whose primary function is to indict for "infamous" crimes. Since there will be no trial, the victim is deprived of a forum for answering the charges made against him. He does not have even the military officer's alternative of demanding a court-martial. Moreover, the secrecy of the grand jury proceedings is an insurmountable obstacle. The accused man has no way of knowing the real nature of the evidence against him. The result can be devastating.

Several years ago a Federal grand jury handed up a report on the alleged Communist affiliation of certain labor leaders. During the hearing, witnesses were question as to their views on religion, God, baptism, their particular religious beliefs, the length of adherence to them, atheism, and agnosticism. The labor leaders had invoked the 5th amendment when questioned about non-Communist affidavits which they had filed, and the grand jury concluded that the affidavits were thus not "worth the paper they are written on." No names were used, but on the day the report was handed up, the newspapers carried the names of 13 labor leaders who had testified before that particular grand jury. A Federal judge concluded that the names had been deliberately leaked, whether officially or unofficially. It is doubtful whether even the expunging of this report by a judge could have repaired any damage already done.

Reports concerning inefficient, incompetent public officials stand on a somewhat different footing. Some States apparently grant their grand juries the power to investigate the conduct of public officers and to report on malfeasance falling short of a crime. The New Jersey Supreme Court, for instance, last year upheld such a right. This practice is defended on historical grounds and on the need for good government. It is contended that the public interest requires that officials must accept a certain degree of loss of privacy. Furthermore, many of these reports are careful to criticize a condition but avoid naming names.

On the other side is the argument that this very need for good government should deter us from making public service forbiddingly disagreeable. Officials, too, are entitled to fair play.

A few years ago in Florida, a dispute arose as to the handling of an incompetent's estate. Somehow the matter came to the attention of the grand jury, which proceeded to investigate and to report on the action of a circuit judge. The report purported to tell "what happens to helpless old people who seek the protection of Judge ———'s Court." The grand jury concluded that the judge should resign. Must an official submit to unanswerable accusations of this kind at the price of his office? The Florida Supreme Court answered this question in a ringing opinion.

"For the future guidance of the grand juries of this State, we repeat the admonition * * * that a grand jury will not be permitted to single out persons in civil or official positions to impugn their motives, or * * * hold them to scorn or criticism. * * * Neither will they be permitted to speak of the general qualifications or moral fitness of one to hold an office or position."

While such general attacks on public officials are rightly to be condemned, there remains the question of a report on general conditions which the grand jury encounters in the course of its investigations of indictable crime.

For example, a New York judge once recalled a report which had been handed up to him some years previously. Without vituperation the grand jury had pointed out that a type of school run by the city had outlived its usefulness. As a result of this one report, the taxpayers were saved millions of dollars. Would the general interest have been served if this report had been automatically suppressed because it did not charge a crime? Perhaps there is a compromise. Where the grand jury uncovers a condition which it believes requires remedial legislation, there should be orderly machinery for making a secret report to the appropriate body of the legislature. The report would remain forever sealed, but it could be used by the legislature as a basis for its own investigations. If the legislators then wished to draw the public's attention to the condition, they might.

Proponents of this plan point out that when a congressional committee makes a charge, the political careers of its members stand surety for some standard of fair play. This is a safeguard entirely absent in the case of the grand jury.

SECRECY

The secrecy surrounding the grand jury proceeding is admittedly designed to aid the jury in carrying out its law-enforcement duties. Witnesses at grand jury hearings are more likely to talk freely if they are assured that their testimony will not be made public. Moreover, it is a practical necessity that the subject of a grand jury investigation remain secret. If a suspect has advance notice that he is under investigation, not only can he seek to put pressure on the grand jury directly or to intimidate witnesses, but he can destroy documentary evidence, and, if palpably guilty, flee. The secrecy of its proceedings also protects the grand jury from public hysteria, either for or against indictment. So much is obvious. But we often lose sight of the fact that the total secrecy of the grand jury room is also a valid protection to the accused. We have seen that the grand jury hears only evidence against the suspected. Some of this evidence is hearsay; all of it is usually damaging; and the accused is not represented by counsel. If an indictment is returned, it is undesirable that this testimony, some of it inadmissible at trial, yet carrying the prestige of the grand jury, be made known to prospective jurors or to the public. Even if the accused proves his innocence at trial, his reputation will thus have suffered additional besmirching.

More important, however, is the position of a person investigated but not indicted. He will never have the opportunity to rebut the charges made against him, if the secrecy has been lifted, in any forum comparable to a courtroom. The witness before the grand jury may have been mistaken or untruthful. This is all the more likely since the grand jury had refused to indict. But revelation of these charges would nevertheless deal a blow to an innocent reputation. Yet the knowledge that a grand jury was investigating may seriously harm the individual's good name. Many would choose not to invest through a stockbroker who had been under a grand jury investigation for allegedly defrauding investors, although he was not indicted. In balance, it appears that secrecy of the grand jury proceedings is desirable and necessary, both from the standpoint of effective law enforcement and protection of individual reputations.

The grand jury operates as a check upon the executive in an area wherein few checks occur other than the ballot. Occasionally it acts as a prod to unwilling officials. It can save a man from embarrassment and unmerited punishment, and it can, by being lax, inflict both. But, whether used as a sword or a shield, it is an implement of the public, the unofficial, nongovernmental public. It is the citizen's personal entry into government and justice. As such it has its justification, and because it is such, it should be retained.

FEDERAL AID TO EDUCATION

Mr. TOWER. Mr. President, I ask unanimous consent to have printed in the RECORD following this brief introduction, an article entitled "National Interest, Si—Federal Aid, No" by Dr. Roger A. Freeman of Claremont Men's College, Calif. This article will appear in the Graduate Journal of the University of Texas as a part of their important study of Federal aid to education.

Dr. Freeman is an outstanding authority in this field, and one who apparently feels that such aid is unnecessary, unwanted, and inadvisable.

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

NATIONAL INTEREST, SI—FEDERAL AID, NO

(By Roger A. Freeman)

Not so many years ago, when President Truman's Commission on Higher Education (1946–48) advocated a comprehensive program of Federal aid, the Association of American Universities sponsored the Commission on Financing Higher Education which, after laboring for 3 years, roundly condemned the demand for Federal funds: "This Commission has reached the unanimous conclusion that we as a nation should call a halt at this time to the introduction of new programs of direct Federal aid to colleges and universities. We also believe it undesirable for the Government to expand the scope of its scholarship aid to individual students."

One of the Commission members, President Carter Davidson of Union College, Schenectady, explained in an article: "One broad highway to financial security the members of the Commission viewed unanimously as the 'primrose path that leads to everlasting bonfire.' This road was named 'Federal Government support.' * * * There was a feeling that increased Government support from Federal sources was not only a blind alley, but also blinded those who traveled down it." Soon after, the American Council on Education developed an income tax credit plan for educational expenses as the proper method for the National Government to express its interest in higher education. The suggestion was seconded by President Eisenhower's Commission on Education Beyond the High School in 1957. But Congress never acted on it despite widespread interest as evidenced by more than 40 such bills in the 86th Congress, from sponsors covering the whole ideological spectrum from Senator HUMPHREY to Senator GOLDWATER.

Sharply rising support seemed to suggest that the established sources of financing higher education produced satisfactory results during the 1950's. Between 1950 and 1960 educational and general expenditures of colleges and universities jumped from $1.7 to $4.5 billion (if organized research is included from $2.3 to $6 billion). At that rate of advance, the institutions' educational budgets will exceed $10 billion by 1970. What reason do we have to assume that the long-range trend of allocating, through the existing channels, a growing share of the national income to higher education—from 0.6 percent in 1930, to 1.0 percent in 1950 and to 1.5 percent in 1960—will not continue through the 1960's?

Whatever the prospects are, there can be little doubt that the prevailing sentiment in higher education circles has swung around 180 degrees: proposals for vast Federal aid programs have become acceptable and are being assiduously lobbied for. A poll among institutions would now return a large majority for Federal Aid.

What explains this turnabout? Have budgetary problems suddenly become overwhelming? Have charges by the Secretary of HEW that college presidents really don't care about education—"None of you educators was interested in doing something for education as a whole" hit home? Did academic administrators hold a wet finger in the wind blowing in from the New Frontier and heed William Jennings Bryan's warning: "There is no percentage in batting one's head against a stonewall, even in a righteous cause"? Or is it just that the sweet scent of "free" money proved too strong a temptation to resist any longer?

Whatever the reasons for this change of mind may be, the common attitude is that the only taint that attaches to Federal money is that it'aint enough. This position is being justified by stressing the national interest in education which, like any sincere interest and honorable intentions, ought to be expressed in cash.

Of course, nobody would deny that there is a national interest in education. Under every division of labor such as established by our Federal system of Government, each member has an interest in the performance of his partners. But that does not mean that he may take over his partner's chores. There is a national interest in almost every activity of State and local governments and of private organizations and individuals. Likewise there is a State, local and individual interest in defense, foreign affairs, and every function of the National Government. If dissatisfaction with the other party's performance were sufficient grounds for getting into the act, might not the States have a good case for sticking their fingers into foreign relations?

It is generally agreed that the allocation of powers and responsibilities by the Constitution left education in the realm of the States and the people. Few find fault, nor is there much argument, with the principle advanced by the U.S. Commission on Intergovernmental Relations (Kestnbaum Commission) that public functions should, to the extent possible, be handled at community and State levels and by private initiative, and that we should "reserve national action for residual participation where State and local governments are not fully adequate, and for the continuing responsibilities that only the National Government can undertake." Few hold that only within the National Government is there sufficient brainpower to direct higher education. But some assert that State and local governments and individuals lack the capacity to raise the vast funds which higher education needs, estimated at over $10 billion by 1970. So, one Federal aid advocate reasoned, "the logical source of funds seems to be the Federal Government, the only entity that can provide large sums for national purposes, the only entity that has a taxing authority commensurate with the job to be done."

This suggests some pertinent questions: If the Federal Government has a taxing authority commensurate with its job, why has it been unable to raise enough revenues to meet its expenditures in 26 years of the past 32, with a cumulative deficit that averages $9 billion annually? If, on the other hand, the Federal Government already is trying to bite off more than it can chew, as the record suggests, why give it additional responsibilities? What taxing authority, is it claimed, does the Federal Government have which the States do not also possess? What types of income, property or transactions can it tax which are not located within the boundaries of the 50 States and subject to their taxing powers? What makes the Federal Government such a logical source of funds when it seems incapable of financing

its established activities, while the States have multiplied their educational appropriations beyond expectation? Is it because Federal money is believed to come for free from an inexhaustible National Treasury? Are State tax systems inadequate to meet requirements? "The weakness of State and local taxing systems is the impact of heavy Federal taxes" advised New Jersey Gov. Robert B. Meyner before a congressional committee.

The National Government has boosted its share of the tax dollar from one-third some 30 years ago to about two-thirds now. This, it has been charged, leaves State and local governments with inadequate revenues and imposes an obligation upon the National Government to aid them. But, we may ask, what caused the national tax share to rise? Largely soaring defense needs and partly the assumption of functions which used to be in the State, local, or private sphere. Can we improve that situation by shifting more responsibilities to Washington? Or shall we try to correct it by leaving a larger share of the tax dollar in State treasuries and private pockets? In the postwar period the Federal portion of the revenue dollar shrank from 79 to 65 cents. This trend is not very likely to continue if additional responsibilities are transferred from the States to the national level.

THE LOW SALARIES

It has been said that low salaries clearly prove the inadequacy of the established financial arrangements. They force faculty members to engage in consulting and other outside business activities and to turn into contract-getters at the expense of their teaching function.

If it be true that college teachers accept—or hunt for—research projects because of low salaries, why is it that, as a rule, the best-paid professors at the institutions with the highest salary scales hold the most numerous and juiciest research contracts while lowly paid instructors and assistant professors, and low-paying institutions in general, receive far less of the manna from heaven? Is it not likely that the magnitude and location of sponsored research is governed by factors other than the salary level? Does it not appear that, by and large, the job is seeking the man rather than the man seeking the job?

In his provocative article "The Affluent Professors" (the Reporter, June 23, 1960) Spencer Klaw observed correctly: "The need to supplement low academic salaries is only one of the reasons why professors consult. When a group of sociologists were asked a few years back about their extra-curricular activities, more than 90 percent of those who consulted said that even if their salaries were much higher they would go on doing so. Professors point out that consulting can be exciting, intellectually stimulating, and good for their teaching." It is unlikely that even a sharp rise in college salaries would reduce the practice of consulting to a significant extent.

My heart does not bleed for professors who, it is charged, are "systematically engaged in stock market ventures or real estate trading" because I know some of them. They regard such extracurricular escapades as a fate far less worse than death, and are not sorry for themselves, save in time when the Dow-Jones drops or land prices sag. Some even tell me that they like "business ventures on the side," and, in fact, the experience of having to meet a payroll may elevate their understanding of the practical working of our economic system. I could name some to whom such an experience could prove most beneficial.

HIGHER SALARIES AND COLLEGE EFFICIENCY

All of this does not mean that colleges should not continue to boost faculty salaries. Better pay for academic work is an urgent and most worthy objective. But the solution is not simply support for current operations by the Federal Government. It is a strange fact that so many academicians are unable to see the connection between the effectiveness with which college resources are used and their level of pay. Executives in private industry seldom suffer from such myopia. But then, an industry which utilized its skilled staff and costly facilities as inadequately and wastefully as colleges would have been bankrupt long ago.

In its better utilization of college teaching resources the fund for the advancement of education outlined four "handles" to attack the problem of increased efficiency: place greater responsibility on students for their education, rearrange course structures, discover new resources both in teaching and in performance of duties ordinarily expected of the teacher, and increase the institutional reach of colleges and universities.

When will institutions be ready to abandon the superstition that a low faculty-student ratio is a measure of quality? "All that is accomplished [by low ratios] is to enable the teacher to communicate his mediocrity in an intimate environment" commented the late President Charles Johnson of Fisk University. All over the country the faculty-student ratio has been falling in recent decades and is now far lower than in European universities. Hundreds of studies and experiments have failed to show an advantage of small classes over large or of low faculty workloads. John Hicks of Purdue wrote in the summary of the American Council on Education conference report on faculty workload: "To the best knowledge of the author, no objective study has ever been made of the relationship between quality of faculty performance and faculty workload." Also, an outstanding course on TV, once on tape, such as the famous White physics course can be taught to hundreds at a fraction of the cost of live instruction.

Most institutions keep spoonfeeding their students just because high schools do not train them adequately in the essential skills nor teach them study habits. Could not higher admission standards force the common schools to shift from more pleasurable pursuits to the grim business of education? Is there any reason why our institutions of higher learning should not place upon the student more responsibility for getting an education, as universities do throughout the rest of the world?

In a recent survey of several studies Samuel Baskin reported in a booklet "Quest for Quality," published by the U.S. Office of Education "The data from the present experimentation in independent study seem clear on this point: Students are able to learn as well with much less classtime than we have been accustomed to require of them."

Why must we continue the "phantastic proliferation" of the curriculum which Seymour Harris, head of the Harvard economics department called "a scandal from the viewpoint of both economics and education"? I wonder what Mr. Khrushchev thought when on visiting Iowa State University he was shown a class in "ironing"? But then maybe we were lucky he did not drop in on courses in fly casting, family camping, or bachelor living.

Beardsley Ruml and Donald Morrison (both since deceased) proposed in their book "Memo to a College Trustee," prepared for the fund for the advancement of education 3 years ago, to trim the curriculum and to double the number of students per faculty member to about 20. This would enable the institutions to double salaries without additional funds. The authors concluded that "new money is not needed in anything like the amounts presently estimated. Many of the necessary funds are already at the disposal of the college or can be made so; but they are being dissipated through wastes in curriculum, wastes in methods of instruction, wastes in administration, and in the use of property and plant."

We have stretched 12 to 13 years of education and spread them over 16 or more years. This fritters away the institutions' resources, and the students' time. It postpones their earnings career and dissuades many talented young men from following academic pursuits.

Columbia University President Grayson Kirk wrote an article in the Saturday Evening Post that "College Should Not Take 4 Years" but compressed into 3. Chancellor Edward H. Litchfield of the University of Pittsburgh pioneered the trimester plan which keeps the plant in operation the year round and enables students to obtain a B.A. degree in 3 years. A few other institutions are now using or considering similar plans. Why should this not become more general? Dean Elmer Easton of Rutger's Engineering College pointed out in a booklet, "Year-Around Operation of Colleges" that such a schedule would provide up to 56 percent more degrees, per year, make up to 30 percent more use of instructional facilities, increase faculty salaries approximately 30 percent.

PLANT NEEDS AND SPACE UTILIZATION

The need for additional college facilities is sometimes pictured to be staggering. A study of the American Council of Education by John D. Long and J. B. Black placed the 1958–70 requirements at $11 to $14 billion. A U.S. Office of Education report by W. Robert Bokelman and John B. Roark set the 1956–70 needs at $17 billion ($7.1 billion for academic, $5.3 billion for residential facilities, $4.8 billion for replacement, rehabilitation, and repair). But several studies have shown the present inadequate use of college facilities. A recent M.S.U. survey of 100 schools placed the utilization, on the basis of a 44-hour week at 46 percent of capacity; at only 25 percent of capacity in terms of student stations.

Space Utilization Analysis, a group of management consultants who have done work for several universities, Government, and industry, placed the 1957–70 facility requirements of American colleges and universities at $12.7 billion under current space utilization practices but estimated that with better space programing in new buildings the amount could be cut to $7.2 billion, with such practices in all (new and old) buildings to $4.3 billion.

The above-mentioned ACE and USOE estimates call for annual plant expenditures slightly over $1 billion. Outlays for physical plant of all colleges and universities totaled $417 million in 1950, $685 million in 1956 and exceeded $1 billion in 1958. There is no indication that the construction boom in higher education is about to collapse. With national income and produce expected to climb another 40 or 50 percent in the 1960's, what reason do we have to believe that the established sources will not be able to meet all essential requirements for plant funds?

ARE TOO FEW GOING TO COLLEGE OR TOO MANY?

A more fundamental question may be raised about the desirability and potential effect of sending two-fifths—and if current trends continue much longer, one-half—of our young people to college. Few of the culturally leading countries have as much as 10 percent of their youth in higher educational institutions. Do they all fail to meet their professional manpower needs?

It may at first glance appear to be encouraging that, under current projections, between 1930 and 1970 the population of the United States will have grown 72 percent, the college-age population (18–21) 61 percent while college enrollment and the number of earned degrees will have jumped 500 percent. But will it really advance the Nation's welfare that in our eagerness to make everybody fit for college we have made

college fit everybody? "Are we going to get fewer sheep just by handing out more sheepskins?" asked Fordham President Father Gannon a few years ago.

Seymour Harris concluded in 1948 "that we may be turning out too many graduates and that there is a danger not only of a relative but of absolute deterioration—falling income and employment" ("How Shall We Pay for Education?" p. 67). While employment has absolutely risen there has been a relative decline in the earnings of professional workers. David Blank and George Stigler pointed out in their book, "Demand and Supply of Scientific Personnel," that supply has been rising faster than demand and that scientific earnings have been drifting downward in relation to manual workers, as census statistics also show and as academicians well know.

In a paper for the National Manpower Council's Arden House Conference in November 1959, Professor Harris predicted that it will not be easy to find openings for an average of a half million college graduates in the next 10 years in managament and the professions. They may find jobs but at depressed wages. What this country needs is not more college graduates but better qualified ones who are more broadly educated and thoroughly trained. Our present love affair with numbers may be leading us into a blind alley.

Over the past 20 years professional workers have lost 15 to 20 percent in earnings relative to manual workers. In 1939 the annual earnings of the average professional or technical worker exceded those of a craftsman by 38 percent; in 1960 by only 17 percent. In 1939 the professional worker was 80 percent ahead of the operative (semiskilled factory hand); in 1960 only 48 percent.

Albert Rees of the University of Chicago reasoned that the gains of wage earners relative to salaried workers have been the result of economic forces—the vast increase in the supply of highly educated white-collar workers. In his book "American Higher Education in the 1960's" Robert J. Havighurst concluded that beginning in 1960 the demand for college-trained people will be exceeded by the supply and that there will be less incentive for going to college. Why spend 4 years in college when an electrical worker makes $198.40 a week working 35 hours? This may well explain the large number of young men who are intelligent enough to qualify for college but smart enough not to apply.

Present projections foresee an increase in the population of the United States over the next 10 years of 18 percent; in the number of earned degrees of 75 percent. What impact will that have on the wages of the average college graduate? Clearly, the United States cannot and should not do what the Soviet Union did: freeze higher education enrollment. But it can become more selective by raising standards. Is it not about time to do some rethinking of investment in marginal prospects for higher education? Gary Becker's study for the National Bureau of Economic Research raises some weighty questions in regard to comparative rates of return (American Economic Review, May 1960).

WHO SHOULD PICK UP THE CHECK?

No matter how successful colleges and universities may be in using their resources more wisely and more effectively, they will still need to boost their income very substantially. Some have estimated that funds ought to be doubled while others want them tripled. Such increases are well within the realm of possiblity if government spending for other purposes does not get out of hand.

What indication is there that the States will not continue to expand their financial resources and educational appropriations? Since World War II national income increased 130 percent, National Government revenues 96 percent. But State and local government revenues from their own sources jumped 298 percent and State-local educational expenditures 583 percent.

The public schools had prior claim on State funds during the 1950's when 12-grade enrollment climbed 43 percent. But most of the rush is over and school attendance will rise only 20 percent in the 1960's. This will help channeling a larger share of State funds to colleges and universities.

Private giving also has shown a splendid growth. Why should students and their parents, as well as private donors, not be able to augment their contributions as incomes rise, particularly if the Federal Government keeps its budget under control and grants tax relief?

The most neglected source of higher educational income is tuition payments in State institutions. Most State colleges and universities charge no or low tuition, or mere token fees. It has at times been charged that the American people spend more on liquor and tobacco than on education. This is incorrect except for many students at State colleges and universities who spend more on cigarettes than on payments to their alma mater, and far larger amounts for cars, liquor and various forms of entertainment.

It has been suggested that higher tuition fees might ease the parking problem around certain campuses where now one-half or more of the students park their cars. It is, of course, possible that some of our students would rather part with college than their car. If so, why should they not be allowed to spend their time as well as their money according to their own set of values?

The "Carnegie Foundation for the Advancement of Teaching" suggested in its 1956–57 report:

"Private institutions may eventually have to charge the full cost of education in tuition. They can then go even further than they have to date in providing various forms of scholarship aid for those students who need it." Grants and loan scholarship funds from State and private sources have shown a healthy growth and may be expected to expand further unless the Federal Government decides to enter the field with a major program which would tend to dry up other sources. Private finance companies are now advertising loans for college students. Most promising is the plan by the United Student Aid Fund to set up guarantees for student loans for educational purposes. Some observers, however, frown on what they call "students mortgaging their future" although they find no objection to no downpayments on large purchases and debts for more mundane purposes.

Earlier I referred to proposals which would permit students and their parents to offset part or all college expenses on the Federal income tax through additional exemptions, deductions or tax credits. This would make higher tuition fees easier to bear. Students from families which pay little or no income tax would still be eligible for scholarships. Donations to institutions could also be encouraged by a more liberal form of income tax credit.

Why do those who believe financial aid from the National Government to be necessary not support such proposals? Tax credits would eliminate the controversial problem of an equitable allocation of governmental grants among public, private nonsectarian and sectarian institutions and leave the freedom of choice to students and their parents, as the GI bill did. If it is held that the support of higher education has become a national problem, or even a national responsibility that calls for action by the National Government, why not use the fiscal powers of the National Government without disturbing the structure of higher education?

In summary: Higher education, under our Federal system, is no more a responsibility of the National Government than foreign relations is a responsibility of the States. To be sure, all levels of government have an interest in the essential functions of all other levels, and a duty to further them within their own proper range of activities. But there is no justification for any Government to enter another Government's domain without clear proof that such action is absolutely necessary.

No such proof has been advanced for the expansion of National Government activities in higher education by assuming responsibility for support of institutions, construcion, or students. There are three ways of meetmg higher education's financial needs: greater funds from established sources and wiser use of those funds; Federal income tax credits; direct Federal grants. But the worst of these is Federal grants.

PROPOSED DRUG LEGISLATION

Mr. KEFAUVER. Mr. President, because of its great importance I ask unanimous consent to have printed in the RECORD a copy of the President's letter of April 10, 1962, to the chairman of the Judiciary Committee [Mr. EASTLAND], in which he urges prompt enactment of S. 1552, the drug bill.

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

THE WHITE HOUSE,
Washington, April 10, 1962.

Hon. JAMES O. EASTLAND,
U.S. Senate, Washington, D.C.

DEAR SENATOR: In the message I sent to the Congress on March 14, I called attention to the need for new legislative authority to advance and protect the interests of consumers in the marketing of drugs.

S. 1552, which is now pending before your committee, incorporates the major recommendations I made. It will strengthen and broaden existing laws in the food and drug field, contribute toward better, safer and less expensive medicines, and establish a better system of enforcement. As you know, the bill is the outgrowth of the 28 months of intensive investigation and hearings by your Subcommittee on Antitrust and Monopoly. I believe that early passage of this legislation will substantially improve the ability of the drug industry to serve the Nation and help provide consumers with quality drugs at low competitive prices.

I understand that the members of the Subcommittee on Patents have decided that the compulsory licensing feature of the legislation requires further study and consideration. I would hope that this would not, however, delay enactment of the other provisions of the bill—provisions which will establish necessary safeguards to assure the reliability and effectiveness of drugs placed on the market, provide for standardization of drug names, and thereby encourage physicians to prescribe drugs by nonproprietary rather than by brand names, require disclosure of adverse as well as beneficial effects of drugs in drug promotion, and assure consideration of therapeutic effectiveness in the granting of patents for drugs that are modifications of other drugs.

The message I sent to the Congress made several other suggestions which, it would seem to me, might appropriately be included in the bill now before your committee. They are:

1. Drug manufacturers should be required to keep records on and report to the Department of Health, Education, and Welfare any indications of adverse effects from the use of a new drug or antibiotic.

2. The Department of Health, Education, and Welfare should be empowered to withdraw approval of a new drug on the basis of a substantial doubt of its efficacy or safety.

3. The provisions requiring drug manufacturers to maintain facilities and controls to assure the reliability of their product, and to institute more effective inspection to determine whether drugs are being manufactured in accordance with the law, cannot feasibly be limited to a particular class of drugs and should therefore be made applicable to over-the-counter as well as prescription drugs.

4. An enforcible system of preventing the illicit distribution of habit-forming barbiturates and amphetamines should be provided.

The need for these amendments is based upon the accumulated years of experience of the Food and Drug Administration, and they appear to be properly within the scope of the subject matter dealt with in the extensive hearings of the Subcommittee on Antitrust and Monopoly.

In addition, I recommend two minor procedural changes:

1. In the section having to do with the rendering of advisory opinions by the Department of Health, Education, and Welfare to the Patent Office on the therapeutic effect of modifications and combinations, I suggest that the requirement providing the applicant with an opportunity for a plenary hearing be deleted. Under the provisions of S. 1552 in its earlier form, the Secretary's finding was conclusive and therefore should have required a formal hearing. But since the bill in its present form requires no binding decision to be made by the Secretary, the requirement of the hearing seems inappropriate and would tend to unduly delay the rendition of the Secretary's purely advisory opinion to the Commissioner. The action of the Commissioner is, of course, subject to well-established de novo judicial review.

2. The provision requiring the filing of patent agreements with the Commissioner of Patents should more properly be in the form of an amendment to the Patent Act rather than the Sherman Act.

I have asked the Department of Health, Education, and Welfare to transmit to you promptly any additional recommendations to strengthen, clarify, or improve the bill that it may have and that will not require additional hearings or substantially delay action on the bill.

It would not appear that the consideration of these proposed changes should occasion any further delay in the approval of this important measure.

With the above changes, S. 1552 adequately deals with the most pressing problems in the drug field, and it is my sincere wish that it be enacted during the current session of the Congress. Your cooperation and assistance to this end will be greatly appreciated.

Sincerely,

JOHN F. KENNEDY.

Mr. KEFAUVER. Mr. President, I also ask unanimous consent to have printed in the RECORD an editorial published in the Washington Post and Times Herald, April 21, 1962.

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

J. F. K. ON DRUGS

President Kennedy has followed up commendably on his general recommendations in the recent consumer message by directly appealing for the passage of drug legislation now before the Senate. In a letter to Chairman JAMES O. EASTLAND, of the Senate Judiciary Committee, Mr. Kennedy not only specifically endorsed proposals for policing the drug industry but suggested some useful improvements on the pending legislation.

In essence, the President approved suggestions for testing drugs for reliability and efficacy as well as safety. He asked for the standardization of drug names, in order to encourage physicians to prescribe medicine by generic rather than more costly brand names. He proposed that Congress require disclosure of adverse as well as beneficial effects in drug promotion and that consideration be given to therapeutic effectiveness in granting patents for drugs that are modifications of other drugs.

All of these reforms are embodied in the bill that is the fruit of 28 months of hearings and investigation by Senator KEFAUVER's Antitrust Subcommittee. In addition, drawing on advice of the Food and Drug Administration, Mr. Kennedy urges that drug manufacturers be required to keep records of the adverse effects of new drugs. His other suggested modifications are technical and are designed to tighten-up the application of the bill.

The President sidestepped the question of requiring that drugs be licensed, as they are in most other major democracies. But since this provision has been dropped from the present legislation, the White House is wise to focus attention on what can be achieved in this Congress. The major provisions of the bill before the Judiciary Committee are broadly supported by medical authorities and should have the effect of assuring better and cheaper drugs for the public. We hope Mr. Kennedy also follows up on other important recommendations in his consumer message.

Mr. KEFAUVER. Mr. President, the editorial commends the President for following up his general recommendations with respect to drugs in his recent consumer message by "directly appealing for the passage of drug legislation now before the Senate."

This proposed legislation, as the editorial correctly notes, "is the fruit of 28 months of hearings and investigation by Senator KEFAUVER's Antitrust Subcommittee." The editorial also correctly notes that the major provisions of the bill, S. 1552, now before the Senate Judiciary Committee, "are broadly supported by medical authorities and should have the effect of assuring better and cheaper drugs for the public."

HIGHER FACULTY SALARIES NEEDED IN AMERICAN COLLEGES

Mr. YARBOROUGH. Mr. President, an interesting and highly informative article on the subject of salary levels for the academic profession was published in the New York Times Sunday, April 29, 1962.

The report touches on the possibility of a relation between academic salary levels and the quality of educational institutions in the United States, and shows high and low points in various parts of the country.

The article, by Fred M. Hechinger, is based on a report made by the American Association of University Professors, titled "The Economic Status of the Academic Profession." Since I am a member of the Senate Subcommittee on Education and strongly support bills now pending in the Congress to aid higher education, and since the Congress is exploring means by which to assist in the educational advancement of our country and is therefore interested in all problems related to this goal, I ask unanimous consent to have printed in the RECORD the article published in the New York Times entitled "Dollar Yardstick: Report on Professors' Salaries Hints at Quality Criteria."

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

[From the New York Times, Apr. 29, 1962]

DOLLAR YARDSTICK: REPORT ON PROFESSORS' SALARIES HINTS AT QUALITY CRITERIA

(By Fred M. Hechinger)

An extensive survey of faculty salaries by the American Association of University Professors, made public last week, combines in its findings a mixture of progress and danger signals. A total of 588 colleges and universities were taken under the close economic scrutiny of a committee headed by Dr. William J. Baumol, professor of economics at Princeton. By contrast with most educational statistics, this survey is up-to-date—it compares faculty salaries during the 1961–62 academic year to those of the year before.

By way of summary the survey finds the overall salary picture better by 6.5 percent than a year ago, but adds that at many institutions salary levels remain "scandalously low" and the public universities, which had been doing well in the past, are slipping.

What are the key findings and their implications?

1. Bright spots: Although Harvard, with average salaries of just over $15,000 and an average for full professors of $18,750, is in a class by itself, the list of top-level averages just below Harvard's level now includes nine other institutions: Princeton, Duke, Yale, Amherst, the Massachusetts Institute of Technology, and the four municipal colleges of the City University of New York. Duke is the first southern university to be placed in the top list.

IMPROVED CONDITION

Teachers' colleges and church-related institutions, which started from a dangerously low level and therefore still have a long way to go, have improved significantly in the past year.

The AAUP considers it especially praiseworthy that "many of the institutions which are not the large and notoriously affluent" are crowding the lists of those with outstanding performance."

If there is any relationship between such improvement of faculty salaries and educational excellence—and at a time of intensive competition for college teachers this is inevitable—then the extensive "honors lists" in the report may add new yardsticks by which institutions can be judged. This is important because too few yardsticks now exist.

Faculty salaries: Average annual pay in U.S. colleges, 1961–62

Professors	$11,595
Associate professors	8,926
Assistant professors	7,461
Lecturers	6,706
Instructors	6,033

What is most encouraging is that "honors lists" find side by side some well-known prestige colleges and other institutions which, it would be safe to bet, few college applicants have ever heard of. It would, of course, be foolish to equate colleges simply because they are doing equally well by their teachers or are improving salaries at the same rate, but it is worth looking at Ripon College in Wisconsin or the University of the Pacific in California if they are on the same improvement list as Cornell and Bryn Mawr. It is even more appropriate to look at, say, Lake Forest College in Illinois or Harvey Mudd College in California if, as happens to be the case, they share the actual salary rating with a Barnard, Brandeis or California Institute of Technology.

Finally, the AAUP has added a special "honor roll" of the 20 institutions which are offering the highest faculty salaries per full-time students enrolled. In other words, this measures the high investment in teaching

staff made by some institutions on behalf of a relatively small number of students. Admittedly this is a "somewhat controversial" yardstick. In some instances, it may merely signify that the faculty's time is squandered. But in general, a high ratio of well-paid teachers can be taken as a hint of high quality. And while this list includes some of the prestige colleges, it also is significant because some less widely recognized institutions are represented on it.

2. Trouble spots: here are wide areas of such serious lag that they may constitute a threat to American higher education at a time when a demand for unprecedented expansion is imminent. Thirty-one institutions, for example, were found to be paying their full professors less than an average of $6,000.

The most depressed region remains the South. Typically, southern colleges and universities lag behind comparable institutions in the rest of the country by between 12 and 20 percent.

But probably the most serious and, from the national point of view most ominous, aspect of the report is its summary of the lack of progress of State and municipal universities.

STATE UNIVERSITIES LAG

Whereas five private independent universities were in the highest category, no State university reached the very top level.

Even this is not as serious as the fact that almost half of all public universities are in category D on a scale that ranges from AA to F. Only 3 percent of the independent institutions range as low.

Rapid growth and huge enrollments are, of course, a problem for many State universities. As a consequence, they must rely heavily on the services of low-salaried instructors to cope with masses of sections, especially in the required courses of freshman and sophomore years. But this also depresses quality, particularly at a time when better prepared high school students are more demanding.

This is a crucial problem now that the public institutions already enroll more than 60 percent of all students and, according to some predictions, may eventually educate 80 percent. Yet, faculty recruiting will become much tougher.

TREND MAY REVERSE

If the gap between private and public universities thus becomes wider, the trend toward academic excellence which marked public institutions in recent years would be reversed. And this would inevitably mean that students who cannot afford the rising tuition costs of private institutions would be condemned to an education of lower quality than can be afforded by their wealthier contemporaries. This would be a serious blow to that equality of opportunity which a combination of scholarship aid in private colleges and free or low-cost education in high-quality public colleges has offered in the past.

Further details on the report, which is titled "The Economic status of the Academic Profession," may be obtained from the AAUP, 1785 Massachusetts Avenue NW., Washington 6, D.C.

Mr. YARBOROUGH. The present occupant of the chair, the distinguished Senator from Montana [Mr. METCALF] is one of the most able exponents of increased aid to higher educational institutions in our country. I believe he, too, will be interested in the article.

MORE RATHER THAN LESS AIR TRANSPORTATION IS NEEDED FOR ALASKA

Mr. GRUENING. Mr. President, the House-Senate conference committee on S. 1969, the supplemental air carrier bill, has been so amended in the House as to change completely the concept and purpose of the bill. The Senate version of S. 1969 would have acted to preserve the supplemental air carriers and take advantage of the yardstick which they provide for establishing and maintaining low cost competitive air transportation. The bill, with the crippling House amendments, would, in effect, create a starvation diet for most of the supplemental air carriers and most probably would result in the elimination of this very necessary group of competitors to the airline industry.

Too often, the CAB has used its authority to eliminate small air carriers whose only crime has been to exceed the standards of frequency and regularity in their competition with the major airlines.

In Alaska the Territorial legislature twice memorialized the CAB to permit the continued operations of the number of air carriers that were serving Alaska up to as late as 1953. However, these appeals were totally disregarded and every one of the supplemental carriers whose low cost passenger and cargo transportation had filled a great need for Alaska, were put out of business. Although my colleague, [Mr. BARTLETT] and I protested against these actions at the time along with chambers of commerce, labor organizations, and citizens of Alaska, the services of these carriers were terminated. The consequences were that transportation charges on cargo from Seattle to Anchorage and Fairbanks, Alaska, increased. Passenger fares also increased. I pointed out, and the Senate Small Business Committee report of 1951 made clear, that Alaska did not have the alternative rail and highway systems that are available in the continental United States, and therefore should receive special consideration from the CAB. The Senate report recommended this special consideration for Alaska but these recommendations were totally ignored. If the pattern of congressional action is to support the restrictive policies of the CAB, we can look forward only to a monopoly control of our air transportation system under which the average consumer in Alaska or elsewhere will be unable to register his demand for lower price transportation. In other words, the average consumer is to be economically disenfranchised, having no lower cost service to turn to.

This, I believe, is the heart of the question we must face. Is the consumer to be permitted an opportunity to select, if he so desires, a slower but safe transportation at lower cost, or is this choice to be denied him? I have been informed that three tragic accidents in charter transportation were the cause of much concern in the House, and consequently may have resulted in restrictive provisions in the House language in S. 1969, but I feel that it should be pointed out that these accidents particularly involve charter operations as differentiated from ticketed supplemental air carrier service and that the House bill nevertheless is not concerned with charter operations. The strange and important story appears to be that the opponents of the original Senate bill are attempting to eliminate the independent ticketed operations when such operators have an amazing history of having no passenger fatalities for the last 10 years. Such a record is unequaled by any other group of carriers in the airline industry. In addition to this exemplary record of safety, these ticketed supplemental carriers have consistently provided lower cost transportation between essential traffic points throughout the Nation. Of fundamental importance to an area such as Alaska is the continuation of this service.

The Congress should have new hearings to expand rather than reduce the field of economic operating authority permitted these carriers. It should be especially noted that these are the only carriers that offer price competition. The larger scheduled air carriers merely compete at the same fare levels.

THE FINANCING PROVISIONS OF THE STANDBY PUBLIC WORKS ACCELERATION ACT OF 1962

Mr. HICKENLOOPER. Mr. President, the Republican policy committee and those members of the Republican conference who were present at a meeting May 1 authorized a statement regarding the financing provisions of the Standby Public Works Acceleration Act of 1962.

At the direction of the committee the action was released to the press.

I ask unanimous consent to have printed in the RECORD at this point a copy of this press release.

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

The Republican policy committee, and those members of the Republican conference present at the meeting today, unanimously resolved to oppose the financing provisions of the Standby Public Works Acceleration Act of 1962, as reported by the Committee on Public Works.

Despite the efforts of Republican committee members to revise the bill submitted by the administration, the bill reported to the Senate contains provisions which set a dangerous precedent and strike at the financial stability of institutions in which the American public has great faith and confidence.

According to the committee's report, the bill as introduced would have authorized the President of the United States under certain circumstances to expend $2 billion for new public works as often as three times within a period of 2 years. Republicans on the committee opposed any standby authority, and the committee limited this authority to one expenditure of $2 billion.

The provisions which still remain in the bill, however, and to which the Republican Party object most vigorously, would allow the President of the United States, and those to whom he would delegate the power, to take up to $2 billion—without the approval of the Appropriations Committee—of the funds set aside in the U.S. Treasury for the World Bank (International Bank for Reconstruction and Development), the Housing and Home Finance Agency, the Federal Home Loan Banks, the Federal Savings and Loan Insurance Corporation, and even the Federal Deposit Insurance Corporation.

The four Federal agencies involved were established by the Congress of the United States to protect the homes and savings of American citizens. Their reserve capital would be switched to public works projects,

under this bill, at a time of crisis when these funds would be most needed.

The Congress of the United States never intended these funds to be used for any purpose other than that specified by law. It is inconceivable that power be given the President not only to bypass the appropriations process, but also to transfer from agency to agency funds authorized by the Congress for established programs and specific purposes.

This vast money scheme could jeopardize the financial stability of the agencies concerned, and would constitute a unique and peculiar method of deficit and backdoor financing. The Republican members of the Public Works Committee moved to strike this provision in committee, and when it was not removed voted against the bill.

The Republican Party intends to make an issue of this financing method when the standby PWA program comes before the Senate, and will do its utmost to place the facts before the American people.

NARCOTICS HOSPITAL CONSTRUCTION AND MEDICAL RESEARCH

Mr. JAVITS. Mr. President, I am pleased to note the administration's favorable report to the Senate Judiciary Committee on S. 1694, the bill to provide for civil commitment of certain narcotics addicts for medical treatment in lieu of criminal prosecution. This bill, introduced by my colleague, Senator KEATING, myself, and a bipartisan group of cosponsors, was part of a series of bills which were designed to complement each other in a forward-looking approach to combating this grave national problem.

But clearly, a system of civil commitment must have both adequate physical facilities for treatment and a constant effort to develop the medical techniques necessary to make such treatment permanently effective. Such a bill was also introduced by virtually the same group of sponsors—in this case with me as principal sponsor. It is S. 1693, which provides for narcotics hospital construction needed to receive those addicts who are committed under the provisions of S. 1694, where there is the major density of such addicts. Present facilities at Lexington, Ky., and Fort Worth, Tex., are, of course, essential, but cannot fill the on-the-spot need if the program of civil commitment under S. 1694 is to work out successfully. S. 3098, introduced subsequently, provides for Federal aid to continuing research into methods of control and cure of addiction.

I ask unanimous consent that an article in the splendid series of the New York Journal-American on this subject be inserted in the RECORD at this point in my remarks. It underscores the great immediate need for additional hospital facilities. I also ask unanimous consent to have inserted an editorial in the Journal-American which supports this view.

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

[From the New York Journal-American, Apr. 27, 1962]

THE ADDICT'S PLIGHT: NO PLACE TO GO

(By James D. Horan, Dom Frasca, and John Mitchell)

His name is Edmond. He is 27, but he looks older. Suffering has lined his face and deadened his eyes.

Edmond has been addicted to heroin for 3 years. He is trying to kick the habit. But he must wait. And for Edmond, time is not measured by the hour hand of the clock. It is measured by the seemingly endless minutes between "fixes."

At this moment there are 400 others like him in New York City. His story could very well be all of theirs.

HE WANTED HELP

Edmond came yesterday to the New York Journal-American from his home in the Bronx. He sought help.

"I'm desperate, I need help. You're my last resort," he pleaded.

"It's getting hard to find there on the street," he remarked, referred to the heroin he injects into his arm three times daily.

One of these reporters went with Edmond to the admissions office at Manhattan General Hospital, 18th Street and Second Avenue.

The clerk, a woman with sympathetic eyes, was pleasant.

"You've been here before, haven't you?"

CALL US MONDAY

It was more of a statement than a question.

Edmond told her he had been there twice before as an addict-patient. She pulled his card from the file.

"You call us on Monday," she told him.

Monday was 100 hours away.

"He needs help now," pressed the reporter, who identified himself as Edmond's friend.

"I can see he does," the woman nodded. "But his name won't come up before the hospital board until Monday."

"What happens then?" the reporter asked.

"If readmission is approved the name goes on the bottom of the waiting list."

"How many on the list?"

"One hundred and fifty," she replied.

Edmond shrugged his shoulders, as if to say, "See, what's the use?"

"We're taking about four addict patients a day," the clerk continued, as if to explain that the fault wasn't hers.

"That means Edmond won't get a bed for 37 days," the reporter observed.

"More or less," the clerk affirmed. "I'm sorry. We just have 97 beds here for men. First applicants get priority."

IT'S TIGHT HERE

"What are Edmond's chances at Metropolitan Hospital?" the reporter asked.

"It's tight here," the woman replied. "The wait is much longer.

"I'm sorry. Call us Monday."

The words hung in the air for a few moments. Then Edmond and the reporter headed uptown in a cab.

Riding through sun-splashed streets, the city seemed at peace. Kids scampered in the park, women peered in shop windows, elderly men talked on street corners.

NO BEDS AVAILABLE

And the city's addicts, hunched with pain and sickness, besieged New York's narcotics wards and were turned away by the hundreds.

The reason: no available beds.

Waiting periods range from 2 to 4 months.

Nowhere in the city—or out of it—can an addict obtain immediate admission to a hospital unless he is prepared to pay at a private institution.

"It's no good the way it's set up, you know?" Edmond remarked during the taxi ride. "You stay in a hospital 2, maybe 3 weeks. You're over it physically, but it's still in your mind."

"And there's nothing to do. So you just hang around back in your old neighborhood and you associate with your friends and they're using the stuff and sooner or later you're sticking a needle in your arm again."

The reporter asked what he would suggest to avoid this posthospital trap.

ONLY ONE SOLUTION

"Man," said Edmond, blinking at sunlight on the East River. "There's only one thing. Get out of town."

Then they were walking down a long hallway on the third floor of Metropolitan Hospital, 1st Avenue and 97th Street. There are 50 beds for addicts here. Half for boys, half for men.

"He needs a bed," said the reporter to a nurse in the mental hygiene clinic.

The nurse looked at Edmond with genuine concern. She seemed to be echoing her counterpart downtown because suddenly she said:

"I'm sorry. He would have to be screened first. You want an appontment?"

"When?"

The nurse consulted her datebook. "June 11," she said.

"Nothing before then?"

"I can give you a standby for May 7. That means if the applicant scheduled at that time doesn't show up, you get the appointment."

Edmond's last "fix" was beginning to wear off. His eyes watered.

"I can't wait that long," he said. "I need help today."

"Try Manhattan General," said the nurse.

Edmond smiled. "Ma'am," he said. "We tried it. There's just no place."

There was "one place," however. A call to Mrs. Angela Gallo at Manhattan State Hospital, which has a backlog of applicants equivalent to 2½ weeks waiting, drew hopeful response.

Mrs. Gallo said Edmond could have an appointment at 9 a.m. today to be screened for admission to the State's addict ward at Central Islip, Long Island.

"If everything goes all right," she said, "he'll be under treatment out there next Thursday. That's the earliest possible date."

Edmond has promised to keep his appointment with Mrs. Gallo.

But in the twilight world of heroin addiction, where physical craving for dope is intense, appointments are not always honored.

Edmond needed a bed yesterday.

What he needs today might be something entirely different.

WAGNER ACTION ASKED

The problem facing addicts was considered so acute that a Brooklyn church leader today urged Mayor Wagner to take emergency steps to provide more beds.

The Reverend Richard L. Francis, executive secretary of the Brooklyn Division of the Protestant Council of New York City, wired the mayor:

"New York City must act now to provide hospital beds for these people. They should not have to wait 1 month to get into a hospital, or even 1 week."

Dr. Alexander K. Krueger, general medical superintendent for the department of hospitals, said the city was expanding its bed facilities for addicts rapidly. He said the present total of 355 beds for addicts in municipal or city-supported institutions would be increased to 480 in mid-July.

The film, "Assignment: Teenage Junkies," detailing the New York Journal-American expose of the narcotics racket, will be shown to several hundred teenagers and their parents tonight at the Upper Park Avenue Baptist Church, 85 East 125th Street.

[From the New York Journal-American, Apr. 30, 1962]

WE NEED U.S. NARCOTIC HOSPITAL

A survey by this newspaper has disclosed the tragic fact that there are more than 400 dope addicts in this city desperately seeking help to kick the vicious habit that has made their lives a living hell.

But no help is available because every city and State institution that has facilities for rehabilitating these pitiful victims of narcotics is jammed to capacity.

Not only are there no beds available—there is a waiting list so long that addicts who apply for admission are told to come back next week, even next month.

And medical experience has shown that no addict can kick the habit by himself. He must undergo withdrawal from the drug under supervision which only a hospital can provide.

Under the plan announced by Mayor Wagner, the number of beds available in city institutions will be doubled to a total of 710 this year. This should be sufficient to handle voluntary commitments.

But under the new Metcalf-Volker law enacted by the State, another 6,000 persons arrested each year in this city on narcotics charges will be able to apply for hospital treatment instead of going to jail.

Under what standard of morality could the courts decree that addict A may be committed to a hospital because a bed is available and addict B must go to jail without treatment because no beds are available?

Theoretically, if 6,000 defendants eligible for Metcalf-Volker treatment were to occupy beds in a security hospital for 30 days each—the standard minimum for physical withdrawal—we would need 500 beds for this group.

Yet all city hospitals presumably would be filled with voluntary patients. Where are we going to find 500 additional beds, since the State now provides less than 200?

That is why we must have a Federal narcotics hospital in the New York area if we are to implement effectively the humane provisions of the Metcalf-Volker law, which treats the addict as a sick person, not a criminal.

It is a shameful fact that although the metropolitan area has one-half of all the dope addicts in the country, the nearest Federal rehabilitation center is in Lexington, Ky.

And Lexington has no facilities for aftercare, which is considered essential if the addict is to be kept from returning to dope. With a Federal hospital here, such aftercare would be available right in the area.

The objection has been raised that a narcotics hospital might be expensive to operate. Police estimate the average addict steals an average of $50 a day to finance his habit. Certainly, hospital ward treatment for one addict is going to cost less than that.

We believe that President Kennedy should put the power and prestige of his office behind the Javits-Keating bill which calls for a Federal hospital here with the Government paying 75 percent of construction cost and 60 percent of operating expense.

If you agree, clip and sign this editorial and mail it to the President, the White House, Washington 25, D.C.

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

JAMES M. NORMAN—LITERACY TEST FOR VOTING

The ACTING PRESIDENT pro tempore. Without objection, the Chair lays before the Senate the unfinished business, which will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H.R. 1361) for the relief of James M. Norman.

The Senate resumed the consideration of the bill (H.R. 1361) for the relief of James M. Norman.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the so-called Mansfield-Dirksen amendment in the nature of a substitute.

Mr. ROBERTSON. Mr. President, before beginning my remarks against the so-called literacy test proposals, I would like to commend the senior Senator from Texas [Mr. YARBOROUGH] for the position which he took when the Senate leadership moved to substitute S. 2750 for the body of H.R. 1361, a bill which would grant relief to James M. Norman, a citizen of the State of Texas.

The distinguished senior Senator from that State said last Friday:

I share my constituent's surprise at finding this bill (H.R. 1361) the center of another great constitutional controversy.

I might add that the junior Senator from Virginia is no less surprised at the method employed to bring S. 2750 to the Senate floor, when this bill had been referred to the appropriate committee but 3 months previously and when subcommittee hearings on the bill had not even been printed, much less acted upon, prior to the leadership's action.

The senior Senator from Texas stated further:

Mr. President I consider that I am still bound by the obligation I undertook to a constituent to secure action for the relief of James M. Norman, American. Accordingly, I shall be compelled to vote against any substitutes, amendments, or other motions which would prevent the Senate from undertaking action on the subject matter of H.R. 1361 now before us.

I commend the senior Senator from Texas for his unwillingness to depart from normal Senate practice, particularly when this departure would deny one of his constituents what the Senator considers to be appropriate relief.

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

Mr. ROBERTSON. I yield.

Mr. RUSSELL. I was interested in the commendation by the Senator from Virginia of the Senator from Texas [Mr. YARBOROUGH] for undertaking to prevent his constituent from being a victim of the proposed amendment. Undoubtedly the constituent of the Senator from Texas is a fine man. I would not like to see him victimized. But does not the Senator agree that the great victim of the proposed legislation, should it ever be enacted into law, would be the Constitution of the United States, under which that constituent is tilling his soil and enjoying his liberties as an American citizen?

Mr. ROBERTSON. There is no doubt about it. The measure would pull out two of the cornerstones of the Constitution—section 2 of article I and the 17th amendment—which expressly give to the States the exclusive control of the qualifications of their electors, subject only to the 14th, 15th, and 19th amendments.

We from the South have stood upon the floor of the Senate hour after hour, and day after day, commencing early last week, continuing through this week, and prospectively into next week, explaining first the provisions of the Constitution and all of its amendments, explaining that our Founding Fathers, the courts, and including even the Reconstruction Congress left no question about the fact that the Constitution, as framed, reserved to the States the right to determine the qualifications of electors.

We have cited Willoughby on the Constitution, Coolidge on the Constitution, and Corwin on the Constitution. We have called the Senate's attention to the comments of the attorneys general of nearly all the States of the Union and of many of our country's ablest constitutional lawyers. They are almost unanimous in the opinion that the measure before the Senate is clearly and unequivocally unconstitutional.

However, we are told that a petition for cloture will be filed. The opposition, we hear, will attempt to muzzle us, strangle us, notwithstanding the fact that all Senators have taken a solemn oath to uphold and support the Constitution.

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

Mr. ROBERTSON. I yield.

Mr. RUSSELL. I am interested in the statement of the Senator. I am surprised that an attempt to apply a gag rule has not been made earlier. Those who support the measure, to protect what is left of their consciences, do not remain in the Chamber in order to hear the unanswerable arguments against the bill on the ground that it would be violative of the Constitution. They stay away from the floor of the Senate. The argument resolves itself down to the question, "What is a little thing like the Constitution of the United States between friends in an election year when we need a few votes? Therefore we will gag this group and proceed to run roughshod over them and the Constitution of the United States."

Mr. ROBERTSON. A great Englishman named Lord Bacon wrote an essay on truth. He started the essay with the statement, "What is truth? said jesting Pilate; and would not stay for an answer."

I believe I have the truth, certainly several pages of it. Who has remained in the Senate Chamber for an answer? Only the distinguished Senator from Georgia [Mr. RUSSELL] and myself. We have before us a serious issue. There is an attempt to undermine the Constitution by running roughshod over the one amendment—the 10th amendment—without which the Constitution would never have been adopted. Senators will remember Madison's assuring the colonists that:

As soon as we meet, I will put in this Constitution the essence of George Mason's Bill of Rights.

One of our great Presidents, Woodrow Wilson, said:

I would rather have been the author of that instrument than of any political document that has ever been framed.

The Bill of Rights is a part of all State constitutions in one form or another. It expresses the philosophy of government of those in Virginia who contributed, in my humble opinion, as much or more than anyone else in any other State to the formation and birth of a new nation, a nation which gave us a private enterprise system within the framework of American constitutional liberty.

Under that system we have prospered. Nevertheless we now have a proposal before us to destroy one of the very essential principles upon which our Union

of self-governing sovereign States was founded.

How can we have a strong, representative democracy without intelligent voters? The great political philosopher from Virginia, Thomas Jefferson, said:

> I am willing to trust the judgment of the people when they are informed.

He did not say, "Let every Tom, Dick, and Harry vote." Oh, no; he did not say that. He said, "Let us educate the people."

Thomas Jefferson wanted public schools in Virginia. He wanted the university established. Why, Mr. President? It was because he believed that the people could be trusted provided they were informed.

We say that our classrooms are bursting at the seams; that our schools can no longer accommodate the great population increase; that we are in a scientific age, and that more and more intelligence is required of our people in order to compete successfully with other nations.

The literacy test bill, therefore, is a most definite step backward.

Furthermore, it is farcical in this day of social promotions to provide that a student who has completed the sixth grade shall, by act of Congress, be declared literate.

Schools make social promotions because they choose not to let the big fellows with broad backs and small minds stay long in one grade. A person might be a veritable dumbbell, but few school authorities would have him at a grade level compatible with his intellectual achievements. He may not be able to read B from bullsfoot, and he may not even know who is on the ticket, but his sixth-grade certificate would, nevertheless, qualify him to vote.

On the other hand, someone who had not gone to school, and who may be as smart as Abraham Lincoln—who did not go to school either—would be subject to a test.

We could at least require a voter to meet the standards expected of a foreigner before he can be naturalized. What do we require of a foreigner? We provide that he must be able to read and write English. We do not say to a man from Spain, for example, "If you have finished the sixth grade in Spain, you can qualify for citizenship in this country. You do not have to read and write English. You do not even have to know anything about our form of Government or our history. If you have finished the sixth grade in Spain, we will make you a citizen after you have lived here for 5 years."

We do not do that.

That is one of the absurdities of this whole thing.

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

Mr. ROBERTSON. I yield to the Senator from Georgia.

Mr. RUSSELL. The Senator is making a very telling point, which I have not heard emphasized heretofore. It so happens that one of the greatest scholars that I have ever known never went to school a day in his life. Yet he could read Greek and he could read Hebrew. He had worked perhaps more diligently than anyone else to educate himself. He had done more to educate himself than most people do who have degrees of all kinds from various schools and colleges and universities throughout the land. As the Senator points out, a person who was probably forced out of the sixth grade, and was finally forced out of school as being completely incapable of digesting any education whatever, could be held, under the provisions of the bill, to be entitled to vote. On the other hand a man who is a scholar and who can speak 8 or 10 languages, and who can read the hieroglyphics of the past and understand and read the Rosetta stone, could be subjected to any examination that a registrar might desire to impose upon him.

Mr. ROBERTSON. That is exactly correct. It shows the unreality of the position of the Attorney General, when he says that the provisions of the bill do not represent a qualification, but only a test to which all States shall conform. He does, however, say that if this bill did fix voter qualifications—and to hold that S. 2750 does not do this challenges commonsense—it would be unconstitutional.

The Attorney General went to a good school, Mr. President. He graduated from the University of Virginia Law School. He was trained in sound principles there. However, somehow the Attorney General has gone overboard on this matter, particularly in view of his admission, I believe, before the Subcommittee on Constitutional Rights that he could not cite even a justice of peace ruling to sustain his position on the bill.

Mr. RUSSELL. Mr. President, will the Senator from Virginia yield?

Mr. ROBERTSON. I yield.

Mr. RUSSELL. I understood that the distinguished Senator from North Carolina, who is chairman of the subcommittee, had addressed a letter to the attorneys general of the several States of the Union, seeking their opinion as to the constitutionality of this measure, and that practically all of them in their replies had analyzed the bill based upon their experience as attorneys general for many years in dealing with constitutional matters, as being wholly and completely unconstitutional. Is that a correct statement?

Mr. ROBERTSON. The Senator is correct.

The attorney general of Virginia, Hon. Robert Y. Button, said that the bill is clearly unconstitutional. A former attorney general of Virginia, one of the ablest teachers in my State, Hon. Frederick F. Gray, testified before the subcommittee for an hour and made one of the most convincing arguments. If it becomes necessary for the Senate to proceed beyond next Wednesday—and I hope it will not be, because we really have much important business to consider—I plan to read that wonderful dissertation by the former attorney general of Virginia, which illustrates quite clearly the constitutional flaws of this measure.

Mr. RUSSELL. I dislike to draw comparisons, because they are always invidious; but as between the training and experience of men who have been elected, in most instances, by the people of their States to serve as attorneys general, and the present Attorney General of the United States—all of the State attorneys general may not have replied, but a pretty good sampling has been received from Alaska to Florida; there may have been some in between who did not answer—none of the State attorneys general contended that the bill is constitutional.

I agree that the Attorney General of the United States is a brilliant, able young man.

Mr. ROBERTSON. He attended a first-class law school.

Mr. RUSSELL. I shall not get into an argument about that. All of us believe our respective schools are the best. There was a time when a man could hardly get a job in Washington unless he had been graduated from Harvard Law School. But that day is past. I am glad to see that the University of Virginia has been able to have one of her graduates become Attorney General of the United States.

The President once, in attempted humor, said that some persons were objecting to his appointing his brother Attorney General. He said he did not see anything wrong with giving his brother a little on-the-job training. Unfortunately, so many persons throughout the country took that statement seriously that, to my knowledge, it has not been repeated.

Mr. ROBERTSON. He cannot be accused of a lack of vigor.

Mr. RUSSELL. Many persons know Mr. Kennedy only as a graduate of the University of Virginia Law School; but he also worked for a long time on Capitol Hill.

Mr. ROBERTSON. And he served here as a conscientious young attorney.

Mr. RUSSELL. We know he is an able, diligent young man; but he has not had nearly the experience in the actual operation and application of constitutional law as have a large number of attorneys general of the States, men who are, in most instances, elected by the people, not appointed; and who were elected on the basis of their maturity and understanding.

I think we may safely say that the mere fact that a man serves in the exalted office of Attorney General of the United States does not necessarily make him a constitutional lawyer. Greater qualifications are necessary for the attorney general of a State, who has perhaps served in that capacity for a number of years.

Mr. ROBERTSON. That is correct. I think that, with all due modesty, I can boast of the reputation of Dr. D. F. G. Ribble, dean of the Law School of the University of Virginia, where he teaches constitutional law. Prior to the unfortunate development in 1954, when the Supreme Court began to cite sociological works as authorities for amending the Constitution, Dean Ribble was cited as a constitutional authority no less than any current teacher or lecturer on constitutional law in the Nation. I submitted to Dean Ribble my rather extended discussion of the voter qualification bill and

asked him to check the validity of my constitutional arguments. He replied by giving his full approval to them. He also was highly commendatory of Attorney General Gray's statement, which I had sent him.

So I maintain that we who claim that the bill is unconstitutional have the backing of the legal fraternity, a fraternity which justly claims recognition for its constitutional analyses. The Attorney General of the United States and Dean Griswold, of Harvard, a member of the Civil Rights Commission, admitted, I believe, that they could not cite any real constitutional authority for their position. That is the whole thing in a nutshell.

Mr. RUSSELL. One or the other of them—I do not now recall which it was, although I read their testimony—testified that the bill would be unconstitutional were it not for the declaration of facts which precedes the legislation.

Mr. ROBERTSON. I shall discuss that. Everyone who has ever studied logic will concede that a deduction can be made from a fact. But a deduction cannot be made from a deduction; that is not good logic, and it is not good law either.

Mr. RUSSELL. The Senator knows, however deplorable the fact may be, that there is no basis for changing the Constitution of the United States by statute. A rash of murders may break out in some State, and the State may be incapable of grappling with the situation. But to have Congress enact a statute to punish the murderers in Federal courts because the State government could not handle them properly would certainly violate the Constitution. Unless such a situation happened to accur in one of the Southern States, no one would think of seeking to have Congress pass such a statute.

Then there might be two statutes: one for the Southern States and one for the rest of the Nation.

Mr. ROBERTSON. There was a time when the Supreme Court would uphold the limitations upon the spending powers of Congress. Congress, those former judges held, could spend only if the purchase were authorized under the powers specifically delegated to Congress in the Constitution.

Congress then resorted to the device of the pious declaration. Congress said, "We want to spend for this particular project. The project is in the general welfare. Although the project may be for the benefit of a single county, the welfare clause of the Constitution gives Congress the power to spend for anything which it says is for the general welfare."

That question went to the Supreme Court. The Supreme Court said, in effect, "We have tried for the last time to hold Congress within its powers. If Congress wishes to construe the general welfare clause as an unlimited grant of power, in spite of the fact that all grants of power to the Central Government are specific—as confirmed by the 10th amendment—then, Congress, you be the keeper of your own conscience. You have taken an oath to uphold the Constitution. If you now wish to violate it and spend for what you please, that is up to you."

What has been the result? Congress no longer bothers even to salve its conscience with a pious declaration in order to spend for what it chooses.

Mr. RUSSELL. Mr. President, I should like to ask the Senator from Virginia what would be the effect of this proposed law on the law of a State regulating the registration of voters, if a State had a law providing that a person who had passed the fourth grade or the fifth grade of grammar school should be permitted to register. Would not this measure likewise strike down that law?

Mr. ROBERTSON. The point is that this measure would violate the rights of the States to determine all voter qualifications.

Furthermore, if Congress can provide at this time that completion of the sixth grade shall be the standard, subsequently Congress could provide that completion of the fourth grade shall be the standard; or Congress could go in the other direction by providing that only those who had graduated from high school could register and vote. So the standard could fluctuate up or down, forward or back, according to the uncertain majorities in Congress and the political considerations of the future.

At the present time, we are supposed to be moving toward what is called the New Frontier. Evidently some think we shall reach it sooner if everyone is allowed to vote. However, that trend could be reversed—with the result that perhaps in the future only property owners would be allowed to vote.

So we see the evil which was recognized by the framers of the Constitution. They did not attempt to tell the States what the qualifications of voters must be.

If S. 2750 were to become a law, and if by chance the Supreme Court were to overrule every decision it has ever made on this subject by upholding such a law, the States would have no protection.

Mr. President, let no one think that the effects of this measure will be felt only by Puerto Ricans in New York or by Negroes in some 100-odd southern counties. No, Mr. President; this measure would apply to every State of the Union.

Some have asked, "Why do not the proponents of S. 2750 follow the constitutional method in this case, as was done in connection with the attempted repeal of the poll tax?" Mr. President, it is significant that only five States would be affected by the poll-tax repeal. Those who favored a constitutional amendment to accomplish this result thought they could overrun that small group of States. But 21 States of the Union have literacy test requirements; so the proponents of S. 2750 do not dare to propose this measure in the form of a constitutional amendment to be submitted for ratification by three-fourths of the States.

Mr. RUSSELL. I thank the Senator.

Mr. ROBERTSON. Mr. President, in order to assist those who may hereafter read in the CONGRESSIONAL RECORD my objections to the bill S. 2750, I ask unanimous consent to have printed at this point in the RECORD an outline of my subsequent remarks.

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

I. Introduction.
II. Unconstitutionality of S. 2750.
A. History of article I, section 2:
1. Constitutional Convention.
2. The Federalist.
3. Ratifying conventions.
4. The 17th amendment.
B. History of article I, section 4:
1. Constitutional Convention.
2. Federalist interpretation of "manner."
3. Ratifying conventions.
C. Court decisions regarding article I, sections 2 and 4.
D. Presidential electors.
E. The 14th and 15th amendments.
1. Introduction.
2. History of the 14th amendment.
3. History of the 15th amendment.
4. Court decisions re State voter qualifications.
5. "Appropriate legislation."
6. Conclusive presumptions.
III. Public policy objections to S. 2750:
A. Literacy tests and naturalization requirements.
B. "Arbitrary denials" and "inadequate statutes."
C. "Six primary grades."
D. "Spanish language."

Mr. ROBERTSON. Mr. President, I wish to express my unqualified objection not only to S. 2750 but also to S. 480, which was introduced by the senior Senator from New York [Mr. JAVITS], and S. 2979, introduced by the junior Senator from New York [Mr. KEATING].

Although these bills are dissimilar in some respects, they have in common a purpose to encroach further upon the rights of sovereign States and make meaningless the 10th amendment. Each bill is reprehensible; however, I shall address my remarks toward S. 2750, sponsored by the majority and minority leaders. The objectionable features of this bill are, with minor exceptions, identical to those of S. 480 and S. 2979.

During the past 25 years, I have watched with alarm and deep regret the steady, persistent erosion of State sovereignty, a process which has continued despite the efforts of a dwindling minority to halt the dangerous drift toward centralized government.

The pending assault on State sovereignty is one of the most deplorable, because the proposed legislation would in effect strip each State of its sovereign and constitutional right to protect itself. If a State cannot exercise its constitutional right under article I, section 2 to determine the qualifications of its voters, it cannot guarantee to its citizens the election of responsible representatives. Certainly, the constitutional right of a State under the second amendment to maintain its militia is no more of an integral part of a State's sovereignty than is the related right of a State to determine the qualifications of its voters.

I intend to show that S. 2750, a bill completely political in its inception and scope, is neither constitutional nor otherwise in the public interest.

UNCONSTITUTIONALITY OF S. 2750

A. HISTORY OF ARTICLE I, SECTION 2

1. CONSTITUTIONAL CONVENTION

The deliberations of our Founding Fathers at the Philadelphia Convention

in 1787 establish conclusively their intention that the power to determine the qualifications of voters be reserved to the States.

Article I, section 2 of the Constitution states in part:

> The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

It will be recalled that the Constitution originally provided for the election of Senators by State legislatures.

According to James Madison's notes in "Elliot's Debates on the Federal Constitution," volume 5, page 385:

> Mr. Gouverneur Morris moved to strike out the last member of the section, beginning with the words, "qualifications of electors," in order that some other provision might be substituted which would restrain the right of suffrage to freeholders.

Most of the original States including Virginia had property-ownership voter qualifications.

Thomas Fitzsimons seconded the motion of Gouverneur Morris, and James Wilson of Pennsylvania then rose to discuss the matter.

In summarizing Wilson's remarks, Madison continues:

> This part of the report was well considered by the committee (of detail), and he did not think it could be changed for the better. It was difficult to form and uniform rule of qualifications for all the States. Unnecessary innovations, he thought, too, should be avoided. It would be very hard and disagreeable for the same persons, at the same time, to vote for representatives in the State legislature, and to be excluded from a vote for those in the National Legislature.

Wilson's arguments against any alteration of article I, section 2 emphasizes the following two points: First, the formulation of a "uniform rule of qualifications for all States" would be "difficult"; and second, the practice of having different voter qualifications for State and Federal elections would be "very hard and disagreeable."

Morris, however, in support of his proposed amendment argued, according to Madison:

> Another objection against the clause, as it stands, is that it makes the qualifications of the National Legislature depend on the will of the States, which he (Morris) thought not proper.

Here the very delegate to the Constitutional Convention who proposed that the language of article I, section 2, be altered admits that this section as it then stood, and also as it now stands, left to the States the power to determine the qualifications of electors.

During the debate Mr. Oliver Ellsworth of Connecticut made the practical observation that if the Constitution did not give the States this power, they might refuse to ratify it.

I quote again from Madison's notes:

> Mr. Ellsworth thought the qualifications of the electors stood on the most proper footing. The right of suffrage was a tender point, and strongly guarded by most of the State constitutions. The people will not readily subscribe to the National Constitution, if it should subject them to be disfranchised. The States are the best judges of the circumstances and temper of their own people.

To this Col. George Mason, the author of Virginia's Declaration of Rights, said:

> Eight or nine States have extended the right of suffrage beyond the freeholders. What will the people there say, if they should be disfranchised? A power to alter the qualifications would be a dangerous power in the hands of the [National] Legislature.

At the conclusion of the debate the proposed amendment of Gouverneur Morris was defeated by a vote of seven States to one. Think of that, Mr. President. Only one State voted in favor of having the Federal Constitution set voter qualifications. Quite clearly the delegates assembled at the Philadelphia Convention intended that the power to determine the qualifications of voters be reserved to the States.

They could hardly have reinforced this intention with words less susceptible to a contrary interpretation. As Mr. Justice Brewer said in *South Carolina* v. *United States* (199 U.S. 437, at page 449):

> It must be remembered that the framers of the Constitution were not mere visionaries, toying with speculations or theories, but practical men, dealing with the facts of political life as they understood them, putting into form the Government they were creating and prescribing in language clear and intelligible the powers that Government was to take. Mr. Chief Justice Marshall, in *Gibbons* v. *Ogden* (9 Wheat. 1, 188), well declared: "As men whose intentions require no concealment, generally employ the words which most directly and aptly express the ideas they intend to convey, the enlightened patriots who framed our Constitution, and the people who adopted it, must be understood to have employed words in their natural sense, and to have intended what they said."

2. THE FEDERALIST

Madison's notes confirm that the delegates to the Constitutional Convention were conscious that the American public must be satisfied with the Convention's recommendation on the question of suffrage. This was, therefore, one of the subjects that received close attention in the Federalist Papers which themselves were written to convince State conventions of the Constitution's merit.

In No. 52 of the Federalist, Madison points out that the right of the States to determine the qualifications of voters is established in the Constitution with the single limitation that these qualifications must be the same as those for the electors of the most numerous branch of the State legislature:

> The definition—

He said—

> of the right of suffrage is very justly regarded as a fundamental article of republican government. It was incumbent on the Convention therefore to define and establish this right, in the Constitution. To have left it open for the occasional regulation of the Congress, would have been improper for the reason just mentioned. To have submitted it to the legislative discretion of the States, would have been improper for the same reason; and for the additional reason, that it would have rendered too dependent on the State governments, that branch of the Federal Government, which ought to be dependent on the people alone.

The following words of the paragraph should be noted:

> To have reduced the different qualifications in the different States, to one uniform rule, would probably have been as dissatisfactory to some of the States, as it would have been difficult to the Convention. The provision made by the Convention appears therefore, to be the best that lay within their option. It must be satisfactory to every State; because it is conformable to the standard already established, or which may be established by the State itself. It will be safe to the United States; because, being fixed by the State constitutions, it is not alterable by the State governments, and it cannot be feared that the people of the States will alter this part of their constitutions, in such a manner as to abridge the rights secured to them by the Federal Constitution.

Then in the 54th Federalist, it was remarked:

> The qualifications on which the right of suffrage depend, are not perhaps the same in any two States. In some of the States the difference is very material.

3. RATIFYING CONVENTIONS

Later, at the Massachusetts Ratifying Convention, in answer to a query as to whether Congress might prescribe a property qualification for voters, Rufus King, a member of the Federal Convention, said:

> The idea of the honorable gentleman from Douglass * * * transcends my understanding; for the power of control given by this section extends to the manner of election, not the qualifications of the electors.

And James Wilson, who had warned in the Constitutional Convention of the difficulty that might result if qualifications of State and national electors were different, had this to say in the Pennsylvania convention:

> In order to know who are qualified to be electors of the House of Representatives, we are to inquire who are qualified to be electors of the legislature of each State. If there be no legislature in the States, there can be no electors of them; if there be no such electors, there is no criterion to know who are qualified to elect Members of the House of Representatives. By this short, plain deduction, the existence of State legislatures is proved to be essential to the existence of the General Government.

In explaining the voting plan to the North Carolina convention, John Steel said:

> Can they, without a most manifest violation of the Constitution, alter the qualifications of the electors: The power over the manner of elections does not include that of saying who shall vote. The Constitution expressly says that the qualifications are those which entitled a man to vote for a State representative. It is, then, clearly and indubitably fixed and determined who shall be the electors; and the power over the manner only enables them to determine how these electors shall elect—whether by ballot, or by vote, or by any other way.

Those familiar with the Virginia ratifying convention know that Patrick Henry opposed the ratification of the Constitution on the ground that it gave the Federal Government too much power. One issue was whether the Fed-

eral Government could pass on the qualifications of the voters or whether Virginia, as in the past, could fix those qualifications.

Wilson Nicholas, a delegate to Philadelphia, assured the Virginia ratifying convention that article I, section 2 reserved to the States, and the States alone, the power to fix the qualification of voters:

I will consider it first, then, as to the qualifications of the electors. The best writers on government agree that, in a republic, those laws which fix the right of suffrage are fundamental. If, therefore, by the proposed plan, it is left uncertain in whom the right of suffrage is to rest, or if it has placed that right in improper hands, I shall admit that it is a radical defect; but in this plan there is a fixed rule for determining the qualifications of electors, and that rule the most judicious that could possibly have been devised, because it refers to a criterion which cannot be changed. A qualification that gives a right to elect representatives for the State legislatures, gives also, by this Constitution, a right to choose representatives for the General Government. As the qualifications of electors are different in the different States, no particular qualifications, uniform through the States, would have been politic, as it would have caused a great inequality in the electors, resulting from the situation and circumstances of the respective States.

Uniformity of qualifications would greatly affect the yeomanry in the States, as it would either exclude from this inherent right some who are entitled to it by the laws of some States at present, or be extended so universally as to defeat the admirable end of the institution of representation.

Virginia agreed to ratify only on the assurance that the first session of the Congress would propose bill of rights amendments to the Constitution and even went a step further when the convention named a committee, headed by Gov. Edmund Randolph and including James Madison and John Marshall, to draft a form of ratification that would include certain reservations as to States rights.

4. 17TH AMENDMENT

The significance of this history is reinforced by the fact that as late as 1912, when the 17th amendment was proposed by Congress, providing for popular election of Senators, language was used identical to that of article I, section 2. This amendment provides:

The Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislatures.

It should be noted that these words were adopted after more than a century of experience with the suffrage provisions contained in the Constitution and also after there had been ample time to observe the institution and application of State literacy tests.

The 17th amendment, of course, follows both the 14th and 15th amendments and is, therefore, the last expression of the Constitution regarding voter qualifications. Furthermore, in language identical to that of article I, section 2 it reserves specifically to the States the power to determine the qualifications of voters—in this case, for senatorial elections.

B. HISTORY OF ARTICLE I, SECTION 4

S. 2750 would have the Congress find that, "under article I, section 4 of the Constitution, Congress has the duty to provide against," what the bill terms, "the abuses which presently exist." On the contrary, Congress has neither a duty nor a constitutional right under this section to limit the power of the States to determine the qualifications of their voters. That is exclusively the right of the States.

Article I, section 4 provides in part:

The Times, Places and manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

Nothing could be more preposterous than the contention that the Constitutional Convention which had reserved determination of the qualifications of voters exclusively to the States in section 2 of article I would in section 4 of the same article surrender this power to the Federal Government. It is a "most fundamental principle of our constitutional jurisprudence" that "all the provisions of the Constitution are equally binding upon the Congress"—"Willoughby on the Constitution of the United States," volume 1, page 493.

1. CONSTITUTIONAL CONVENTION

I have reviewed above the circumstances which led to the adoption of article I, section 2, by the Constitutional Convention in 1787. In view of the compelling arguments advanced in favor of leaving with the States the power to determine the qualifications of voters, it would impeach the intelligence of the delegates at that Convention to say that they modified in section 4 what they had specifically granted in section 2.

Madison's notes on this Convention at page 402, volume 5, of "Elliot's Debates" affirm the limited application of section 4.

In arguing for the adoption of this section, he said:

What danger could there be in giving a controlling power [to determine the times, places, and manner of holding elections] to the National Legislature? Of whom was it to consist? First, of a Senate to be chosen by the State legislatures.

Until the 17th amendment, above, Senators, under article V, section 3, were elected by the legislatures of the several States:

If the latter, therefore, could be trusted, their representatives could not be dangerous.

And this is the part to note:

Secondly, of Representatives elected by the same people who elect the State legislatures.

To what else could this refer but article I, section 2, which provides:

The Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature?

In the above discussion of article I, section 4, Madison clearly confirms that the Federal Government's power to alter the "manner of holding elections" by no means includes the power to determine the qualifications of voters.

2. FEDERALIST INTERPRETATION OF "MANNER"

It is readily apparent in the Federalist Papers that there was no intention to include in the Central Government's final authority to regulate the manner of holding elections the authority to determine the qualifications of voters.

In the Federalist No. 52, Madison says:

The first view to be taken of this part of the Government, relates to the qualifications of the electors and the elected. Those of the former are to be the same with those of the electors of the most numerous branch of the State legislatures. The definition of the right of suffrage is very justly regarded as a fundamental article of republican government. It was incumbent on the Convention therefore to define and establish this right, in the Constitution. To have left it open for the occasional regulation of the Congress, would have been improper for the reason just mentioned.

Alexander Hamilton, in the Federalist No. 59, justifies article I, section 4, on the ground that a government must be able to insure its self-preservation. He states:

I am greatly mistaken, notwithstanding, if there be any article in the whole plan more completely defensible than this. Its propriety rests upon the evidence of this plain proposition, that every government ought to contain in itself the means of its own preservation.

And continues:

Nothing can be more evident, than that an exclusive power of regulating elections for the National Government, in the hands of the State legislatures, would leave the existence of the Union entirely at their mercy.

However, Hamilton makes it emphatically clear that the preservation of the Federal Government is not dependent upon a Federal power to determine the qualifications of voters. In answering the argument of objectors to the Constitution that the "wealthy and the well born" would achieve some preference, Hamilton had the following to say in No. 60 of the Federalist:

But upon what principle is the discrimination of the places of election to be made in order to answer the purpose of the meditated preference? Are the wealthy and the well born, as they are called, confined to particular spots in the several States? Have they by some miraculous instinct or foresight set apart in each of them a common place of residence? Are they only to be met with in the towns or cities? Or are they, on the contrary, scattered over the face of the country as avarice or chance may have happened to cast their own lot, or that of their predecessors? If the latter is the case (as every intelligent man knows it to be), is it not evident that the policy of confining the places of elections to particular districts would be as subversive of its own aim as it would be exceptionable on every other account? The truth is that there is no method of securing to the rich the preference apprehended, but by prescribing qualifications of property either for those who may elect, or be elected. But this forms no part of the power to be conferred upon the National Government. Its authority would be expressly restricted to the regulation of the times, the places, and the manner of elections. The qualifications of the persons who may choose or be chosen, as has been remarked upon another occasion, are defined and fixed in the Constitution; and are unalterable by the legislature.

3. RATIFYING CONVENTIONS

I have already indicated the State ratifying conventions, beyond any doubt, claimed for the States in article I, section 2 the power to determine the qualifications of electors. The delegates to these conventions, several of whom had represented their States in Philadelphia, did not intend that article I, section 4, which reserved to the Central Government the final authority to determine the times, places, and manner of holding elections, should in any way restrict the power of the States under article I, section 2.

James Wilson, a delegate to the Pennsylvania ratifying convention, in discussing the relationship of article I, section 4 to the preservation of the States, had the following to say:

After all this, could it have been expected that assertions such as have been hazarded on this floor would have been made "that it was the business of their (the delegates to the Philadelphia Convention) deliberations to destroy the State governments; that they employed 4 months to accomplish this object; and that such was their intentions?"

Mr. President, the only proof that is attempted to be drawn from the (Constitution) itself, is that which has been urged from the fourth section of the first article. I will read it: "The Times, Places, and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators."

And is this a proof that it was intended to carry on this Government after the State governments should be dissolved and abrogated? This clause is not only a proper, but necessary one.

Referring to his remarks on article I, section 2, supra, he continues:

I have already shown what pains have been taken in the Convention to secure the preservation of the State governments. I hope, sir, that it was no crime to sow the seed of self-preservation in the Federal Government; without this clause, it would not possess self-preserving power.

This system, it is said, "unhinges and eradicates the State governments, and was systematically intended so to do."

Now, let us see what this objection amounts to. Who are to have this self-preserving power? The Congress. Who are Congress? It is a body that will consist of a Senate and a House of Representatives. Who compose this Senate? Those who are elected by the legislature of the different States? Who are the electors of the House of Representatives? Those who are qualified to vote for the most numerous branch of the legislature in the separate States. Suppose the State legislatures annihilate; where is the criterion to ascertain the qualification of electors? And unless this be ascertained, they cannot be admitted to vote; if a State legislature is not elected, there can be no Senate, because the Senators are to be chosen by the legislatures only.

James Wilson in his discussion of the relationship between sections 2 and 4 of article I, leaves no doubt that the authority of Congress to determine the times, places, and manner of holding elections included, by no means, the power to determine the qualifications of voters.

The intention to exclude section 2 from the application of section 4 is also apparent in the debates of the Massachusetts ratifying convention.

Mr. Turner, an opponent of the Constitution, admitted the power of the States to determine the qualifications of voters under article I, section 2 when in objecting to section 4 he noted:

I now proceed, sir, to the consideration of an idea, that Congress may alter the place for choosing representatives in the general Congress: they may order that it may be at the extremity of a State, and, by their influence, may there prevail that persons may be chosen, who otherwise would not; by reason that a part of the qualified voters, in part of the State, would be so incommoded thereby, as to be debarred from their right as much as if they were bound at home.

In the Virginia convention Wilson Nicholas had the following to say about article I, section 4:

There is another objection which has been echoed from one end of the continent to the other—that Congress may alter the time, place, and manner of holding elections; that they may direct the place of elections to be where it will be impossible for those who have a right to vote, to attend; for instance, that they may order the freeholders of Albemarle to vote in the county of Princess Anne, or vice versa; or regulate elections, otherwise, in such a manner as totally to defeat their purpose, and lay them entirely under the influence of Congress.

If I understand it right, it must be, that Congress might cause the elections to be held in the most inconvenient places, and at so inconvenient a time and in such a manner, as to give them the most undue influence over the choice, nay, even to prevent the elections from being held at all—in order to perpetuate themselves. But what would be the consequence of this measure? It would be this, sir—that Congress would cease to exist; it would destroy the Congress itself; it would absolutely be an act of suicide; and therefore it can never be expected. This alteration, so much apprehended, must be made by law; that is, with the concurrence of both branches of the legislature.

This discussion of article I, section 4, immediately followed Nicholas' explanation of the States exclusive power to determine the qualifications of voters, supra.

Furthermore, Madison noted during the same debate that:

If the general government were wholly independent of the governments of the particular States, then, indeed, usurpation might be expected to the fullest extent. But, sir, on whom does this general government depend? It derives its authority from these governments, and from the same sources from which their authority is derived. The members of the Federal Government are taken from the same men from whom those of the State legislatures are taken.

Certainly Madison is referring here to article I, section 2, which provides that, "Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature." What, I ask, can be more lucid than this?

The foregoing history is convincing evidence that the members of the Constitutional Convention and the Ratifying Conventions intended the Constitution to give to the States—and to the States only—the power to prescribe qualifications for voters. The courts have consistently followed this interpretation.

C. COURT DECISIONS REGARDING ARTICLE I, SECTIONS 2 AND 4

Ex parte Clarke (100 U.S. 399 (1879)), contains an illuminating discussion of the relationship between sections 2 and 4 of article I. This case established the constitutional power of Congress, "to enact a law for punishing a State officer of election for the violation of his duty under a State statute in reference to an election of a Representative to Congress"—page 404. It is to be noted that this case dealt with the power of Congress to regulate the manner of holding an election, not the qualifications of voters.

Although the matter was not at issue in Ex parte Clarke, Justice Field in his dissent reviewed the distinction between the right of the States under article I, section 2, and the right of Congress under article I, section 4—pages 418–419:

The power vested in Congress is to alter the regulations prescribed by the legislatures of the States, or to make new ones, as to the times, places, and manner of holding the elections. Those which relate to the times and places will seldom require any affirmative action beyond their designation. And regulations as to the manner of holding them cannot extend beyond the designation of the mode in which the will of the voters shall be expressed and ascertained. The power does not authorize Congress to determine who shall participate in the election, or what shall be the qualification of voters. These are matters not pertaining to or involved in the manner of holding the election, and their regulation rests exclusively with the States. The only restriction upon them with respect to these matters is found in the provision that the electors or Representatives in Congress shall have the qualifications required for electors of the most numerous branch of the State legislature, and the provision relating to the suffrage of the colored race.

Five years earlier *Minor* v. *Happersett* (21 Wall. 162), had upheld the constitutionality of a voter qualification in the Missouri Constitution limiting suffrage to men.

The decision states in part:

The Constitution does not define the privileges and immunities of citizens. For that definition we must look elsewhere. In this case we need not determine what they are, but only whether suffrage is necessarily one of them.

It is clear, therefore, we think, that the Constitution has not added the right of suffrage to the privileges and immunities of citizenship as they existed at the time it was adopted * * *.

The Supreme Court in *Pope* v. *Williams* (193 U.S. 621 (1904)), upheld a provision in the Maryland Constitution which required a new resident to declare his intention to be a citizen before he could register to vote. The opinion includes the following:

The privilege to vote in any State is not given by the Federal Constitution, or by any of its amendments. It is not a privilege springing from citizenship of the United States. *Minor* v. *Happersett* (21 Wall. 162). It may not be refused on account of race, color, or previous condition of servitude, but it does not follow from mere citizenship of the United States. In other words, the privilege to vote in a State is within the jurisdiction of the State itself, to be exercised as the State may direct, and upon such terms as it may seem proper, provided, of course, no discrimination is made between individ-

uals in violation of the Federal Constitution. * * * The question whether the conditions prescribed by the State might be regarded by others as reasonable or unreasonable is not a Federal one.

In *Ex parte Yarbrough* (110 U.S. 651 (1884)), the Supreme Court said, after quoting article I, section 2:

The States in prescribing the qualifications of voters for the most numerous branch of their own legislatures, do not do this with reference to the election for Members of Congress. Nor can they prescribe the qualification for voters for those eo nomine. They define who are to vote for the popular branch of their own legislature, and the Constitution of the United States says the same persons shall vote for Members of Congress in that State. It adopts the qualification thus furnished as the qualification of its own electors for Members of Congress.

It is not true, therefore, that electors for Members of Congress owe their right to vote to the State law in any sense which makes the exercise of the right to depend exclusively on the law of the State.

Or, to summarize, article I, section 2 of the Constitution empowers the States to set voter qualifications for both Federal and State elections; however, under this section the States are limited by the requirement—and the single requirement—that the qualifications for voters in Federal and State elections be identical.

See also *Swafford* v. *Templeton* (184 U.S. 487 (1902)), following Yarbrough and pointing out once more that it is the Constitution, not Congress that adopts qualifications of State electors; *McPherson* v. *Blacker* (146 U.S. 1, 27, 35 (1892)), reaches the same conclusion.

More recently in *Breedlove* v. *Suttles* (302 U.S. 277 (1937)), a case holding a State poll tax constitutional, the Supreme Court had the following to say regarding the derivation of voting rights:

The privilege of voting is not derived from the United States, but is conferred by the State and, save as restrained by the 15th and 19th amendments and other provisions of the Federal Constitution, the State may condition suffrage as it deems appropriate. (*Minor* v. *Happersett* (21 Wall. 162, 170 et seq.); *Ex parte Yarbrough* (110 U.S. 651, 664–665); *McPherson* v. *Blacker* (146 U.S. 1, 37–38); *Guinn* v. *U.S.* (238 U.S. 347, 362).)

The power of the States to determine the qualifications of voters was again affirmed by the Supreme Court as recently as June 8, 1959. In *Lassiter* v. *Northampton Board of Elections* (360 U.S. 45), upholding a North Carolina literacy test, Mr. Justice Douglas said at page 50:

The States have long been held to have broad powers to determine the conditions under which the right of suffrage may be exercised.

These cases clearly establish that the States—and the States alone—have the power to determine the qualifications of voters. This power is limited only by the requirements of the 14th, 15th, and 19th amendments.

Both the States and the Federal Government, under section 4 of article I, may legislate with regard to the times, places, and manner of holding elections; where there is a conflict, the Federal legislation must govern. However, the courts have affirmed the position of our Founding Fathers that the power to regulate the manner of holding elections does not include the power to determine the qualifications of voters.

This interpretation was verified in *U.S.* v. *Classic* (313 U.S. 299 (1941)). Mr. Justice Stone stated the case as follows:

Two counts of an indictment found in a Federal district court charged that appellees, Commissioners of Elections, conducting a primary election under Louisiana law, to nominate a candidate of the Democratic Party for Representative in Congress, willfully altered and falsely counted and certified the ballots of voters cast in the primary election. The questions for decision are whether the right of qualified voters to vote in the Louisiana primary and to have their ballots counted is a right "secured by the Constitution" within the meaning of sections 19 and 20 of the criminal code, and whether the acts of the appellees charged in the indictment violate those sections.

It is noteworthy that Mr. Justice Stone uses the term "qualified voters." He continues at page 310:

Article I, section 2 of the Constitution, commands that "The House of Representatives shall be composed of Members chosen every Second Year by the People of the several States and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature."

Mr. Justice Stone concludes that:

Such right as is secured by the Constitution to qualified voters to choose members of the House of Representatives is thus to be exercised in conformity to the requirements of State law subject to the restrictions prescribed by section 2 and to the authority conferred on Congress by section 4, to regulate the times, places and manner of holding elections for representatives.

Although this case has been used as authority for the position that the Federal Government may prescribe the qualifications of voters, the language of Mr. Justice Stone indicates, on the contrary, that the power to determine the "manner of holding elections" does not—and under the Constitution cannot—encompass the power granted specifically to the States under article I, section 2.

D. PRESIDENTIAL ELECTORS

Article II, section 1, of the Constitution provides in part:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress.

This language is clear and unequivocal. Nor has it been altered in any way by the 12th amendment. Mr. Justice Fuller said in *McPherson* v. *Blacker* (146 U.S. 1), at page 35:

In short, the appointment and mode of appointment of electors belong exclusively to the States under the Constitution of the United States. * * * Congress is empowered to determine the time of choosing the electors and the day on which they are to give their votes, which is required to be the same day throughout the United States, but otherwise the power and jurisdiction of the State is exclusive.

S. 2750, however, since it is drafted to include elections "for the Office of President, Vice President [or] presidential elector," would invade a field where the power to determine not only the qualifications of voters but also the very manner of a candidate's selection—that is, by election, appointment, or otherwise—remains with the States, and with the States alone.

E. THE 14TH AND 15TH AMENDMENTS

1. INTRODUCTION

I have shown that article I, section 4 of the Constitution does not authorize the Central Government to determine the qualifications of voters as reserved to the States in article I, section 2, and in the 17th amendment.

Since, however, the advocates of S. 2750 rely also upon the 14th and 15th amendments, I intend to show that these amendments—like article I, section 4—give Congress no substantive power to set uniform voter qualifications.

The 14th amendment provides in part:

SECTION 1. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such States.

* * * * *

SEC. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

The 15th amendment provides:

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any States or by any State on account of race, color, or previous condition of servitude.

SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

2. HISTORY OF THE 14TH AMENDMENT

Since the obvious is often overlooked, I would like to point out that the 14th and 15th amendments are, of course, amendments and not statutes. The radical Republican Party which controlled Congress during the unfortunate Reconstruction Era passed a number of laws directed toward the enfranchisement of the Negro. For example, acts were passed providing that in all Territories thereafter admitted to the Union and in the District of Columbia, no one could be deprived of the right to vote because of race, color, or previous condition of servitude.

The Reconstruction legislators, however, despite their willingness to pass punitive legislation against the prostrate South, were not prepared to flaunt the Constitution in the process by attempting to extend the franchise to the Negro

through statute rather than constitutional amendment. As their course of action illustrates, it was apparent to these legislators that article I, section 2 of the Constitution reserved to the States complete authority to determine the qualifications of their voters.

There is another significant point: The Reconstruction Congress did not attempt to repeal article I, section 2 of the Constitution and place it with a constitutional amendment which would transfer from the States to the Federal Government the power to determine the qualifications of voters. Clearly if this procedure had been followed, the States would never have ratified the amendment. Instead, Congress determined to amend the Constitution by establishing certain prohibitions on State action.

The significance of the prohibitive nature of these amendments I will discuss later; however, to continue with the history of the 14th amendment, on December 4 and December 12, 1865, the House and the Senate, respectively, approved by resolution the formation of the Joint Committee on Reconstruction. The first constitutional amendment proposed by the Joint Committee provided in part:

Whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons therein of such race or color shall be excluded from the basis of representation. (The Congressional Globe, 39th Cong., 1st sess., Mar. 9, 1866, pp. 1288–1289.)

Had the 14th amendment been ratified in this severe form, it would have excluded all Negroes in a State from being counted in the basis of representation if a single Negro had been denied the franchise by that State. The proposed amendment passed the House but fortunately failed to receive the required two-thirds Senate majority.

Thaddeus Stevens on April 30, 1866, reported to the House the Joint Committee's second draft of the proposed 14th amendment.

Section 2 provided:

Representatives shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But whenever in any State the elective franchise shall be denied to any portion of its male citizens not less than twenty-one years of age, or in any way abridged, except for participation in rebellion or other crime, the basis of representation in such State shall be reduced in the proportion which the number of male citizens shall bear to the whole number of such male citizens not less than twenty-one years of age. (Ibid., Apr. 30, 1866, p. 2286.)

Section 3 of the proposed amendment, incidentally, provided that:

Until the 4th day of July, in the year 1870, all persons who voluntarily adhered to the late insurrection, giving it aid and comfort, shall be excluded from the right to vote for Representatives in Congress and for electors for President and Vice President of the United States (ibid).

This proposed amendment was denounced in an editorial in the New York Times as "A plan to prolong indefinitely the exclusion of the South from Congress by imposing conditions to which the Southern people will never submit"—The Congressional Globe, 39th Cong., 1st session, May 10, 1866, page 2531.

On May 10, 1866, Congressman Bingham, of Ohio, a member of the Joint Committee on Reconstruction, explained the second section of the proposed amendment as follows:

Allow me, Mr. Speaker, in passing, to say that this amendment takes from no State any right that every pertained to it. No State ever had the right, under the forms of law or otherwise, to deny to any freeman the equal protection of the laws or to abridge the privileges or immunities of any citizen of the Republic. The amendment does not give, as the second section shows, the power to Congress of regulating suffrage in the several States.

The second section excludes the conclusion that by the first section suffrage is subjected to congressional law; save, indeed, with this exception, that as the right in the people of each State to a republican government and to choose their Representatives in Congress is of the guarantees of the Constitution, by this amendment a remedy might be given directly for a case supposed by Madison, where treason might change a State government from a republican to a despotic government, and thereby deny suffrage to the people (ibid., pp. 2542–2543).

Shortly after this lucid explanation by Congressman Bingham, the proposed amendment passed the House by a vote of 128 yeas to 37 nays.

On May 29, 1866, the Senate by unanimous vote moved to adopt the proposal of Senator Johnson, of Maryland, to strike the vindictive third section from the House resolution. Senator Howard, of Michigan, offered a series of amendments to the joint resolution, none of which were related to section 2—Congressional Globe, 39th Congress, 1st session, May 29, 1866, page 2869.

Finally, Senator Williams, of Oregon, on June 8, 1866, proposed a revision of section 2 which—after an amendment by Senator Johnson dealing primarily with the basis for representation—corresponded with section 2 of the 14th amendment as finally ratified—Congressional Globe, 39th Congress, 1st session, June 8, 1866, pages 3026–3029.

During the debate on the Williams proposal, Howard moved to strike the first part of the second sentence of section 2 which reads:

But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or members of the legislature thereof.

And to insert in its place:

But whenever the right to vote at any election held under the constitution and laws of any State for members of the most numerous branch of its legislature.

So that the second section, as amended, would read:

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But whenever the right to vote at any election held under the constitution and laws of any State for members of the most numerous branch of its legislature is denied to any of the male inhabitants of such State.

Senator Howard considered section 2 of the 14th amendment to be unenforceable in practice because it lacked a uniform standard such as that in article I, section 2 of the Constitution prescribing the "most numerous branch of—a State's—legislature" as the criterion for Federal electors.

According to Senator Howard:

It appears to me that it (section 2 of the 14th amendment as finally approved) introduces a rule which is so uncertain, so difficult of practical application, as not only greatly to increase the expenses of ascertaining the basis of representation by Congress in procuring the necessary information, but in many cases the returns must be so inaccurate and unreliable as to be next to worthless.

And further:

One class of qualifications may by a State be made necessary in the election of a Governor; another set in the election of the members of the senate in that State; another in the election of members of the most numerous branch of the legislature; another set of qualifications may be required by the State in the election of its several judicial officers; another in the election of electors of President and Vice President of the United States; and so on. * * * It is a system which must * * * necessarily lead to great difficulty in its practical operations and results, and in many cases be almost entirely worthless for want of the necessary exact information which Congress should acquire and use in fixing the basis (ibid., p. 3039).

The argument of Senator Howard for a uniform standard failed to convince his colleagues; however, the Senator's interpretation of section 2 itself—with or without a uniform standard—is an eloquent expression of the 14th amendment's limitations.

In his words:

We know very well that the States retain the power, which they have always possessed, of regulating the right of suffrage in the States. It is the theory of the Constitution itself. That right has never been taken from them; no endeavor has ever been made to take it from them; and the theory of this whole amendment is, to leave the power of regulating the suffrage with the people or legislatures of the States, and not to assume to regulate it by any clause of the Constitution of the United States (Ibid).

Senator Howard, it will be recalled, was a member of the Joint Committee on Reconstruction; in addition, he was the recognized spokesman for the committee's Senate membership—"20 Years of Congress," J. H. Blaine, 1884, page 207. Consequently, his interpretation of the 14th amendment—particularly since it was not challenged or in any way controverted during the debate—carries great authority.

Reemphasizing his position at a later date, Senator Howard said:

As many of the Senators well know, I served on the Joint Committee on Reconstruction, who reported the 14th amendment to the Constitution to the Senate and to the House of Representatives; and I am not unfamiliar with the object of that amendment. It was discussed at great length before the committee, and by the committee, as well as in the Senate; and I feel constrained to say here now that this is the first time it ever occurred to me that the right to vote was to be derived from the 14th article. I think such a construction cannot be maintained. No such thing was contemplated on the part of the committee which reported the amendment; and if I recollect rightly,

nothing to that effect was said in debate in the Senate when it was on its passage.

One word further, the construction which is now sought to be put upon the first section of this 14th article, it seems to me, is plainly and flatly contradicted by what follows in the second section of the same article. After declaring in the first section that "All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside," and after declaring that "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States," the second section goes on to say:

"But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State," etc.

These are plainly and in the clearest possible terms words recognizing the right of each State to regulate the suffrage and to impart or to declare the necessary qualifications of voters for Members of the House of Representatives, electors of President and Vice President, and members of the State legislature. Sir, can anything be clearer? Here is a plain, indubitable recognition and admission on the very face and by the very terms of this 14th amendment of the right and power of each State to regulate the qualifications of voters (the Congressional Globe, 40th Cong., 3d sess., Feb. 8, 1869, p. 1003).

I ask you, Mr. President, could words more clearly refute the absurd proposition that the 14th amendment authorizes Congress—whatever its findings—to set positive voter qualifications?

The 14th amendment passed the Senate on June 8, 1866, by a vote of 33 to 11. The House approved the Senate version 5 days later by a vote of 120 to 32 under the urging of Thaddeus Stevens, "to take what we can get now, and hope for better things in further legislation"—Congressional Globe, 39th Congress, 1st session, June 13, 1866, page 3148.

In summary, the 14th amendment restricted in part what was initially an absolute power of the States under article I, section 2 to determine the qualifications of their voters. Subsequent to this amendment Congress could, by appropriate legislation, reduce the representation in Congress of a State that denied the franchise to any male citizen over 21. Nevertheless, the power of Congress to reduce a State's representation carries with it no inference of a more extensive power to set uniform voting qualifications such as education, property, and so forth, for all States.

3. HISTORY OF THE 15TH AMENDMENT

The "better things" to which the South's archantagonist Thaddeus Stevens had referred were not long in coming.

On February 17, 1869, the Senate refused by an affirmative vote of 31 to 27, less than the required two-thirds majority, to adopt House Joint Resolution 402—the Congressional Globe, 40th Congress, 3d session, February 17, 1869, page 1300.

This resolution would have enacted the 15th amendment in the following form:

SECTION 1. The right of any citizen of the United States to vote shall not be denied or abridged by the United States or any State by reason of race, color, or previous condition of slavery of any citizen or class of citizens of the United States.

SEC. 2. The Congress shall have power to enforce by appropriate legislation the provisions of this article. (Ibid., Feb. 3, 1869, pp. 827–828).

However, immediately after its rejection of the House Joint Resolution, the Senate resolved itself into a Committee of the Whole to consider Senate Joint Resolution 8, introduced by Senator Stewart, of Nevada.

This proposal was almost identical to the House resolution. It provided:

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

The Congress shall have power to enforce this article by appropriate legislation (ibid., Feb. 17, 1869, p. 1300).

Senator Howard objected to the Stewart proposal on the ground that if the United States or any State were specifically prevented from denying a citizen the franchise because of race, color, or previous condition of servitude, the Central Government, by implication of this restrictive amendment, would be empowered to set all remaining voter qualifications. He argued, and I quote:

The implication is perfectly irresistible in the mind of every instructed lawyer * * * that, with the exception of race, color, and previous condition of servitude * * * the United States may impose whatever qualifications Congress may see fit to impose, both upon the voter and holder of office in the States and in the United States, and * * * prescribe a rule which shall exclude in the States from the right of voting and holding office every person who shall not be of a particular religious creed, every person who shall not be of a certain age, every person who shall not have been born in some particular locality (ibid., p. 1301).

And further:

I think we go far enough when we say to the black man, North and South, "You shall have the same right to vote as is possessed by the white man" (ibid., p. 1302).

Senator Howard feared, in particular, that the proposed amendment would repeal by implication article VI, of the Constitution, which provides in part that:

No religious test shall ever be required as a qualification to any office of public trust under the United States.

He continued:

Sir, I would not part with that great security for human liberty, religious freedom, for any consideration that could be addressed to me (ibid.).

And finally:

I say it is an irresistible inference from the very language we use, that in respect to all other qualifications the power is given to Congress to restrict voting and office holding. They may in any test that is not prohibited by this article; Congress may establish a religious test, an educational test, a property test, that shall take effect * * * in any and all of the United States (ibid., p. 1304).

Senator Edmunds, of Vermont, however, in response to Senator Howard argued persuasively that the Congress was being given no power—either direct or implied—to regulate the qualifications of voters. According to Senator Edmunds:

To say that because it is provided that the United States shall not deny to anybody the rights of voting and of being voted for for a particular reason it is implied that they may and shall deny it for all other reasons would be equivalent in criminal law to saying that a statute which forbade murder and said that no man should commit murder implied that every man might commit adultery (ibid., p. 1305).

And further:

Now, if Senators are right in supposing that the right to regulate suffrage and hold office is now with the States, then when we prohibit that regulation being made effective upon certain points named in this amendment we leave all the rest of it just where it was before (ibid.).

The logic of Senator Edmunds clearly represents the intention of the Congress. If the 15th amendment had by implication empowered the Central Government to determine voter qualifications, particularly religious ones, it would never have received the required two-thirds majority of both Houses or three-fourths majority of the States.

On February 17, 1869, the amendment proposed by Senator Stewart passed the Senate by a vote of 35 to 11—ibid., p. 1318. It was first read in the House on February 20, 1869.

Congressman Bingham, of the Joint Committee on Reconstruction, moved to broaden the amendment to include qualifications regarding not only race, color, and previous condition of servitude, but also "nativity, property, and creed."

He argued:

If my amendment shall be adopted you will strike down as well the constitutions of other States, as for example the State of Rhode Island, which wrongfully and unjustly discriminates this day by property qualifications against naturalized citizens of the United States as compared with native-born citizens.

He continued, and note this:

I would have inserted the other word "education," but I know that the general sense of the American people is so much for education, that chief defense of nations, that if they will not take care of that interest they will take care of nothing (ibid., Feb. 20, 1869, p. 1427).

And yet today, Mr. President, we are faced with an attempt to wrest from the States their constitutional power to set educational qualifications for their voters.

The House quickly adopted the Bingham revision of the Stewart amendment by a vote of 140 to 37, and 3 days later Senator Stewart introduced this proposal in the upper body. There it was disagreed to by a vote of 32 to 17—in the same place, February 23, 1869, page 1481.

Conferees were appointed, and a compromise was reached whereby the House agreed to drop the "nativity, property [and] creed" provisions of the Bingham amendment in exchange for the Senate's removal of the phrase "to hold office" from the Stewart proposal—in the same place, February 25, 1869, page 1564.

On February 25 and 26, the 15th amendment passed the House and the Senate, respectively, by votes of 144 to 44

and 39 to 13—in the same place, February 25, 1869, pages 1563–1564; February 26, 1869, page 1641.

This review of the Reconstruction debates verifies my contention that the 14th and 15th amendments gave Congress neither the express nor the implied power to set voter qualifications—particularly educational or religious ones.

The 15th amendment prohibited the States from denying their citizens the right to vote because of race, color, or previous condition of servitude. It did not authorize the Congress to set positive voter qualifications of any kind.

Congress, therefore, has the power to prohibit, for example, literacy tests which on their face or in their administration are used to deny citizens their right to vote because of race, color, or previous condition of servitude. However, Congress cannot draw from this power an implied power to set a sixth-grade standard of education as a uniform voter qualification in all States. This is true regardless of the findings which Congress may choose to make in setting its standard.

The Reconstruction Congress recognized the exclusive power of the States under article I, section 2, to determine voter qualifications. The 15th amendment clearly was intended to limit the power of the States in a single respect: no longer could a State prescribe qualifications which would deny a citizen the franchise because of race, color, or previous condition of servitude. Beyond that restriction, the exclusive power of the States under article I, section 2 remains intact. Since S. 2750 attempts to impose a sixth-grade literacy qualification, the bill is clearly unconstitution. It would not ban literacy tests which violate the 14th and 15th amendments; it would ban the application of all literacy tests to those who have completed the sixth grade.

The courts have adopted an interpretation of the 14th and 15th amendments, which is in accord with the intention of the Reconstruction legislators.

4. COURT DECISIONS RE STATE VOTER QUALIFICATIONS

I mentioned earlier the decision of the Supreme Court in *Minor* v. *Happersett* (21 Wall. 162 (1874)), which established that a State's denial of suffrage to women was not a violation of the 14th amendment. I also noted the Court's refusal to declare unconstitutional various State poll tax requirements—*U.S.* v. *Reese*, 92 U.S. 214 (1875); *McPherson* v. *Blacker*, 146 U.S. 1 (1892); *Breedlove* v. *Suttles*, 302 U.S. 277; *Butler* v. *Thompson*, 341 U.S. 937 (1951).

With regard to literacy tests, the target of S. 2750, the Supreme Court held in *Williams* v. *Mississippi* (170 U.S. 213 (1898)), that a literacy test provision in the constitution of Mississippi does not in itself discriminate between the white and Negro races and does not amount to a denial of the equal protection of the law secured by the 14th amendment.

Quinn v. *U.S.* (238 U.S. 347 (1915)), concluded that a State may establish a literacy test as a prerequisite for voting if it applies alike to all citizens of the State without discrimination as to race, creed, or color. In discussing the relationship of the 15th amendment to the States authority to determine voter qualifications, Chief Justice White said at page 362:

Beyond doubt the amendment does not take away from the State governments in a general sense the power over suffrage which has belonged to those governments from the beginning and without the possession of which power the whole fabric upon which the division of State and National authority under the Constitution and the organization of both governments rest would be without support and both the authority of the Nation and the State would fall to the ground. In fact, the very command of the amendment recognizes the possession of the general power by the State, since the amendment seeks to regulate its exercise as to the particular subject with which it deals.

And at page 366:

No time need be spent on the question of the validity of the literacy test considered alone since as we have seen its establishment was but the exercise by the State of a lawful power vested in it not subject to our supervision, and indeed, its validity is admitted.

In *U.S.* v. *Reese* (92 U.S. 214 (1875)), which arose from the indictment of two municipal election inspectors in Kentucky for refusing to accept the vote of a Negro citizen, at page 20 observed:

The 15th amendment does not confer the right of suffrage upon any one. It prevents the States, or the United States, however, from giving preference, in this particular, to one citizen of the United States over another on account of race, color, or previous condition of servitude. Before its adoption, this could be done. It was as much within the power of a State to exclude citizens of the United States from voting on account of race, etc., as it was on account of age, property, or education. Now it is not.

Lassiter against Northampton County Board of Elections, supra, reaffirmed as recently as 1959 that the application of a literacy test by a State as a qualification for voting is consistent with State power under the 14th and 15th amendments if it is applied to all voters alike irrespective of race or color, if it is not unfair on its face, and if it shows no intent to effectuate discrimination.

In discussing the Court's position in the Lassiter case, Mr. Justice Douglas said:

We come then to the question whether a State may consistently with the 14th and 17th amendments apply a literacy test to all voters irrespective of race or color. The Court in *Guinn* v. *United States*, supra, at 366, disposed of the question in a few words. "No time need be spent on the question of the validity of the literacy test considered alone since as we have seen its establishment was but the exercise by the State of a lawful power vested in it not subject to our supervision, and indeed, its validity is admitted."

The States have long been held to have broad powers to determine the conditions under which the right of suffrage may be exercised, *Pope* v. *Williams*, 193 U.S. 621, 633; *Mason* v. *Missouri*, 179 U.S. 328, 335, absent of course the discrimination which the Constitution condemns. Article I, section 2, of the Constitution in its provision for the election of Members of the House of Representatives and the 17th amendment in its provision for the election of Senators provide that officials will be chosen "by the people." Each provision goes on to state that "the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature." So while the right of suffrage is established and guaranteed by the Constitution (*Ex parte Yarbrough*, 110 U.S. 651, 663–665; *Smith* v. *Albright*, 321 U.S. 649, 661–662) it is subject to the imposition of State standards which are not discriminatory and which do not contravene any restriction that Congress, acting pursuant to its constitutional powers, has imposed. (See *United States* v. *Classic*, 313 U.S. 299, 315.)

We do not suggest that any standards which a State desires to adopt may be required of voters. But there is wide scope for exercise of its jurisdiction. Residence requirements, age, previous criminal record (*Davis* v. *Beason*, 133 U.S. 333, 345–347) are obvious examples indicating factors which a State may take into consideration in determining the qualifications of voters. The ability to read and write likewise has some relation to standards designed to promote intelligent use of the ballot. Literacy and illiteracy are neutral on race, creed, color, and sex, as reports around the world show. Literacy and intelligence are obviously not synonymous. Illiterate people may be intelligent voters. Yet in our society where newspapers, periodicals, books, and other printed matter canvass and debate campaign issues, a State might conclude that only those who are literate should exercise the franchise.

Of course a literacy test, fair on its face, may be employed to perpetuate that discrimination which the 15th amendment was designed to uproot. No such influence is charged here. On the other hand, a literacy test may be unconstitutional on its face.

In that connection Mr. Justice Douglas pointed to the literacy test requirement held unconstitutional in *Davis* v. *Schnell*, 81 Fed. Supp. 872, aff'd 336 U.S. 933, saying that:

The legislative setting of that provision and the great discretion it vested in the registrar made clear that a literacy requirement was merely a device to make racial discrimination easy. We cannot make the same inference there. The present requirement, applicable to members of all races, is that the prospective voters "be able to read and write any section of the Constitution of North Carolina in the English language." That seems to us to be one fair way of determining whether a person is literate, not a calculated scheme to lay springes for the citizen.

As recently as March 26 of this year Mr. Justice Douglas stated at page 2 of his concurring opinion in the case of Baker against Carr, the unfortunate reapportionment decision:

That the States may specify the qualifications for voters is implicit in article I, section 2, clause 1, which provides that the House of Representatives shall be chosen by the people and that "the electors (voters) in each State shall have the qualifications requisite for electors (voters) of the most numerous branch of the State legislature." The same provision, contained in the 17th amendment, governs the election of Senators.

Apparently—for Justice Douglas at least—article I, section 2, has lost none of its original and true meaning. He continues:

Within limits those qualifications may be fixed by State law. (See *Lassiter* v. *Northampton Election Board*, 360 U.S. 45, 50–51.) Yet, as stated in *Ex parte Yarbrough*, 110 U.S. 651, 663–664, those who vote for Members of Congress do not "owe their right to vote to the State law in any sense which makes the exercise of the right to depend exclusively upon the law of the State."

Clearly these "limits" are the restrictions imposed by the 14th, 15th, and 19th amendments, none of which—as I have shown—authorizes Congress to set voter qualifications. The word "exclusively" no more than underlines the constitutional prohibition that States may not deny the franchise to citizens because of race, creed, color, or sex.

Mr. Justice Douglas continues:

The power of Congress to prescribe the qualifications for voters and thus override State law is not in issue here.

I submit that this statement by Justice Douglas does not, as some might assume, show an inclination on his part to accept as constitutional—were it to become law—a bill such as S. 2750. Rather, this jurist appears to be following the customary judicial technique of deferring consideration of an issue not presently a "case or controversy" before the Court until such a time—if ever—as the issue might arise.

The cases to which I have just referred are significant in that they confirm beyond any doubt the power of the States under article I, section 2, to employ literacy tests which on their face or in their administration do not violate the 14th and 15th amendments.

5. "APPROPRIATE LEGISLATION"

The 14th and 15th amendments authorize Congress to enforce these amendments by enacting "appropriate legislation."

The word "appropriate" has an indefinite meaning. What one man may regard as appropriate—that is, suitable, fit, or proper—another may not.

Nevertheless, "appropriate" has certain boundaries of definition and application beyond which it cannot be extended. Congress could not rely upon the 14th and 15th amendments in passing legislation totally unrelated to the purposes of these amendments.

We may go a step further. It would also be unconstitutional for Congress to rely upon its limited power under the 15th amendment in enacting legislation which would have a much broader application.

In *Karem* v. *U.S.*, 121 Fed. Rep. 250 (1903), a decision quashing a conspiracy indictment, the Court said at page 255:

The 15th amendment is therefore a limitation upon the powers of the States in the execution of their otherwise unlimited right to prescribe the qualification of voters in their own elections, and the power of Congress to enforce this limitation is necessarily limited to legislation appropriate to the correction of any discrimination on account of race, color, or condition. The affirmative right to vote in such elections is still dependent upon and secured by the Constitution and laws of the State, the power of the State to prescribe qualification being limited in only one particular. The right of the voter not to be discriminated against at such elections on account of race or color is the only right protected by this amendment, and that right is a very different right from the affirmative right to vote.

There are certain very obvious limitations upon the power of Congress to legislate for the enforcement of this article: First, legislation authorized by the amendment must be addressed to State action in some form, or through some agency; second, it must be limited to dealing with discrimination on account of race, color, or condition.

This case erects certain boundaries within which "appropriate legislation" under the 15th amendment must reside. In particular, we find that, "appropriate legislation is limited to the subject of discrimination on account of race, color, or condition"—page 258. The Court continued at page 259:

Section 5508 has for its object the punishment of all persons who conspire to prevent the free enjoyment of any right or privilege secured by the Constitution or laws of Congress, without regard to whether the persons so conspiring are private individuals or officials exercising the power of the United States or of a State. Neither does it draw any distinction between a conspiracy directed against the exercise of the right of suffrage based upon race or color, and a conspiracy not so grounded. It is therefore not legislation appropriate to the enforcement of the 15th amendment.

The observation of the Court that Congress did not "draw any distinction between a conspiracy directed against the exercise of the right of suffrage based upon race or color, and a conspiracy not so grounded," is very significant. Presumably if Congress did not "draw any distinction between a literacy test directed against the exercise of the right of suffrage based upon race or color, and a literacy test not so grounded," the legislation would also be inappropriate.

The Karem case relies in part on the earlier Supreme Court case of United States against Reese, supra.

In the Reese case the Court held unconstitutional two sections of a Federal statute punishing election officers who should refuse to any person lawfully entitled to do so the right to cast his vote at an election. The Court was of the opinion that Congress could punish such denial at a State election only when it was on account of race, color, or previous condition of servitude.

Here, as in the Karem case, a Federal law was deemed not to be "appropriate legislation." The Court observed at page 218:

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

And at pages 220, 221:

But when we go beyond the third section, and read the fourth, we find there no words of limitation, or reference even, that can be construed as manifesting any intention to confine its provisions to the terms of the 15th amendment. That section has for its object the punishment of all persons, who, by force, bribery, etc., hinder, delay, etc., any person from qualifying or voting. In view of all these facts, we feel compelled to say, that, in our opinion, the language of the third and fourth sections (of the statute) does not confine their operation to unlawful discriminations on account of race, etc. If Congress had the power to provide generally for the punishment of those who unlawfully interfere to prevent the exercise of the elective franchise without regard to such discrimination, the language of these sections (of the statute) would be broad enough for that purpose.

* * * * *

We must, therefore, decide that Congress has not as yet provided by "appropriate legislation" for the punishment of the offenses charged in the indictment.

In *James* v. *Bowman*, 190 U.S. 127 (1903), the Court noted at pages 139, 140 that:

A statute which purports to punish purely individual action cannot be sustained as an appropriate exercise of the power conferred by the 15th amendment upon Congress to prevent action by the State through some one or more of its official representatives, and that an indictment which charges no discrimination on account of race, color or previous condition of servitude is likewise destitute of support by such amendment.

But the contention most earnestly pressed is that Congress has ample power in respect to elections of Representatives in Congress; that the election which was held, and at which this bribery took place, was such an election; and that therefore under such general power this statute and this indictment can be sustained. The difficulty with this contention is that Congress has not by this section acted in the exercise of such power. It is not legislation in respect to elections of Federal officers, but is leveled at all elections, State or Federal, and it does not purport to punish bribery of any voter, but simply of those named in the 15th amendment. On its face it is clearly an attempt to exercise power supposed to be conferred by the 15th amendment in respect to all elections, and not in pursuance of the general control by Congress over particular elections. To change this statute, enacted to punish bribery of persons named in the 15th amendment at all elections, to a statute punishing bribery of any voter at certain elections would be in effect judicial legislation.

And at page 142:

Congress has no power to punish bribery at all elections. The limits of its power are in respect to elections in which the Nation is directly interested, or in which some mandate of the National Constitution is disobeyed, and courts are not at liberty to take a criminal statute, broad and comprehensive in its terms and in these terms beyond the power of Congress, and change it to fix some particular transaction which Congress might have legislated for if it had seen fit.

United States against Reese, supra, was last referred to by the Supreme Court in *U.S.* v. *Raines*, 362 U.S. 17 (1960), an action under the Civil Rights Act of 1957 to enjoin public officials of a State from discriminating against Negro citizens desiring to vote.

In United States against Reese, it will be recalled, the Court declared two sections of a Federal law unconstitutional since they were not confined in their operation to unlawful discrimination on account of race, color, or condition. The defendants in the circuit court were State inspectors in a municipal election who had refused to receive a Negro's vote, creating a factual situation which placed this incident clearly within the authority of Congress to correct by "appropriate legislation" under the 15th amendment.

The Raines case questions not the conclusion of the Reese Court that the Federal law was too broad but rather the advisability of reaching such a conclusion when the circumstances themselves were within the boundaries prescribed by the 15th amendment.

Referring to United States against Reese, the Court said at page 22:

Perhaps cases can be put where their application to a criminal statute would necessitate such a revision of its text as to create a situation in which the statute no longer gave an intelligible warning of the conduct it prohibited.

And at pages 24 and 25:

There are, to be sure, cases where this Court has not applied with perfect consistency these rules for avoiding unnecessary constitutional determinations, and we do not mean to say that every case we have cited for various exceptions to their application was considered to turn on the exception stated, or is perfectly justified by it. The district court relied primarily on *United States* v. *Reese*, supra. As we have indicated, that decision may have drawn support from the assumption that if the court had not passed on the statute's validity in toto it would have left standing a criminal statute incapable of giving fair warning of its prohibitions. But to the extent Reese did depend on an approach inconsistent with what we think the better one and the one established by the weightiest of the subsequent cases, we cannot follow it here.

Accordingly, if the complaint here called for an application of the statute clearly constitutional under the 15th amendment, that should have been an end to the question of constitutionality. And as to the application of the statute called for by the complaint, whatever precisely may be the reach of the 15th amendment, it is enough to say that the conduct charged—discrimination by State officials, within the course of their official duties, against the voting rights of U.S. citizens, on grounds of race or color—is certainly, as "State action" and the clearest form of it, subject to the ban of that amendment, and that legislation designed to deal with such discrimination is "appropriate legislation" under it.

In short, confronted with an opportunity to restrict the "appropriate legislation" determination of the Reese case the Court in United States against Raines chose instead to criticize it merely as having been an "unnecessary constitutional determination."

These cases establish certain limitations upon the power of Congress in its enactment of "appropriate legislation." They show an unwillingness on the Court's behalf to uphold congressional legislation passed under the enforcement clause of the 15th amendment when this legislation is too broad or too remotely related to race, color, or condition.

And what is the relationship between these cases and S. 2750? This bill would prohibit "the denial to any person otherwise qualified by law of the right to vote on account of his performance in any examination, whether for literacy or otherwise, if such other person has completed the sixth primary grade."

In short, State literacy tests administered to students who have completed the sixth grade would be eliminated regardless of their relationship to race, color, or condition; and a uniform sixth-grade standard would be applied across the board in all Federal elections in all States. What could be broader or more unrelated to the 15th amendment?

S. 2750 would not prohibit State literacy tests which on their face or in their application deprive citizens of the right to vote because of race, color, or condition. On the contrary, this bill would prohibit the administration of all literacy tests to all citizens who have completed the sixth grade. I, therefore, submit that this bill cannot stand.

At the very least, it must be shown that the maladministration of literacy tests is so widespread as to constitute the actual standard and that Congress has no available remedy to correct this administrative problem other than by passing a general corrective Federal statute, such as S. 2750.

The maladministration of literacy tests, however, is not widespread. No charge has been made against Virginia. The U.S. Commission on Civil Rights in its 1961 report on voting states that:

In 1961, then, the problem of denials of the right to vote because of race appears to occur in only 8 Southern States * * * Even in these 8 States, however, with a total of 3,737,242 nonwhites of voting age, some 1,014,454 nonwhites are registered to vote. Moreover, discrimination against Negro suffrage does not appear to prevail in every county in any of these States. The Commission has found that in [three of these States], it is limited to only a few isolated counties (1961 U.S. Commission on Civil Rights Report, "Voting," p. 22).

Even if we assume widespread State abuses, I cannot conceive of anyone's seriously arguing that the present 20-odd civil and criminal statutes are inadequate to deal with the problem; however, I will discuss this matter later.

The Attorney General recently in hearings on S. 2750 before the Constitutional Rights Subcommittee of the Judiciary Committee observed:

This legislation does not set the qualifications of these voters. It merely sets the test, the testing of these qualifications. And, in my judgment, that is clearly constitutional.

If we were setting the qualifications for the individuals then, I believe, that it would be unconstitutional and would require a constitutional amendment.

I am gratified that the Attorney General believes the Federal Government's "setting the qualifications for individuals would be unconstitutional."

His position, however, that "this legislation does not set the qualifications of voters" is, I feel, completely unrealistic. I cannot conceive that the establishment of the sixth grade as a conclusive standard of literacy can be anything but a voter qualification. Clearly, S. 2750 extends the franchise to any citizen who, after meeting other State requirements, can submit evidence of having completed the sixth grade. If this is not a voter qualification, what is?

I can only refer the Attorney General to the statement of that able Justice, Oliver Wendell Holmes, who in *U.S.* v. *Johnson*, 221 U.S. 488, remarked at page 496, that, "the meaning of a sentence is to be felt rather than to be proved." Or as we read in Matthew 7: 20: "By their fruits ye shall know them."

6. CONCLUSIVE PRESUMPTIONS

Conclusive presumptions are not generally favored by the courts. They have on several occasions been held to be arbitrary, capricious, unreasonable, and, therefore, unconstitutional under the due process clauses of the 5th and 14th amendments.

I will review briefly three cases in which the Supreme Court has ruled on irrebuttable presumptions.

In *Manley* v. *Georgia*, 279 U.S. 1 (1928), a Georgia statute declared that every insolvency of a bank shall be deemed fraudulent and the president and directors punished by imprisonment. This presumption was held to conflict with the due process clause of the 14th amendment, the Court stating at page 6:

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.

In *Heiner* v. *Donnan*, 285 U.S. 312 (1932), the Court held unconstitutional a provision of the Revenue Act which created a conclusive presumption that gifts made within 2 years prior to the death of the donor were made in contemplation of death and must be included in the donor's estate. Justice Sutherland noted at page 325 that "a statute which imposes a tax upon an assumption of fact which the taxpayer is forbidden to controvert, is so arbitrary and unreasonable that it cannot stand."

An excellent example of the Court's view toward such statutes may be found in *Tot* v. *United States*, 319 U.S. 463 (1943). This case involved a section of the Federal Firearms Act which contained a presumption that from a prisoner's prior conviction of a crime and his present possession of a firearm or ammunition it would be presumed that he received the article in interstate or foreign commerce. Although the presumption was rebuttable, the language of the Court is very pertinent to the instant problem. On page 467 it declared:

The due process clauses of the 5th and 14th amendments set limits upon the power of Congress or that of a State legislature to make the proof of one fact or group of facts evidence of the existence of the ultimate fact on which guilt is predicated.

The Court continues on pages 467 and 468:

Under our decisions, a statutory presumption cannot be sustained if there be no rational connection between the fact proved and the ultimate fact presumed, if the inference of the one from proof of the other is arbitrary because of lack of connection between the two in common experience. This is not to say that a valid presumption may not be created upon a view of relation broader than that a jury might take in a specific case. But where the inference is so strained as not to have a reasonable relation to the circumstances of life as we know them, it is not competent for the legislature to create it as a rule governing the procedure of courts.

The standard set by S. 2750 would, beyond a doubt, be a conclusive presumption of literacy. Consequently, once a voter had submitted his sixth-grade certificate of education to a registrar, the presumption of his literacy would be irrebuttable.

But is it true that everyone with a sixth-grade education is literate? An analysis of the widespread use of "social promotion" programs in the schools illustrates the absence of a causal connection between literacy and completion of the sixth grade.

In this connection I would like to quote several passages from recent material published by the National Education Association of the United States.

In a December 1958 pamphlet entitled "School Marks and Promotions," the association indicates at page 17:

> Some educators believe that the system of fixed grades based on achievement is much too arbitrary and that the means, such as retention, used to enforce the system have definitely detrimental effects on the pupils who do not fit into the administrative pattern. These educators, therefore, recommend the ungraded school, in which the problem of promotion is not a key one as it is in the typical school today.

What of these ungraded schools which, by definition, have no sixth grade? Are there to be standardized Federal tests administered to students of such schools—tests the successful completion of which create a conclusive presumption of literacy? And how long will it be before a passing mark on this Federal literacy test by a prospective voter from any type of school—or perhaps no school—will be irrebuttable evidence of literacy?

One need not be a prophet to foresee a Federal literacy test if Congress takes the first step in this direction by adopting S. 2750.

The pamphlet continues:

> Just as other qualities besides scholarship are now being evaluated and reported to parents, there has been a tendency to consider these other factors in promotion. The all-round development of the individual pupil is considered. Some pupils need to work with those of their own age in order to work to their best ability; for others this consideration is not as important. It has been suggested that within each school system a definite set of factors influencing promotion be agreed upon and that each teacher take these factors into consideration in forming his judgment as to whether or not a particular pupil should be promoted.
>
> Recent studies cast doubt on the wisdom of nonpromotion. Not only may retention have actually harmful effects on the pupil because of his feeling of failure and rejection, but also it may not even accomplish the academic goals toward which it is aimed.

In a NEA research memo dated February 1959 the authors noted at page 5:

> Some schools have maintained that in order to preserve grade standards, they had to fail pupils who did not reach a satisfactory level of achievement. This idea fits in which the concept of education as an obstacle course whose purpose is to eliminate all the intellectually unfit and preserve the last laps of the course for the intellectually elite. Whether or not this view is philosophically sound will not be discussed here, but even for the achievement of this goal, nonpromotion is likely to be unsuccessful.

The memorandum continues at page 7:

> If the effects of failure are likely to be bad, is the answer to be found in the promotion of all pupils? Some schools have attempted a 100-percent promotion plan, and others maintain a chronological age, or 'social promotion' plan. Social promotion does not entirely eliminate nonpromotion, but it attempts to keep the child moving along with his approximate age group, occasionally by setting an arbitrary limit on the number of times he may be retained. Several writers suggest that these plans may also have bad effects although they may not be as unfortunate or as numerous as those that result from continual nonpromotion. The problem, therefore, becomes one of avoiding the bad effects of both nonpromotion and 100-percent, or chronological-age promotion.

And further at page 8:

> All the studies reviewed here have shown that there is no simple solution to the problem of failure. A school that adopts a plan of automatically retaining in a grade all children who do not meet standards, or of promoting all children no matter what their achievement, without considering individual cases, is not fulfilling its responsibility to society. In light of present evidence, however, it seems that nonpromotion should be used only as a last resort and be recognized as the serious measure that it is.

Finally, I would like to refer to another NEA research memo dated December 1960. This report states at page 3:

> Most commonly, school districts reported that promotion is based on an individual study of each pupil and a consideration of all the factors which may be involved in order to serve his best interests. This was the approach taken by almost 80 percent of the respondents. Slightly less than one-fifth still base promotion only on meeting academic standards, with a limitation on the number of years a pupil will be retarded.

I do not presume to be an authority on the merits of "social promotion" in grade schools. Like most people, however, I have my opinions on the matter and these include the view that not only sixth grade graduates but the average high school graduate knows little history and is a poor speller.

Nevertheless, as I have tried to point out, the movement of a student toward the goal of literacy is but one—and apparently a minor—consideration in determining whether he will be promoted. Consequently, the conclusive presumption which S. 2750 would impose with regard to literacy is no more conclusive in fact than the presumption in Heiner against Donnan, supra, regarding gifts made in contemplation of death.

The Health, Education, and Welfare Department observes in its April 1962 pamphlet entitled "Indicators," that:

> Persons with low educational attainment have great difficulty in meeting the economic and social needs of modern society. They have limited adaptability to changing requirements for employment, and they frequently are rejected for military service. Those who lack an education extending beyond elementary school are deprived of many opportunities for personal development and participation in community affairs. Often they cannot avoid unemployment and dependency.

This, of persons whose education has extended, no doubt in some instances, beyond the seventh grade. I read further:

> Persons who have less than 5 years of formal schooling thus lack, by and large, the background for effective performance as employees and as citizens. For these reasons they are frequently called functional illiterates.

Clearly there is little difference between a person with 5 years or less of schooling and one whose education has extended through the sixth grade. The standard set by S. 2750 is, therefore, but one grade above functional illiteracy.

The resulting situation—were S. 2750 constitutional—magnifies the flaws in this bill; for presumably if the Federal Government could under the 14th and 15th amendments set one positive voter qualification, it could under the same authority set them all. For example, if Congress were to find that requirements as to residence, age, property, lack of criminal conviction, and so forth, were being used by States to disfranchise voters on account of race, color, or condition, it, under this thinking, would have the constitutional authority to set uniform, positive voter requirements thereby controlling the entire electoral process. This was never anticipated by the framers of the Constitution or by the legislators who considered the 14th and 15th amendments.

Over the years that I have had the privilege and honor of representing the State of Virginia in the Congress, I have objected on numerous occasions to encroachments of the Central Government on States rights. I have repeatedly cited as authority for my position the 10th amendment which provides:

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

Today, we are faced with proposed legislation under which Congress not only would exercise powers never specifically delegated to it, but also would enter a field specifically reserved to the States. Clearly, S. 2750 cannot be justified under the 14th and 15th amendments; it would be a reprehensible invasion of the States power under article I, section 2, to determine the qualifications of their voters.

PUBLIC POLICY OBJECTIONS TO S. 2750

A. LITERACY TESTS AND NATURALIZATION REQUIREMENTS

It has been argued that many States set too high a standard for their voters. In my opinion, higher standards would give us better government.

To my knowledge, no State requires more of its voters than does the United States itself of those who would become naturalized citizens.

I refer to a pamphlet issued in 1959 by the Department of Justice entitled "United States Naturalization Requirements, a Brief Summary of General Provisions."

Under "Petition for Naturalization," beginning on page 6, the pamphlet states that an applicant must understand English and be able to read, write, and speak words in ordinary usage in that language. He must know how to sign his name in English. By any interpretation this is a literacy test.

In addition, he is required to have resided continuously in the United States for at least 5 years. He must be a person of good moral character. Furthermore, he must be attached to the principles of the Constitution of the United States and well disposed to the good

order and happiness of the United States. He must be able to demonstrate a knowledge and understanding of the history, and of the principles and form of government, of the United States.

I would be the last person to consider these naturalization requirements excessive. To protect the Nation's security and to preserve the high standard of its electorate, the United States must discharge its obligation to its present and future citizens by naturalizing only those who meet requirements of the type set forth in the pamphlet.

Must a State, which is equally sovereign in its sphere and which has a similar obligation to its citizens, be denied the right to prescribe requirements for its electorate? If it is in the Nation's best interests for the Federal Government to require that a naturalized citizen be able to read, write, and understand the Constitution, can it be detrimental for a State to require that its citizens meet similar standards before they are given the franchise?

B. "ARBITRARY DENIALS" AND "INADEQUATE STATUTES"

Section 1(c) of S. 2750 states:

Congress further finds that many persons have been subjected to arbitrary and unreasonable voting restrictions on account of their race or color; that literacy tests and other performance examinations have been used extensively to effect arbitrary and unreasonable denials of the right to vote; and that existing statutes are inadequate to assure that all qualified persons shall enjoy the right to vote.

As authority for such sweeping findings, the sponsors of S. 2750 presumably are relying on part I of the 1961 U.S. Commission on Civil Rights Report. The Commission at page 137 of the report offers its own interpretation of the Constitution regarding the power of the States to determine voter qualifications:

The U.S. Constitution leaves to the States the power to set the qualifications for voters in Federal, as well as State, elections. This power is not, however, unlimited. The 15th amendment prohibits the States from denying the right to vote to any citizen on grounds of race or color, and empowers the Congress to enforce this prohibition by appropriate legislation.

With this, no constitutional authority would argue; however, it is here that the Commission leaves the realm of fact and begins to speculate. The report continues:

Therefore, if Congress found that particular voter qualifications were applied by States in a manner that denied the right to vote on grounds of race, it would appear to have the power under the 15th amendment to enact legislation prohibiting use of such qualifications.

How can a mere finding by Congress that a particular set of circumstances exist give it the power to legislate regarding these circumstances? If the Congress were to "find" that a State court had in a particular case denied to a citizen his rights under these amendments, could Congress "legislate" the State courts out of existence?

Article III, section 1, of the Constitution provides:

SECTION 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.

It is for the courts to decide through their interpretation of State voter qualification provisions—and not for the Congress to find—whether "persons have been subjected to arbitrary and unreasonable voting restrictions on account of their race or color."

Congress cannot by any finding grant itself power, as the Commission's report would suggest. If Congress does not possess the constitutional power to enact legislation, it cannot bestow this power upon itself by making certain findings.

Continuing its indictment of the States, section 1(c) of the bill would have Congress find, as I have noted, "that existing statutes are inadequate to assure that all qualified persons shall enjoy the right to vote."

When the so-called civil rights legislation of 1957 and 1960 was under consideration, I discussed my objections to it both in general and in particular. My position has not changed. However, I find it inconceivable that the legislation, especially title VI of the 1960 act, authorizing the unconstitutional appointment of Federal "voting referees," could by any interpretation be considered "inadequate."

The U.S. Commission on Civil Rights declares in part I of its 1961 report at page 78:

Title VI, then, does not become a weapon against discriminatory denials of the vote until a suit filed in the "affected area" has resulted in a finding that such discrimination has actually occurred, and a further finding that such discrimination "was or is pursuant to a pattern or practice."

In other words, why bother with proof of discrimination when it is so easy to amend the Constitution by an act of Congress that abolishes State literacy tests.

What added humiliation must the States endure? The constitutional structure of our Government has already been severely dislocated by Federal intrusion in the field of civil rights.

Nor has the Justice Department been what one might call slothful or hesitant in its enforcement of the acts of 1957 and 1960. The 1961 report of the Civil Rights Commission, to which I referred earlier, notes in part I on page 136:

The U.S. Department of Justice has acted with vigor to apply the Civil Rights Acts of 1957 and 1960 to prevent racial discrimination in the franchise. As of August 4, 1961, it had brought suits to protect the right to vote in 15 counties in 5 States. Three of the cases had been successfully concluded, one case had been partially determined, and a fifth had been tried but was awaiting decision. The remainder were awaiting trial. In addition, as of August 1, 1961, the Department of Justice had made demands for the inspection of records under title III of the 1960 Civil Rights Act in 26 counties in 6 States.

I cannot comprehend how existing legislation could be considered, of all adjectives, "inadequate," particularly in light of the Justice Department's crash program of enforcement.

C. "SIX PRIMARY GRADES"

S. 2750 continues at section 1(d):

Congress further finds that education in the United States is such that persons who have completed six primary grades in a public school or accredited private school cannot reasonably be denied the franchise on grounds of illiteracy or lack of sufficient education or intelligence to exercise the prerogatives of citizenship.

It is important to note that S. 2750 would set an arbitrary standard for literacy. By this I mean that if a citizen of a State has completed the sixth grade, he is "literate" at law whether or not he is literate in fact. His inability to read, write, or show some understanding of the Constitution would cease to be material.

Although certainly most people who have completed the sixth grade are literate, there are some, nevertheless, who unfortunately remain unable to read, write, or understand the Constitution. Extending the franchise to this group could do representative democracy in this country no possible good.

Furthermore, it should be noted that the power to set the requirement at 6 primary grades includes the power to reduce the 6 to 1 or to raise it to 12, perhaps higher. Inherent in the power to increase the electorate is the power to restrict it. Those who today favor S. 2750 because they consider six primary grades to be a reasonable literacy standard may tomorrow find a majority in Congress establishing standards which appear unreasonable. The acceptance of any Federal literacy standard would open a Pandora's box of evils.

D. "SPANISH LANGUAGE"

S. 2750 continues at section 1(e):

Congress further finds that large numbers of American citizens who are also citizens of the several States are deprived of the right to vote by virtue of their birth and education in a part of the United States in which the Spanish language is commonly used; that these citizens are well qualified to exercise the franchise; that such information as is necessary for the intelligent exercise of the franchise is available through Spanish-language news sources; that lack of proficiency in the English language provides no reasonable basis for excluding these citizens from participating in the democratic process.

It is worth noting, first of all, that the citizens to which subsection (e) would automatically and arbitrarily extend the voting franchise have not been deprived of the right to vote because of their race, creed, or color. Consequently, since the 14th and 15th amendments are not involved and since the constitutional power of the Federal Government is limited under article I, section 4, to legislation involving the times, places, and manner of holding elections, the Congress, if it approved this legislation, would unquestionably be usurping the constitutional rights of the States.

Furthermore, the citizens to which subsection (e) refers have not likely been denied the privilege of voting "by virtue of their birth and education in a part of the United States in which the Spanish language is commonly used."

On the contrary, any withholding of the franchise most likely resulted, in all probability, from the fact that the citizens concerned were unable to read and write English.

Let us be candid; subsection (e) of S. 2750 is directed in large measure toward New York, a State which, more than any

other, has experienced the difficulties and problems that arise in meeting the needs, desires, and best interests of many residents who are not proficient in the native language of our country. Without question millions of Americans who were not born in the continental United States have been prepared for full, contributing lives as citizens by New York.

Consequently is there any State which presumably would have a better understanding of these difficulties and problems? I doubt it; and I cannot but wonder if the Congress realizes that New York in its wisdom and with its vast experience has seen fit to provide as one of its voter qualifications in article II, section 1, of the State constitution:

> No person shall be entitled to vote * * * unless such person is also able, except for physical disability, to read and write English.

Incidentally, of the 21 States with literacy tests, but 7 are Southern States—*Lassiter* v. *Taylor*, 152 F. Supp. 295. Furthermore, Alaska and Hawaii—who presumably have benefited from a long-term observance of the wisdom and folly of their 48 sisters—have adopted literacy tests as qualifications for their voters.

Even if this proposed legislation were constitutional, I cannot but consider it unwise to foster the presumption that the Congress is better qualified than the State of New York, or any other State, to determine what voting qualifications are in the best interest of its citizens and of those residents who are not at present proficient in English.

Indeed, the absence of a qualification that voters be able to read and write English would remove an incentive for those who had not acquired this capability to become familiar with our native tongue. The standards which a naturalized citizen must meet take cognizance of this.

It is not my intention to presume to speak for the State of New York—or for the States of Montana and Illinois. However, I am convinced that if a resident of San Juan, P.R., for example, moved to the city of Richmond, Va., and had to rely on "Spanish-language news sources" to acquire a knowledge of current political events, he would have no small amount of difficulty becoming informed. In fact, the assertion of subsection (e), "that such information as is necessary for the intelligent exercise of the franchise is available through Spanish-language news sources," is valid, if at all, in but a few areas of the Nation.

It is indeed unfortunate that the lure of potential votes has influenced the supporters of this bill to attempt to impose on all States a set of standards which obviously are designed for limited areas. This is particularly objectionable, in view of the fact that New York, perhaps the major target of section 1(e), has rejected such an approach.

In summary, not only would S. 2750 impair the sovereignty of the States, it would also lower the standards of our national electorate. In the age of space exploration when one cannot read a newspaper without learning of some significant achievement in science, medicine, or the arts, I am astounded by the regressive attempt of S. 2750 to reduce voting standards when apparently all other standards are being increased.

The bill is unconstitutional and unwise. I am unqualifiedly opposed to it.

Mr. ELLENDER. Mr. President, I have served in the Senate for over 25 years now, and in my judgment the issue before the Senate today presents one of the most blatant attempts I have ever witnessed to openly do violence to our Federal Constitution.

Minority groups seek to do this through the guise of so-called civil rights. But that is not what they want. What they really desire is complete control over the election machinery of the 50 sovereign States.

The matter now pending before the Senate is not a civil rights measure. This is merely a catchall phrase that these persons employ to disguise their true intentions.

During the past 25 years, I have seen the same smokescreen used time and time again. Only a few weeks ago this body considered a constitutional amendment which would put an end to poll taxes as a requisite to voting.

I said at that time that although I myself had sponsored such legislation in the past, I was then opposed to it. It was my hope that should the poll tax issue be settled in that manner it would mean the end of the fight on Federal legislation on voting rights. But since more and further efforts were attempted in the field of regulating elections by Federal legislation I would oppose all efforts, including the constitutional amendment just mentioned.

As has been forcefully presented to the Senate by many Senators who preceded me, there is no doubt in my mind that if Congress should make the mistake of passing this bill, and should the issue then be submitted to the Supreme Court, and the Supreme Court hold the law constitutional, the entire system of voter qualifications would be transferred from the States, where it rightfully belongs, to the Federal Government. I believe there is no doubt about that. Let us not make any mistake about it. All of that is in face of the fact that we might not have a Constitution today unless the States were assured that they retained, in the Federal Constitution, the right to decide for themselves the qualifications of all voters within their respective jurisdictions.

Mr. President, I say that these misled minority groups will never rest until this country is absolutely ruled by a small group of militant, well-organized fanatics, who do not see that as they chip away at the Constitution, they run the risk of having the entire structure fall upon them and destroy them, as they destroy the Nation.

Our country has grown strong and wealthy over the years under the rights and privileges guaranteed to us under the Constitution. As has been often stated in debate, our great Constitution may have never been adopted had the right to prescribe voting qualifications not been left to the States.

This proposal is a brazen attempt to remove a constitutional right that has been retained by the States. Should this first step be taken, then other attempts would follow that would chip away still more of the rights of the States in determining who should and should not vote. I predict that if the bill is enacted, and should the Supreme Court hold it constitutional, then the rights of the States to legislate on qualifications of voters would be wiped out.

I say we must not allow this to happen. The historic right of the States to set forth their own voting rights must be maintained. As I said earlier, it is through this system of local self-government that the Nation has prospered, and I honestly believe that should the right of self-rule—which is inherent in setting forth voting qualifications—be abrogated by the Federal Government, then the Nation will have started on the decline.

The debates of the constitutional drafting period show very clearly that if the right to determine voter qualifications had not been left in the hands of the individual sovereign States, the Constitution would never have been ratified.

Two sections of article I of the Constitution very clearly point this out.

Section 2 of article I of the Constitution provides that—

> The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

Section 4 of article I proclaims that—

> The Names, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

There are also the two amendments which have to some extent contracted the otherwise unqualified right of the States, as guaranteed in section 2 of article I, to establish the qualifications of voters. I refer to the 15th amendment, which provides that a citizen of the United States may not be denied the right to vote on account of race, color or previous condition of servitude; and to the 19th amendment, which establishes the same protection against discrimination based on sex. Then, of course, there is the 17th amendment, adopted in 1913, whereby the right of the States to establish the qualifications of electors was again reaffirmed, this time with respect to the choosing of U.S. Senators.

Mr. President, the Nation has profited greatly from the rich heritage of learning left to us by the great constitutional lawyers of years gone by. One of the greatest of those illustrious pioneers of American constitutional history was George Ticknor Curtis. Mr. Curtis' name will live forever in the annals of American history for many reasons; first and foremost, of course, because he was the author of two monumental works; the first, which was to become a standard authority, ranking alongside Justice Storey's "Commentaries on the Constitution," was published in 1854 in two

volumes and entitled "History of the Constitution of the United States." The second of this great constitutional lawyer's legal compositions was entitled "Constitutional History of the United States," published in 1896, 2 years after his death. Mr. Curtis also will be remembered by students of American history for his able and successful defense of President Andrew Johnson in the impeachment proceedings instituted against the American Chief Executive in 1867; George Ticknor Curtis is remembered, too, for the brilliant and cogent argument he presented to the U.S. Supreme Court on December 18, 1856, in the famed Dred Scott case.

During the course of his presentation to the Supreme Court, in the Dred Scott case, Mr. Curtis made this significant statement as a preface to his analysis and interpretation of the constitutional provisions in issue in the Dred Scott case—that is, the provisions of our Constitution relating to the status and government of American territories:

I wish, in the next place, to say, may it please your honors, what indeed is obvious to everyone—that this is eminently a historical question. But I shall press that consideration somewhat further than it is generally carried on this subject, and much further than it has been carried by the counsel for the defendant in error; for I believe it to be true of this, as it is of almost all questions of power arising under the Constitution, that when you have once ascertained the historical facts out of which the particular provision arose, and have placed those facts in their true historical relations, you have gone far toward deciding the whole controversy. So true is it that every power and function of this Government had its origin in some previously existing facts of the national history, or in some then existing state of things, that it is impossible to approach one of these questions as one of mere theory, or to solve it by the aid of any merely speculative reasoning. Hence it is eminently necessary on all occasions to ascertain the history of the subject supposed to be involved in a controverted power of Congress, and, above all, to approach it with the single purpose of drawing that deduction which the constitutional history of the country clearly warrants ("Constitutional History of the United States," George Ticknor Curtis, p. 502).

Mr. President, keeping these words of George Ticknor Curtis in mind, I shall ask the indulgence of the Senate while I embark upon the task of reviewing the circumstances surrounding the genesis of the constitutional provisions at issue in the right-to-vote legislation now before the Senate. It is with the utmost humility that I undertake the enormous assignment of refreshing the memories of Members of the U.S. Congress, and the public at large, with the historical backdrop against which the language of article I, sections 2 and 4, of our Constitution was framed.

It was no easy job, I can assure Senators, to research and assemble the vast amount of data that I am about to present to the Senate. It was a monumental task, but it will be well worth the effort if it helps to awaken in Senators a better understanding and awareness of the precarious, perilous ground we are about to tread upon—to point up the misguided, imprudent, unwise course that is being urged upon us.

It is sheer folly, Mr. President, for the Congress of the United States to seek to enact laws aimed at undermining and destroying our one great constitutional bulwark against despotism—our time-tested system of local elections controlled and operated by the 50 sovereign State governments, free from coercion or subversion from a Federal bureaucracy. Heaven help us if this precious birthright is lost forever to us and to our posterity because we here today are unable to distinguish between political expediency and commonsense.

Mr. President, a study of colonial history reveals that regulation of suffrage was one of the first tasks to concern the American pioneers. From their inception the colonies maintained qualifications of voters. As I shall point out during the course of these remarks, when the colonies formed the Original Thirteen States of our Union, they still jealously and zealously guarded their right to prescribe qualifications for voting. Even a cursory reading of the discussions that took place during the Constitutional Convention at Philadelphia, and of the debates in the Thirteen States while the proposed Constitution was up for ratification, leads to the inescapable conclusion that a majority of the Thirteen States would never have formed a union and bound themselves under the Federal Constitution if clear and unmistakable language had not been included to guarantee to the respective States the right to establish qualifications of electors. Nor is there any doubt, Mr. President, that the Thirteen Colonies did not intend to surrender to the Federal Government their primary right to control the time, manner and places of holding elections; all evidence points to the unmistakable conclusion that they intended to vest in the Central Government only secondary authority to regulate elections, limited to those situations where extraordinary circumstances prevailed or where the States refused to conduct elections for Members of the House of Representatives and thereby threatened the very existence of the Federal legislative branch.

Later during these remarks I shall discuss more fully the meaning given to section 4 of article I by the framers of our Constitution. Right now I want to direct the attention of the Senators to the interpretation placed by our Founding Fathers on the language found in section 2 of article I—the requirement that "the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature."

As early as 1750 there were different qualifications for voting in the different Colonies. I quote from "Formation of the Union," 1750–1829, by Hart, page 15:

In each there was an elective legislature; in each the suffrage was very limited; everywhere the ownership of land in free-hold or other property, or the occupancy of a house was a requisite, just as it was in England for the country suffrage. In many cases there was an additional provision that the voter must possess a specified large quantity of land or must pay specified taxes. In some Colonies there was a religious requirement.

Mind you, Mr. President, all these requirements I have just mentioned were prerequisites for the exercise of the voting privilege.

While there were few specific provisions concerning suffrage in the charters of the Colonies, popular elections existed in each of the Colonies from the earliest date down to the Revolution. Popularly elected assemblies carried on local government. Virginia had a House of Burgesses as early as July 30, 1619.

And what was the first consideration of these colonial groups who were fiercely protective of their rights?

One of the first tasks of these colonial assemblies was to regulate the elective franchise. See McCulloch, "Suffrage and Its Problems," at page 18.

While the qualifications were vague and indefinite, there were many requirements, each a proof of the local regulation of voting qualifications. Even the Crown and the English Parliament made no serious attempt to modify or harmonize the various suffrage regulations. I quote from the same volume, page 19:

This left each colony practically free to pass its own laws providing for the franchise. By the time of the Revolution this practice became thoroughly established, thus allowing each Commonwealth to make suffrage laws to fit its peculiar electorial problem.

Down to 1776 there were seven qualifications for the elective franchise. The outstanding one was the landed-property qualification, which probably arose because of the business corporation-like nature of the early colonies. A piece of land was considered as giving a person the freedom of the company, as provided by Massachusetts in 1621, just as a block of stock entitles its holder to vote in a corporation.

Porter, in his "History of Suffrage in the United States," stated at pages 3 and 4:

But this very simple test of property-holding could not long hold out alone, although it was the first and the dominating consideration for almost 200 years following. The population became so complex, the interests of colonists expanded so far beyond mere commercial enterprise that other standards of fitness for participation in the affairs of the community were sought out and established. Strict limitations had been put upon the right to joint the company, and after the companies ceased to exist and the colonies became exclusively political institutions, the same limitations were carried over for the suffrage with some elaboration. They dealt with all the various things which are supposed to determine capacity to take intelligent interest in community affairs. Race, color, sex, age, religion, and residence were now investigated before the applicant was admitted to the suffrage. The theory was that only those who clearly had an interest in the colony—measured in terms of tried standards—should exercise the right of suffrage.

There we find a yardstick or a method of providing qualifications for voters during colonial days.

Virginia had varying requirements. In 1655 a voter had to be a habitant and a householder; in 1699 he had to be 21 years of age, a male habitant and freeholder, papists barred. By 1762 this had

been further refined by the freeholder being particularly required to own 50 acres, or 25 acres and house 12 by 12.

Massachusetts first required religious standards, Puritan and Orthodox, in 1631. By 1691 Massachusetts required a voter to be English and to own 40 shillings' freehold or 40 pounds of property.

Connecticut in 1638 required a voter to be a habitant, a Puritan, and a freeman, and varied this by 1702 to specify that he had to have 40 shillings' freehold or 40 pounds of property.

Rhode Island, as early as 1665 required a competent estate and barred Christian papists. By 1767 Rhode Island added to this the requirement of living in a town, plus owning 40 shillings' freehold or 40 pounds of property.

New Hampshire in 1680 required that a voter be 24 years of age, English, Protestant, and have an estate of 20 pounds. By 1728 the last requirement was increased to 50 pounds' realty.

North Carolina in 1669 required a voter to be a deist and to have a 50-acre freehold. By 1760 this had varied. The qualifications were 21 years of age, 1½ years' residence, British nationality, and a 50-acre freehold.

South Carolina in 1669 required a person to be a deist and to have 50 acres freehold. By 1759 a South Carolina voter had to be white and 21 years of age, Protestant, and have a settled freehold.

Georgia demanded a man to be 21 years of age and to have 50 acres of land, papists barred. In 1775 the land requirement took on a subtle change. It was replaced by the word "taxpayer," plus one-half year's residence required, and papists barred.

Pennsylvania in 1683 required a voter to own 100 acres, 10 cultivated, or 50 acres, 20 cultivated, or pay taxes. In 1700 Pennsylvania required a man to be 21 years of age, a 2-year resident, English, and own 50 acres, 12 cultivated, or £50 in property.

Delaware, in 1701, had a 2-year residence requirement, 21-year age requirement, and landownership of 50 acres, 12 cultivated or £50 in property. By 1733 British citizenship had been added to the list.

Maryland's only requisite in 1637 was that voters be freemen. In 1718 Maryland had barred Catholics and required 50 acres or £40 worth of property.

New York in 1683 accepted a vote from any freeholder. In 1701 21-year age requisite and £40 worth of realty was necessary, and—listen to this—papists and Jews were barred. That was in New York.

New Jersey in 1668 allowed any freeholder to vote. In 1725 that freeholder had to be a 1-year resident, and had to own 100 acres or £50 worth of property.

It is interesting to regard some of the varying reasons for the above requirements, keeping in mind that the very fact they have varied in each State, with the particular conditions of growth and the existing population, adds undeniable power to the case I am presenting for each State in the Union, for their own continued right to judge their own needs and provide therefor.

I read from Porter, "History of Suffrage in the United States," pages 4 and 5:

Standards of character and fitness varied from one part of the country to another. In Massachusetts, the Puritans believed that only by restricting suffrage to men in their churches could the future well-being of the colony be insured. The problem of the right to vote became distinctly subordinate. They restricted the suffrage for the good of the community. The fact that their standard of good character (church membership) was narrow is not at all surprising. The character of the man's employment was often considered a criterion of his ability to vote intelligently, and thus college men and clerical officers were presumed to be especially fit for the suffrage.

The philosophy of suffrage has always been more or less opportunistic, if the word is permissible. Suffrage qualifications are determined for decidedly materialistic considerations, and then a theory is evolved to suit the situation. In the early days riot and disorder might accompany an election. The authorities would thereupon fix the qualifications so that the disorderly people could not vote next time. Then would come the theory to justify it—only those owning a certain number of acres would be considered fit to vote, only those of a certain religious faith, et cetera.

Unquestionably, this has happened in times of stress, for theory did not come to be the preliminary determining factor until complete peace and order prevailed, and even then theory was not uncolored by materialistic considerations. Suffrage limitations were bound to adapt themselves to social and economic conditions. In rural Virginia the freehold requirement of 50 acres excluded very few of the best type of men. But such a requirement in an urban community would have been intolerable. Obviously, an absolute criterion could not obtain. It became necessary to adopt whatever criterion was calculated to embrace the best men.

Moral qualifications were restricted almost exclusively to New England. It was sometimes necessary for the voter to show proof of his good character. At other times if one were accused of improper conduct it would cost him his vote, although the particular offense was not mentioned in the law. In the South there were restrictions against men of certain race—foreigners and Negroes were excluded.

I read further from Porter, "History of Suffrage," bottom of page 5 and all of page 6:

All of the restrictions and qualifications can be seen to support one of two fundamental principles: One may be called the theory of right and the other the theory of the good of the state. Every qualification imposed had one of these two principles in view. Either it was established in order to fulfill the right which certain people were supposed to have, or else it was established simply in order to serve the best interest of the state. It might have been said that a man had a right to vote because he owned property, or because he was a resident, or because he paid taxes, or simply because the right to vote was a natural right. And this would be the guiding consideration without regard to the effect it might have on the well-being of the community. Thus in some places nonconformists were allowed to vote because their property right was recognized. Nonresidents were permitted to vote where they owned property solely because they were supposed to have a right to vote on account of their holdings. This theory of right was the first to appear and has always persisted. Each generation would seek to add a new subhead to the title, as it were, and base a right to vote on some new ground.

The other great principle or theory had to do with the good of the state. It developed as soon as the narrow business-corporation concept was abandoned, and it was most emphasized by the Puritans. It continues to the present day but has never been entirely divorced from the theory of right. Under this theory of the good of the State men were excluded because they were not church members, because they were criminals, because they had not been residents a long enough time. It is not always possible to classify every restriction definitely, but it may be said that one of these two theories controls every modification of the suffrage.

In the North, there were no race qualifications, because the few free Negroes scattered through the northern Colonies seemed to have caused little alarm along suffrage lines. North Carolina, Georgia, South Carolina, and Virginia were the only Colonies which disfranchised Negroes before the time of the Revolution, showing that either very few of them tried to vote or there was little aversion to it, the former probably being correct. At any rate, there was no race issue injected generally into the suffrage regulations. Another generation saw a marked change.

There was in none of the Colonies except Pennsylvania the rigid residence requirement of 2 years. And why the particular need there, true locally, yet not present elsewhere? Probably because of the conservative proprietor's desire to limit the influence of the many recent immigrants.

The property test was the most frequent and weightiest qualification. The cheapness of land led to the requirement above stated, in some instances, that the land be worth a certain sum in money or produce a certain income. Again we see the ever-present variations in the different Colonies. In Georgia there could not be the same money value requirement as in more thickly populated New England, and conversely, a voter in crowded New England could not have been required to own the same quantity of land as the voter in sparsely settled Georgia. In Virginia the varying standard of 50 acres of land, or 25 acres of land being worked and occupied by a house 12 feet square, or a town lot with a house of similar dimensions, was the answer to the rural versus urban problem. The city dwellers could not acquire land to a broad extent, and the rural dwellers resented a value fixation being set on the land to be held.

Five of the Colonies allowed the substitution of personal property for real estate.

This indicates a distinct concession of the urban communities, and it is significant that four of these States are in the small New England group, where the supply of real estate was limited. This adaptation of the suffrage qualification to the particular economic situation illustrates the willingness of men to adjust their ideal of what is fundamentally right to the needs of the dominant group—(Porter, "History of Suffrage in the United States," p. 9).

The next breakdown in this type requirement is from personal property to taxpaying. As conditions change, a trend emerges, the picture alters, and the statutory machinery with which we are equipped permits each State to shift or vary its position with the times.

Religious tests were decisive in New England, and common everywhere except in Pennsylvania. In the South papists were usually specifically barred. New York barred Jews. Maryland also barred Catholics.

Massachusetts supplemented the religious tests by moral character qualifications. Later a property qualification was inserted as an alternative. Later the *religious test* disappeared. South Carolina, with her requirement that a voter acknowledge the being of God, was the last State to have the statutory religious standards for suffrage and religion as a qualification for voting pass out with the colonial period.

Citizenship and residence were of comparatively little importance in a new country, predominantly British.

Before turning to the Articles of Confederation and our Constitution, the following words concerning voting qualifications in the Colonies seem particularly appropriate:

It is of moment to note that there were no efforts at uniformity in the regulation of suffrage. In each colony by charter, or more often by acts of the assembly, the elective franchise was controlled independently. This Commonwealth treatment of suffrage was the natural result of colonial history. So thoroughly grounded was this policy that when the Colonies seized sovereignty and organized a Federal Government the suffrage program was undisturbed. It continued as the basic foundation on which all Federal elections must rest. (See McCulloch, "Suffrage and Its Problems," p. 29.)

The truth of the proposition that each State best knows its own conditions and is best equipped to handle them, is shown by the direction of the Continental Congress, on May 10, 1776, following the outbreak of the Revolution, to each of the Colonies to "adopt such governments as shall best conduce to the happiness and safety of their constituents in particular, and America in general"—Hart, "Formation of the Union," 1750–1829, at page 29.

Following these instructions, the Colonies had already begun, before July 4, 1776, to draw up written instruments of government. I now desire to read a few paragraphs from McCulloch on "Suffrage and Its Problems." I read from page 30, the first paragraph:

With the separation from the the Mother Country came very little change for the Colonies severally. The Union took the place of the Crown, while the various Commonwealth governments went on very much as before. Therefore, suffrage regulations were not disturbed at all; each Commonwealth continued to regulate the elective franchise independently. The several States sought directions of the Continental Congress as to framing constitutions to replace the old charters which had been granted by the King.

But after this had been done, the two sets of governments moved along independently. The Central Government under the Articles of Confederation interfered with the States as little as possible, and they do not seem to have looked to it even for advice.

The only point at which the two governments could touch even indirectly on suffrage matters was article V, which provided that the delegates to the Confederation Congress should be "appointed in such manner as the legislatures of each State should direct."

Also, quoting directly from the Articles of Confederation, and to demonstrate the doctrines that remained ever uppermost in the minds of the founders of our country, I quote article II:

Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right which is not by this confederation expressly delegated to the United States in Congress assembled.

I now read from the Federalist Articles of Confederation, article V, the first paragraph:

For the more convenient management of the general interest of the United States, delegates shall be annually appointed in such manner as the legislature of each State shall direct, to meet in Congress on the first Monday in November, in every year, with a power reserved to each State to recall its delegates, or any of them, at any time within the year, and to send others in their stead, for the remainder of the year.

Also:

In determining questions in the United States in Congress assembled, each State shall have one vote.

The above provisions show clearly that matters of voting qualifications were to be left strictly to each State. The Articles of Confederation were inadequate and hurried, and later proved insufficient to cope with the changing United States and its manifold problems. A new and farsighted instrument was needed, a considered and well-debated structure built on a framework with a future. But, it is noteworthy, before we turn from the Articles of Confederation, that even though the country was in the midst of revolution, torn by varying doctrines and lacking in all organization at the time they were written, there was one thing that was not left out.

Many important things were left out, much was left a blank, but even in a time of crisis these men who were struggling for a workable governing organ to suit their needs and their hopes kept one thing before them, the inviolable right of each State to determine the qualification of its voters and to control its own elections. They did not fail to preserve this right in the articles they drafted.

When the Articles of Confederation, which were adopted in time of stress without full cognizance of the problems to be solved and with the States themselves ill defined geographically and politically, proved unsatisfactory and insufficient, it was suggested by Hamilton in 1780, and later by Tom Paine, that a convention be called to revise the Articles of Confederation, and to draft a Constitution of the United States of America.

Let us go back to that convention. There is drama in the air. Vital provisions for the constitutional structure of a new country are in the making. Each delegate has his own theories, his own pet beliefs to advance. All are filled with a desire for the best in government for their new country.

Maj. William Pierce, of Georgia, made some notes of the membership of the convention. Among those historically well known to us today who were prominent in drafting provisions affecting voting qualifications was Rufus King, about whom Major Pierce said:

Mr. King is a man much distinguished for his eloquence and great parliamentary talents. He was educated in Massachusetts, and is said to have good classical as well as legal knowledge. He has served for 3 years in the Congress of the United States with great and deserved applause, and is at this time high in the confidence and approbation of his countrymen. This gentleman is about 33 years of age, about 5 feet 10 inches high, well formed, a handsome face, with a strong expressive eye, and a sweet high-toned voice. In his public speaking there is something peculiarly strong and rich in his expression, clear, and convincing in his arguments, rapid and irresistible at times in his eloquence but he is not always equal. His action is natural, swimming, and graceful, but there is a rudeness of manner sometimes accompanying it. But take him tout en semble, he may with propriety be ranked among the luminaries of the present age. ("United States, Formation of the Union, Documents," p. 96.)

There was Nat Gorham, about whom it is said:

Mr. Gorham is a merchant in Boston, high in reputation, and much in the esteem of his countrymen. He is a man of very good sense, but not much improved in his education. He is eloquent and easy in public debate, but has nothing fashionable or elegant in his style; all he aims at is to convince, and where he fails it never is from his auditory not understanding him, for no man is more perspicuous and full. He has been President of Congress, and 3 years a Member of that body. Mr. Gorham is about 46 years of age, rather lusty, and has an agreeable and pleasing manner. ("United States, Formation of the Union, Documents," p. 96.)

One of the highlights was Alexander Hamilton.

Colonel Hamilton is deservedly celebrated for his talents. He is a practitioner of the law, and reputed to be a finished scholar. To a clear and strong judgment he unites the ornaments of fancy, and whilst he is able, convincing, and engaging in his eloquence the heart and head sympathize in approving him. Yet there is something too feeble in his voice to be equal to the strains of oratory; it is my opinion that he is rather a convincing speaker, than a blazing orator. Colonel Hamilton requires time to think, he inquires into every part of his subject with the searchings of philosophy, and when he comes forward he comes highly charged with interesting matter, there is no skimming over the surface of a subject with him, he must sink to the bottom to see what foundation it rests on. His language is not always equal, sometimes didactic like Bolingbroke's, at others light and tripping like Stern's. His eloquence is not so defusive as to trifle with the senses, but he rambles just enough to strike and keep up the attention. He is about 33 years old, of small stature, and lean. His manners are tinctured with stiffness, and sometimes with a degree of vanity that is highly disagreeable. ("United States Formation of the Union, Documents," p. 98.)

From Connecticut came Oliver W. Ellsworth, who was on the Committee of Detail charged with forcing the provisions affecting elections:

Mr. Ellsworth is a judge of the supreme court in Connecticut; he is a gentleman of a clear, deep, and copious understanding; eloquent, and connected in public debate, and always attentive to his duty. He is very happy in a reply, and choice in selecting such parts of his adversary's arguments as he finds make the strongest impressions, in order to take off the force of them, so as to admit the power of his own. Mr. Ellsworth is about 37 years of age, a man much respected for his integrity, and venerated for his abilities. ("United States Formation," supra, p. 98.)

From Pennsylvania, on this committee, came Mr. James Wilson:

Mr. Wilson ranks among the foremost in legal and political knowledge. He has joined to a fine genius all that can set him off and show him to advantage. He is well acquainted with man, and understands all the passions that influence him. Government seems to have been his peculiar study, all the political institutions of the world he knows in detail, and can trace the causes and effects of every revolution from the earliest stages of the Grecian Commonwealth down to the present time. No man is more clear, copious, and comprehensive than Mr. Wilson, yet he is no great orator. He draws the attention not by the charm of his eloquence, but by the force of his reasoning. He is about 45 years old. ("United States Formation," supra, p. 101.)

From Virginia came James Madison and Edmund Randolph:

Mr. Madison is a character who has long been in public life; and what is very remarkable, every person seems to acknowledge his greatness. He blends together the profound politician with the scholar. In the management of every great question he evidently took the lead in the convention, and though he cannot be called an orator, he is a most agreeable, eloquent, and convincing speaker. From a spirit of industry and application which he possesses in a most eminent degree, he always comes forward the best informed man of any point in debate. The affairs of the United States, he perhaps, has the most correct knowledge of, of any man in the Union.

He has been twice a Member of Congress, and was always thought one of the ablest Members that ever sat in that council. Mr. Madison is about 37 years of age, a gentleman of great modesty, with a remarkable sweet temper. He is easy and unreserved among his acquaintance, and has a most agreeable style of conversation. ("United States Formation," supra, p. 104.)

Mr. Randolph is Governor of Virginia, a young gentleman in whom unite all the accomplishments of a scholar and a statesman. He came forward with the postulate, or first principles, on which the convention acted, and he supported them with a force of eloquence and reasoning that did him great honor. He has a most harmonious voice, a fine person, and striking manners. Mr. Randolph is about 32 years of age. ("United States Formation," supra, p. 105.)

Robert Morris, with James Wilson, Benjamin Franklin, Gouverneur Morris, and others, represented Pennsylvania:

Robert Morris is a merchant of great eminence and wealth; and able financier, and a worthy patriot.

He has an understanding equal to any public object, and possesses an energy of mind that few men can boast of. Although he is not learned, yet he is as great as those who are. I am told that when he speaks in the Assembly of Pennsylvania, that he bears down all before him. What could have been his reason for not speaking in the convention I know not, but he never once spoke on any point. This gentleman is about 50 years old. ("United States Formation," supra p. 101.)

On May 29, 1787, Edmund Randolph presented the following resolution:

Resolved therefore, That the rights of suffrage in the National Legislature ought to be proportioned to the quotas of contribution, or to the number of free inhabitants, as the one or the other rule may seem best in different cases.

Resolved, That the National Legislature ought to consist of two branches.

Resolved, That the Members of the first branch of the National Legislature ought to be elected by the people of the several States every (———) for the term of (———). ("United States Formation," supra, p. 116.)

Then Mr. Charles Pickney laid before the House the draft of a Federal Government which he had prepared, to be agreed between the free and independent States of America. (U.S. Formation of the Union, p. 119.)

By all these statesmen the United States was referred to as a Union of free and independent States, a group of varying entities with varying problems, soils, industries, populations, having in mind future additions of more States, united for the common good of all.

Article III of Mr. Pickney's draft reads: "The Members of the House of Delegates shall be chosen every (blank) year by the people of the several States; and the qualifications of the electors shall be the same as those of the electors in the several States for their legislatures." (Elliott, Constitutional Debates, vol. 1 (first edition) p. 145.)

Pickney also provided in article 5 of his plan:

Each State shall prescribe the time and manner of holding elections by the people for the House of Delegates.

(See III Records of the Federal Convention, p. 597—Appendix D.)

Alexander Hamilton's suggested provision was a general one:

III. The Assembly to consist of persons elected by the people to serve for 3 years. (U.S. Formation of the Union, p. 979.)

When Mr. Randolph's plan was considered, what was the feeling concerning the provision for election of Members of the first branch of the National Legislature by the people of the several States? The discussion is illuminating in showing the angles considered, which make clear the meaning of the provisions ultimately adopted.

Mr. Sherman opposed the election by the people, insisting that it ought to be by the State legislature. The people, he said, immediately should have as little to do as may be about the Government. They want information and are constantly liable to be misled.

Mr. GERRY. The evils we experience flow from the excess of democracy. The people do not want virtue, but are the dupes of pretended patriots.

In Massachusetts it had been fully confirmed by experience that they are daily misled into the most baneful measures and opinions by the false reports circulated by designing men, and which no one on the spot can refute. One principal evil arises from the want of due provision for those employed in the administration of Government. It would seem to be a maxim of democracy to starve the public servants. He mentioned the popular clamor in Massachusetts for the reduction of salaries and the attack made on that of the Government though secured by the spirit of the Constitution itself. He had, he said, been too republican heretofore: He was still, however, republican, but had been taught by experience the danger of the leveling spirit.

Mr. President, I may say the word "republican" as there used was spelled with a small "r," not with a capital "R".

Mr. Mason argued strongly for an election of the larger branch by the people. It was to be the grand depository of the democratic principle of government. It was, so to speak, to be our House of Commons—It ought to know and sympathize with every part of the community; and ought therefore to be taken not only from different parts of the whole Republic, but also from different districts of the larger members of it, which had in several instances, particularly in Virginia, different interests and views arising from difference of produce, of habits, and so forth. He admitted that we had been too democratic but was afraid we should incautiously run into the opposite extreme. We ought to attend to the rights of every class of people. He had often wondered at the indifference of the superior classes of society to this dictate of humanity and policy; considering that however affluent their circumstances, or elevated their situations might be, the course of a few years, not only might but certainly would distribute their posterity throughout the lowest classes of society. Every selfish motive therefore, every family attachment, ought to recommend such a system of policy as would provide no less carefully for the rights and happiness of the lowest than of the highest orders of citizens.

Mr. Wilson contended strenuously for drawing the most numerous branch of the legislature immediately from the people.

He was for raising the Federal pyramid to a considerable altitude, and for that reason wished to give it as broad a basis as possible. No government could long subsist without the confidence of the people. In a republican government this confidence was peculiarly essential. He also thought it wrong to increase the weight of the State legislatures by making them the electors of the National Legislature. All interference between the general and local government should be obviated as much as possible. On examination it would be found that the opposition of States to Federal measures had proceeded much more from the officers of the States, than from the people at large.

Mr. Madison considered the popular election of one branch of the National Legislature as essential to every plan of free Government. He observed that in some of the States one branch of the legislature was composed of men already removed from the people by an intervening body of electors. That if the first branch of the general legislature should be elected by the State legislatures, the second branch elected by the first—the Executive by the second together with the first, and other appointments again made for subordinate purposes by the Executive, the people would be lost sight of altogether; and the necessary sympathy between them and their rulers and officers, too little felt. He was an advocate for the policy of refining the popular appointments by successive filtrations, but thought it might be pushed too far. He wished the expedient to be resorted to only in the appointment of the second branch of the legislature, and in the executive and judiciary branches of the Government. He thought too that the great fabric to be raised would be more stable and durable if it should rest on the solid foundation of the people themselves, than if it should stand merely on the pillars of the legislatures.

Mr. Gerry did not like the election by the people. The maxims taken from the British Constitution were often fallacious when applied to our situation which was extremely different. Experience he said had shown that the State legislatures drawn immediately from the people did not always possess their confidence. He had no objection however to an election by the people if it were so qualified that men of honor and character might not be unwilling to be joined in the appointments.

He seemed to think the people might nominate a certain number out of which the State legislatures should be bound to choose.

Mr. Butler thought an election by the people an impracticable mode.

On the question for an election of the first branch of the National Legislature by the people:

Massachusetts, aye; Connecticut, divided; New York, aye; New Jersey, no; Pennsylvania, aye; Delaware, divided; Virginia, aye;

North Carolina, aye; South Carolina, no; Georgia, aye. ("Formation of the United States," p. 125.)

In the final report on Mr. Randolph's plan the Committee of the Whole merely said:

3. Resolved, That the Members of the first branch of the National Legislature ought to be elected by the people of the several States for the term of 3 years. ("United States Formation of the Union," at p. 201.)

And nothing about voting qualifications, leaving this for specific provision in the States.

On Monday, August 6, the Committee of Detail reported finally the following provision:

(Art. IV, sec. 1) The Members of the House of Representatives shall be chosen every second year by the people of the several States comprehended within the Union. The qualifications of the electors shall be the same, from time to time, as those of the electors in the several States of the most numerous branch of their own legislature. (See "United States Formation of the Union" at p. 472.)

It is particularly interesting to turn to the reports of the work of the Committee of Detail to see through what stages article IV, section 1—which is article I, section 2, of our Constitution today—progressed. The very regulations being proposed at this time in this body were suggested in 1787 at the Constitutional Convention and rejected at that time. On June 19 one draft was set forth. It provided:

That the Members of the second Branch of the Legislature of the United States ought to be chosen by the individual legislatures—to be of the age of 30 years at least; to hold their offices for the term of 6 years, one-third to go out biennially; to receive a compensation for the devotion of their time to the public service; to be ineligible to and incapable of holding any office under the authority of the United States (except those peculiarly belonging to the functions of the second Branch) during the term for which they are elected, and for 1 year thereafter." (II Ferrand, "Records of Federal Convention," pp. 129 and 130.)

The next step was as follows:

The qualification of electors shall be the same (throughout the States, viz) with that in the particular States unless the legislature shall hereafter direct some uniform qualification to prevail through the States. (II Farrand, Records of Federal Convention, p. 139.)

(Citizenship; manhood; sanity of mind; previous residence for 1 year, or possession of real property within the State for the whole of 1 year, or enrollment in the militia for the whole of a year.)

Next:

The Members of the House of Representatives shall be chosen biennially by the people of the United States in the following manner. Every freeman of the age of 21 years—having a freehold estate within the United States—who has—having—resided in the United States for the space of 1 whole year immediately preceding the day of election, and has a freehold estate in at least 50 acres of land. ("II Farrand," supra, p. 15.)

Then:

The Members of the House of Representatives shall be chosen every second year—in the manner following—by the people of the several States comprehended within this Union—the time and place and the manner of holding the election and the rules. The qualifications of the electors shall be (appointed) prescribed by the legislatures of the several States; but their provisions—which they shall make concerning them shall be subject to the control of—concerning them may at any time be altered and superseded by the Legislature of the United States. ("II Farrand," supra, p. 153.)

Mr. President, that was a proposal which was made at one time, and I am citing all these various proposals to show how the members of that Convention finally drifted to the provision of the Constitution which is now in that sacred document.

In other words, every form of proposal was presented to the Convention. The one I read last was one in which the National Legislature would have the right to prescribe qualifications, but it was turned down. It was considered by the Convention and the Convention finally drafted that part of article I which is now in the Constitution.

In my mind, any Senator who will take the time to read these excerpts, to read the history of the present article of the Constitution which gives to the States the right to prescribe qualifications of voters, will come unequivocally to the conclusion that this was to be done by the States and not by the Congress. Again, see the next report:

The Members of the House of Representatives shall be chosen every second year, by the people of the several States comprehended within this Union. The qualifications of the electors shall be prescribed by the legislatures of the several States but these provisions concerning them may, at any time, be altered and superseded by the Legislature of the United States—the same from time to time as those of the electors, in the several States, of the most numerous branch of their own legislatures.

That proposition was submitted in debate, and I cite it to show the varying views of the members of the Convention and the manner and method proposed by each of them. I cite it merely to show that I do not believe anyone overlooked any argument. In other words, there was free debate on the entire subject, and everyone knew what it was all about. After long debate the present amendment to the Constitution was finally adopted by the Convention, and later ratified by three-fourths of the 13 States.

Every one of these suggestions was thought of long ago. They were discussed and wisely rejected by the framers of our Constitution, when they finally agreed on the form above set out; that is:

The Members of the House of Representatives shall be chosen every second year by the people of the several States comprehended within this Union. The qualifications of the electors shall be the same, from time to time, as those of the electors in the several States, of the most numerous branch of their own legislatures. (See Farrand, p. 178, art. IV, sec. 1.)

This point, as all others in the much-debated text, was discussed fully. It is interesting to note what such well-informed and brilliant men as Gouverneur Morris; James Wilson, who was a Justice of the United States; Oliver Ellsworth, who was later Chief Justice of the Supreme Court; Colonel Mason; Benjamin Franklin; John Rutledge, who was also a Chief Justice of the United States; and James Madison, thought of the proposed resolution.

I now quote from "Formation of the Union," pages 487, 488, 489, 490, 491, and 492:

Mr. Gouverneur Morris moved to strike out the last member of the section beginning with the words "qualifications of electors," in order that some other provision might be substituted which would restrain the right of suffrage to freeholders.

Mr. Fitzimmons seconded the motion.

Mr. Williamson was opposed to it.

Mr. WILSON. This part of the report was well considered by the committee, and he did not think it would be changed for the better. It was difficult to form any uniform rule of qualifications for all the States. Unnecessary innovations he thought too should be avoided. It would be very hard and disagreeable for the same persons at the same time, to vote for representatives in the State legislature and to be excluded from a vote for those in the National Legislature.

Mr. GOUVERNEUR MORRIS. Such a hardship would be neither great nor novel. The people are accustomed to it and not dissatisfied with it, in several of the States. In some the qualifications are different for the choice of the Governor and the Representatives; in others for different houses of the legislature. Another objection against the clause as it stands is that it makes the qualifications of the National Legislature depend on the will of the States, which he thought not proper.

Mr. Ellsworth thought the qualifications of the electors stood on the most proper footing. The right of suffrage was a tender point, and strongly guarded by most of the State constitutions. The people will not readily subscribe to the National Constitution if it should subject them to the disfranchised. The States are the best judges of the circumstances and temper of their own people.

Colonel MASON. The force of habit is certainly not attended to by those gentlemen who wish for innovations on this point. Eight or nine States have extended the right of suffrage beyond the freeholders, what will the people there say, if they should be disfranchised? A power to alter the qualifications would be a dangerous power in the hands of the legislature.

Mr. BUTLER. There is no right of which the people are more jealous than that of suffrage. Abridgment of it tend to the same revolution as in Holland where they have at length thrown all power into the hands of the senates, who fill up vacancies themselves, and form a rank aristocracy.

Mr. Dickinson had a very different idea of the tendency of vesting the right of suffrage in the freeholders of the country. He considered them as the best guardians of liberty; and the restriction of the right to them as a necessary defense against the dangerous influence of those multitudes without property and without unpopularity of the innovation it was in his opinion chimerical. The great mass of our citizens is composed at the time of freeholders, and will be pleased with it.

Mr. ELLSWORTH. How shall the freehold be defined? Ought not every man who pays a tax to vote for the representative who is to levy and dispose of his money? Shall the wealthy merchants and manufacturers, who will bear the full share of the public burdens be not allowed a voice in the imposition of them—taxation and representation ought to go together.

Mr. GOUVERNEUR MORRIS. He had long learned not to be the dupe of words. The sound of aristocracy therefore had no effect upon him. It was the thing, not the name, to which he was opposed, and one of his principal objections to the Constitution as it is now before us, is that it threatens the

country with an aristocracy. The aristocracy will grow out of the House of Representatives. Give the votes to people who have no property, and they will sell them to the rich who will be able to buy them. We should not confine our attention to the present moment. The time is not distant when this country will abound with mechanics and manufacturers who will receive their bread from their employers. Will such men be the secure and faithful guardians of liberty? Will they be the impregnable barrier against aristocracy? He was as little duped by the association of the words taxation and representation. The man who does not give his vote freely is not represented. It is the man who dictates the vote. Children do not vote. Why? Because they want prudence, because they have no will of their own. The ignorant and the dependent can be as little trusted with the public interest. He did not conceive the difficulty of defining freeholders to be insuperable. Still less that the restriction could be unpopular. Nine-tenths of the people are at present freeholders and these will certainly be pleased with it. As to merchants, and so forth, if they have wealth and value the right they can acquire it. If not they don't deserve it.

Colonel MASON. We all feel too strongly the remains of ancient prejudices, and view things too much through a British medium. A freehold is the qualification in England, and hence it is imagined to be the only proper one. The true idea in his opinion was that every man having evidence of attachment to and permanent common interest with the society ought to share in all its rights and privileges. Was this qualification restrained to freeholders? Does no other kind of property but land evidence a common interest in the proprietor? Does nothing besides property mark a permanent attachment. Ought the merchant, the monied man, the parent of a number of children whose fortunes are to be pursued in his own country, to be viewed as suspicious characters, and unworthy to be trusted with the common rights of their fellow citizens?

Mr. MADISON. The right to suffrage is certainly one of the fundamental articles of republican government, and ought not to be left to be regulated by the legislature—

When he spoke of the legislature he meant Congress—

A gradual abridgment of this right has been the mode in which aristocracies have been built on the ruins of popular forms. Whether the constitutional qualification ought to be a freehold, would with him depend much on the probable reception such a change would meet within the States where the right was now exercised by every description of people. In several of the States a freehold was now the qualification. Viewing the subject in its merits alone, the freeholders of the country would be the safest depositories of republican liberty. In future times a great majority of the people will not only be without land, but any other sort of property. These will either combine under the influence of their common situation; in which case, the rights of property and the public liberty, will not be secure in their hands; or what is more probable, they will become the tools of opulence and ambition, in which case there will be equal danger on another side.

The example of England had been misconceived (by Colonel Mason). A very small proportion of the representatives are there chosen by freeholders.

The greatest part are chosen by the cities and boroughs, in many of which the qualification of suffrage is as low as it is in any one of the United States, and it is in the boroughs and cities rather than the counties that bribery most prevailed, and the influence of the Crown on elections was most dangerously exerted.

Dr. FRANKLIN. It is of great consequence that we should not depress the virtue and public spirit of our common people, of which they displayed a great deal during the war, and which contributed principally to the favorable issue of it. He related the honorable refusal of the American seamen who were carried in great numbers into the British prisons during the war, to redeem themselves from misery or to seek their fortunes, by entering on board the ships of the enemies to their country, contrasting their patriotism with a contemporary instance in which the British seamen made prisoners by the Americans, readily entered on the ships of the latter on being promised a share of the prizes that might be made out of their own country.

This proceeded, he said, from the different manner in which the common people were treated in America and Great Britain. He did not think that the elected had any right in any case to narrow the privileges of the electors. He quoted as arbitrary the British statute setting forth the danger of tumultuous meetings, and under that pretext narrowing the right of suffrage to persons having freeholds of a certain value; observing that this statute was soon followed by another under the succeeding Parliament, subjecting the people who had no votes to peculiar labors and hardships. He was persuaded also that such a restriction as was proposed would give great uneasiness in the populous States. The sons of a substantial farmer, not being themselves freeholders, would not be pleased at being disfranchised, and there are a great many persons of that description.

Mr. MERCER. The Constitution is objectionable in many points, but in none more than the present. He objected to the footing on which the qualification was put, but particularly to the mode of election by the people.

The people cannot know and judge the characters of candidates. The worst possible choice will be made. He quoted the case of the senate in Virginia as an example in point. The people in towns can unite their votes in favor of one favorite, and by that means always prevail over the people of the country, who being dispersed, will scatter their votes among a variety of candidates.

Mr. Rutledge thought the idea of restraining the right of suffrage to the freeholders a very unadvised one. It would create division among the people and make enemies of all those who should be excluded.

On the question for striking out as moved by Gouverneur Morris, from the word qualifications to the end of the article III:

New Hampshire, no; Massachusetts, no; Connecticut, no; Pennsylvania, no; Delaware, aye; Maryland, divided; Virginia, no; North Carolina, no; South Carolina, no; Georgia, not present.

WEDNESDAY, AUGUST 8, IN CONVENTION

Article IV, section 1 being under consideration—Mr. Mercer expressed his dislike of the whole plan, and his opinion that it never could succeed.

Mr GORHAM. He had never seen any inconvenience from allowing such as were not freeholders to vote, though it had long been tried. The elections in Philadelphia, New York, and Boston where merchants and mechanics vote are at least as good as those made by freeholders only. The case in England was not accurately stated yesterday (by Mr. Madison). The cities and large towns are not the seat of Crown influence and corruption. These prevail in the boroughs, and not on account of the right which those who are not freeholders have to vote, but of the smallness of the number who vote. The people have been long accustomed to this right in various parts of America, and will never allow it to be abridged. We must consult their rooted prejudices if we expect their concurrence in our propositions.

Mr. Mercer did not object so much to an election by the people at large including such as were not freeholders, as to their being left to make their choice without any guidance. He hinted that candidates ought to be nominated by the State legislatures.

On the question of agreeing to article IV, section 1, it passed nem. con. (Quoted from "U.S. Formation of the Union," p. 487.)

How timely this discussion is today. How true and to the point. I have no need to search for reasons or to manufacture a logician's arguments. I need only take the very words of men whom history has stamped with greatness and foresight to prove my position.

I repeat some of these well-considered words, in fact, I delight to dwell upon their wisdom.

The right of suffrage was a tender point, and strongly guarded by most of the State constitutions.

The States are the best judges of the circumstances and temper of their own people.

A power to alter the qualifications would be a dangerous power in the hands of the legislature (referring to the National Legislature).

Particularly note what Benjamin Franklin, noted for his practical, earthy, commonsense, said:

He did not think that the elected had any right in any case to narrow the privileges of the electors.

Turning now from the remarkable document of James Madison, recording the activities of the Constitutional Convention, to the notes of Rufus King, a delegate from Massachusetts to the Constitutional Convention, corroborating the Madison papers, here is King's record of the debate over the clause, "electors to be the same as those of the most numerous branch of the State legislature."

Morris proposed to strike out the clause and to leave it to the State legislatures to establish the qualification of the electors and elected, or to add a clause giving to the National Legislature powers to alter the qualifications.

Mr. ELLSWORTH. If the legislature can alter the qualifications, they may disqualify three-fourths, or a greater portion of the electors—this would go far to create aristocracy. The clause is safe as it stands—the States have staked their liberties on the qualifications which we have proposed to confirm.

Mr. DICKINSON. It is urged that to confine the right of suffrage to the freeholders is a step toward the creation of an aristocracy. This cannot be true. We are all safe by trusting the owners of the soil; and it will not be unpopular to do so, for the freeholders are the more numerous class. Not from freeholders, but from those who are not freeholders, free governments have been endangered. Freeholds are by our laws of inheritance divided among the children of the deceased, and will be parceled out among

all the worthy men of the State; the merchants and mechanics may become freeholders; and without being so, they are electors of the State legislatures, who appoint the Senators of the United States.

Mr. ELLSWORTH. Why confine the right of suffrage to freeholders? The rule should be that he who pays and is governed, should be an elector. Virtue and talents are not confined to the freeholders, and we ought not to exclude them.

Mr. MORRIS. I disregard sounds and am not alarmed with the word "aristocracy," but I dread the thing and will oppose it, and for this reason I think that I shall oppose this Constitution because it will establish an aristocracy. There cannot be an aristocracy of freeholders if they all are electors. But there will be, when a great and rich man can bring his poor dependents to vote in our elections—unless you establish a qualification of property, we shall have an aristocracy. Limit the right of suffrage to freeholders, and it will not be unpopular, because nine-tenths of the inhabitants are freeholders.

Mr. MASON. Everyone who is of full age and can give evidence of his common interest in the community should be an elector. By this rule, freeholders alone have not his common interest. The father of a family, who has no freehold, has this interest. When he is dead his children will remain. This is a natural interest or bond which binds men to their country—lands are but an artificial tie. The idea of counting freeholders as the true and only persons to whom the right of suffrage should be confided is an English prejudice. In England, a Twig and Turf are the electors.

Mr. MADISON. I am in favor of entrusting the right of suffrage to freeholders only. It is a mistake that we are governed by English attachments. The Knights of the Shires are chosen by freeholders, but the members of the cities and boroughs are elected by freemen without freeholds, and who have as small property as the electors of any other country. Where is the crown influence seen, where is corruption in the elections practiced—not in the countries but in the cities and boroughs.

Mr. FRANKLIN. I am afraid that by depositing the right of suffrage in the freeholders exclusively we shall injure the lower class of freeman. This class possess hardy virtues and great integrity. The Revolutionary War is a glorious testimony in favor of Plebeian virtue—our military and naval men are sensible of this truth. I myself know that our seamen who were prisoners in England refused all the allurements that were made use of, to draw them from their allegiance to their country—threatened with ignominious halters, they still refused.

This was not the case with the English seamen, who on being made prisoners entered into the American service and pointed out where other prisoners could be made—and this arose from a plain cause. The Americans were all free and equal to any of their fellow citizens—the English seamen were not so. In ancient times every freeman was an elector, but afterward England made a law which required that every elector should be a freeholder. This law related to the county elections—the consequence was that the residue of the inhabitants felt themselves disgraced, and in the next Parliament a law was made, authorizing the justice of the peace to fix the price of labor and to compel persons who were not freeholders to labor for those who were, at a stated rate, or to be put in prison as idle vagabonds. From this period the common people of England lost a great portion of attachment to their country.

WEDNESDAY, AUGUST 8—QUALIFICATIONS OF ELECTORS OF REPRESENTATIVES

Mr. GORHAM. The qualifications (being such as the several States prescribe for electors of their most numerous branch of the legislature) stand well.

Gentlemen are in error, who suppose the electors of cities may not be trusted. In England the members chosen in London, Bristol, and Liverpool are as independent as the members of the counties of England. The Crown has little or no influence in city election, but has great influence in boroughs, where the votes of freeholders are bought and sold. There is no risk in allowing the merchants and mechanics to be electors; they have been so time immemorial in this country and in England. We must not disregard the habits, usages and prejudices of the people (pp. 873, 874, 875, to top p. 876).

This debate, with the resulting provisions duly considered, was again recorded by Dr. James McHenry, delegate from Maryland. See "United States Formation of the Union," pages 934 and 935.

When all the views were aired, and the pros and cons of leaving the qualifications of voters for the National Legislature to be decided by the several States had been debated, the considered result was article I, section 2, of the Constitution of the United States, adopted September 17, 1787:

The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

Every word of that provision had been torn apart in open discussion, until there can be no possible doubt that it was the intention of the framers of the Constitution to leave to State control the field of voting qualifications.

In submitting the Constitution, Dr. Samuel Johnson, the Delegate from Connecticut, added to it the following letter:

The friends of our country have long seen and desired that the power of making war, peace, and treaties, that of levying money and regulating commerce, and the correspondent executive and judicial authorities should be fully and effectually vested in the General Government of the Union; but the impropriety of delegating such extensive trust to one body of men is evident—thence results the necessity of a different organization.

It is obviously impracticable in the Federal Government of these States to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all. Individuals entering into society must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstance, as on the object to be obtained. It is at all times difficult to draw with precision the line between those rights which must be surrendered and those which may be reserved; and on the present occasion this difficulty was increased by a difference among the several States as to their situation, extent, habits, and particular interest.

In all our deliberations on this subject we kept steadily in our view that which appeared to us the greatest interest of every true American, the consolidation of our Union, in which is involved our prosperity, felicity, safety, perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each State in the Convention to be less rigid in points of inferior magnitude than might have been otherwise expected, and thus the Constitution, which we now present, is the result of a spirit of amity and of that mutual deference and concession which the peculiarity of our political situation rendered indispensable. That it will meet the full and entire approbation of every State is not perhaps to be expected, but each will doubtless consider that had her interest alone been consulted the consequences might have been particularly disagreeable and injurious to others; that it is liable to as few exceptions as could reasonably have been expected, we hope and believe; that it may promote the lasting welfare of that country so dear to us all, and secure her freedom and happiness, is our most ardent wish. (P. 713, "Formation of the United States.")

Thus we see that at a time when all rights of independent sovereignty could not be secured to each State, when the interest of each State alone could not be considered, when the greatest interest of every American was the consolidation of the Union, even then, when the line was drawn between the rights which had to be surrendered and those which would be reserved, the right to determine the qualification of voters was reserved to each State.

A comment on this is found in McCulloch. "Suffrage and Its Problems," at page 30:

When the more perfect union was formed under the Constitution of the United States, each State had the right to frame its own laws respecting suffrage. Hence article V was carried over into the new Constitution and became article I, section 2: The franchise for the election of the Members of the House of Representatives shall in every State be the same as for the "most numerous branch of the State legislature." The Constitution did not disturb the diversities of suffrage regulations existing in the several Commonwealths: It adopted them. For the Constitution to have been anything but silent on the regulations of suffrage would have been an innovation, and, as Viscount Bryce observed, the members of the Constitutional Convention were too sound political scientists to ignore precedents. Only in three amendments (and only directly in the 15th and 19th) has the Constitution trenched on the Commonwealth right to regulate suffrage—and even then under extraordinary circumstances (McCulloch, p. 30, par. beginning "When," through 1st par. on p. 31).

These amendments I shall discuss later, when I have fully covered the formative period.

McCulloch, further commenting, says:

While there has been a revolution in the conception of citizenship, there was no such change in the regulation of suffrage, the determining and regulating power continued to rest with the States. However, much as publicists and reformers may desire a uniform national suffrage law, it is unattainable; expediency and constitutionality are both adverse. In fact such a plan was considered by the Constitutional Convention itself, but it received the vote of only one Commonwealth—Delaware. "The provision made by the convention appears to be the best that lay within their option." The "fathers" were satisfied for the States to continue to make their own suffrage tests, rather than to further prolong the convention and so further endanger the rather slim chances of ratification by the several Com-

monwealths. The prospect in the convention itself was anything but promising. Even Franklin moved to call in a person that they might invoke the "assistance of Heaven."

The Constitution conferred the franchise on no one. Likewise citizenship does not bestow suffrage, either upon the natural born or the naturalized alien. The several States have the unqualified right to impose qualifications and regulate suffrage subject only to the limitations in the amendments referred to above. In handing down the decision in the case of *Corfield* v. *Coryell*, Judge Washington in enumerating the privileges and immunities that are usually associated with citizenship, said: "To which is to be added the elective franchise, as regulated and established by the laws or constitutions of the State in which it is exercised." (McCulloch, "Suffrage and Its Problems," p. 32, paragraph starting "while" to end of paragraph on p. 33, starting with line 6, word "The Const." through word "exercised" line 18, p. 33.)

Also note what Hart says in his "Formation of the Union," at pages 136–137:

The real boldness of the Constitution is the novelty of the Federal system which it set up.

This was the best of the few elaborate written constitutions ever applied to a federation; and the details were so skillfully arranged that the instrument framed for 13 little agricultural communities works well today for 48 large and populous States. * * * The Convention knew how to select institutions that would stand together; it also knew how to reject what would have weakened the structure.

It was a long time before a compromise between the discordant elements could be reached. To declare the country a centralized nation would destroy the traditions of a century and a half; to leave it an assemblage of States, each claiming independence and sovereignty, would throw away the results of the Revolution. The Convention finally agreed that while the Union should be endowed with adequate powers, the States should retain all powers not specifically granted, and particularly the right to regulate their own internal affairs. ("Formation of Union," p. 137, paragraph beginning "it was" through paragraph word "affairs.")

Mr. President, for over 2½ hours I have been citing The Federalist and other works pertaining to the U.S. Constitution. As I have pointed out during the course of this discussion, every conceivable argument was advanced as to the best method of determining who should or should not declare or define the qualifications of voters when our Constitution was being considered. Every method that could be conceived was suggested and discussed at the Convention.

As I have pointed out, some effort was even made to leave to Congress the right to decide who shall or shall not vote. Specific provisions were submitted to the Convention so as to make that possible.

But what did the Convention finally do? It adopted the language now in the Constitution which leaves it to the individual States to determine voter qualification. That concept was confirmed in 1913, when the constitutional amendment providing for the election of U.S. Senators by popular vote rather than by the State legislatures—was adopted. This makes it abundantly clear that the right of voter qualification remains with the individual States.

So, Mr. President, if Members of the Senate desire to sustain their oath of office, I hope they will vote against this measure. What is more I certainly hope they will not vote in favor of invoking cloture.

(At this point Mr. METCALF assumed the Chair as Presiding Officer.)

TAX DELINQUENCIES

Mr. WILLIAMS of Delaware. Mr. President, today I present the eighth annual report on delinquent Federal taxes. This report is rendered as of December 31, 1961, and as in preceding years is broken down; first, to show the delinquencies in employment taxes, and second, to show the total of all delinquent Federal taxes, including employment.

Under the term employment taxes are included withheld income taxes, social security taxes, unemployment taxes, railroad retirement, etc.

The total of all types of tax delinquencies for the United States as of December 31, 1961, was $1,063,248,000 as compared to $1,072,440,000 on December 31, 1960. This compares with a total of $1,614,494,000 in 1954—the first year in which these statistics were assembled.

While this is less than a 1-percent drop over last year, nevertheless it does represent another alltime low in total tax delinquencies since these statistics were first compiled in 1954.

On the other hand I am greatly concerned by the lack of progress which has been made in reducing the amount of delinquent employment taxes. Employment taxes represent cash which is withheld by the employer from the pay envelopes of his employees to cover their income and social security tax liabilities, etc. This money, withheld by employers from their employees, does not belong to the employers, and there can be no justification for any employer's diverting these funds to his own use or to the use of his business. These are in effect trust funds and should be so treated; therefore, it is a matter of concern to find that the amount of delinquent employment taxes as of December 31, 1961, had risen to $268,465,000, representing an increase of 13 percent of last year's total of $236,843,000.

When these employment tax delinquencies are broken down by districts some of them show an alarming increase over last year's report. For example, on December 31, 1961, seven offices reported an increase in excess of 50 percent in their delinquent employment taxes. Sixteen offices reported increases of between 25 percent and 50 percent in employment tax delinquencies, while 19 other offices showed increases of between 10 percent and 25 percent in the dollar volume of delinquent employment taxes. Only two offices reported reductions in employment tax delinquencies for 1961 in excess of 25 percent.

I am proud to state that Wilmington, Del., reduced its employment tax delinquencies during the past year by 40 percent and its total tax delinquencies by 4 percent. Springfield, Ill., reduced its delinquent employment tax accounts by 25 percent, but its total tax delinquencies rose 5 percent. Five other offices last year showed reductions of between 10 percent and 25 percent in the dollar volume of their employment tax delinquencies.

First, I shall list the seven offices which reported an increase in excess of 50 percent in their employment tax delinquencies for 1961.

Pittsburgh, Pa.: In this office 7,179 employers were reported as delinquent in forwarding their employment taxes in the amount of $6,091,000. This represented a 59 percent increase over last year's report, and it established a new 8-year high in delinquent employment taxes for that office.

Indianapolis, Ind.: This office reported an 83 percent increase in its delinquent employment taxes, bringing total dollar delinquencies to $5,643,000. Not only does this represent a new high in delinquent employment taxes for Indianapolis, but it is more than double the delinquencies for that office 8 years ago. Also, total tax delinquencies in this office during the last year rose 40 percent.

Jackson, Miss.: Jackson, Miss., reported an increase of 58 percent in delinquent employment taxes for 1961, bringing its delinquent employment tax accounts to $1,267,000. This again is an all-time high and nearly double its preceding record. During 1961 total tax delinquencies in Jackson jumped 40 percent.

Nashville, Tenn.: Delinquent employment taxes in Nashville jumped 74 percent last year or from $1,142,000 on December 31, 1960, to $1,993,000 on December 31, 1961, again establishing a new high.

Omaha, Nebr.: Delinquent employment taxes in Omaha, Nebr., established a new high in 1961, rising 74 percent over the preceding year.

Little Rock, Ark.: Little Rock, Ark., joined the parade of those establishing all-time highs in delinquent taxes in both categories by reporting an increase of 72 percent over 1960 in employment tax delinquencies and an increase of 6 percent in total tax delinquencies.

Honolulu, Hawaii: Delinquent employment taxes in Honolulu, likewise established a new high in 1961, showing a jump of 50 percent over last year's report. What is equally alarming is that total tax delinquencies for this same office jumped a shocking 179 percent last year.

Sixteen offices reported increases of between 25 and 50 percent in the dollar amount of their employment tax delinquencies. They are as follows:

Boston, Mass.: Boston, on December 31, 1961, reported delinquent employment taxes in the amount of $13,455,000, or an increase of 41 percent over the preceding year. This established a new high in delinquent employment taxes for that office. During the same period total tax delinquencies rose 9 percent.

Providence, R.I.: Providence likewise reported a new high in delinquent employment tax accounts, or an increase of 46 percent over the preceding year. Total tax delinquencies in Providence last year jumped 163 percent over the preceding year.

Albany, N.Y.: Albany reported a 43-percent increase in its employment tax

delinquencies as compared with the preceding year.

Baltimore, Md.: Baltimore reported a 44-percent increase in the dollar volume of delinquent employment taxes for last year.

Philadelphia, Pa.: Employment tax delinquencies on December 31, 1961, showed an increase of 38 percent over delinquencies reported on December 31, 1960.

Cincinnati, Ohio: Cincinnati is another office which established an 8-year high in employment tax delinquencies, showing a rise of 36 percent over the report for 1960. In the previous year—1960—delinquent employment taxes in Cincinnati had risen 58 percent. Total tax delinquencies in Cincinnati did show a drop of 7 percent in 1961.

Richmond, Va.: Richmond reports a new high in delinquent employment taxes, showing a jump of 49 percent last year. This brings the total employment tax delinquencies for that office on December 31, 1961, to $3,693,000.

Greensboro, N.C.: Delinquent employment taxes for the Greensboro office rose 30 percent last year over the preceding year's report, thus establishing an 8-year high, but during the same period total tax delinquencies dropped 22 percent, establishing a new low.

St. Louis, Mo.: Delinquent employment taxes in St. Louis on December 31, 1961, were reported at $1,247,000, or a 30-percent increase over the preceding year.

Dallas, Tex.: Delinquent employment taxes in 1961 in Dallas rose to a new high, with a 48 percent increase over the preceding years. This brings the total employment tax delinquencies for that office to $5,918,000 on December 31, 1961. In the same period total tax delinquencies rose 13 percent.

New Orleans, La.: Employment tax delinquencies in the New Orleans office established a new high, showing an increase of 45 percent in 1961 over the preceding year, thus bringing its employment tax delinquencies on December 31, 1961, to $3,041,000. Total tax delinquencies for New Orleans in 1961 rose 19 percent over the preceding year.

Helena, Mont.: In Helena, Mont., delinquent employment taxes rose 37 percent in 1961 on top of an 86-percent increase for the year 1960, thus bringing its total delinquent employment taxes on December 31, 1961, to $1,022,000, or more than double the delinquent employment taxes reported 8 years ago—when these reports were first assembled. Total tax delinquencies in Helena rose 12 percent in 1961.

Los Angeles, Calif.: The Los Angeles office likewise reported an alarming increase in employment tax delinquencies by showing on December 31, 1961, an increase of 40 percent over the preceding year's report. This brings the employment tax delinquencies for Los Angeles to $28,692,000. During 1961 its total tax delinquencies rose to 17 percent to an 8-year high, or to a total of $92,954,000.

Portland, Oreg.: Portland was another office establishing a new high in delinquent employment taxes, rising from $2,248,000 on December 31, 1960, to $2,879,000 on December 31, 1961, or an increase of 28 percent over 1960. Total tax delinquencies for Portland, however, dropped 13 percent last year.

International operations—includes accounts for those living abroad, the military, resident, and nonresident aliens, foreign corporations, et cetera: Under this classification there is another alarming increase reported for the year 1961. It shows a 40-percent rise in delinquent employment taxes for last year on top of an increase of 180 percent in 1960, an increase of 45 percent in 1959, and an increase of 73 percent in 1958. This means that delinquent employment taxes under the classification "International operations" have increased over 400 percent in the last 6 years in which its report has been separated.

Puerto Rico: Delinquent employment tax accounts in Puerto Rico likewise need attention. They have jumped 32 percent last year on top of an increase of 64 percent in 1960. On December 31, 1961, this office showed an increase of nearly 400 percent in its employment tax delinquencies as compared to its report 8 years ago.

Nineteen other offices showed increases of between 10 percent and 25 percent in their delinquent employment taxes on December 31, 1961, as compared with the preceding year, while only seven offices reported reductions in excess of 10 percent in the dollar volume of their delinquent employment taxes.

I cannot emphasize too strongly the importance of keeping these delinquent employment taxes at a minimum. We must not lose sight of the point that they represent money withheld from the pay envelopes of the employees. They in effect are trust funds, and under no circumstances does an employer have a right to divert these funds for his own personal use.

At this point I ask unanimous consent to have printed in the RECORD a letter dated March 8, 1962, signed by Mr. Bertrand M. Harding, in which he explains some of these increases, followed by a detailed breakdown of delinquent accounts of each of the district offices for the past 8 years.

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

U.S. TREASURY DEPARTMENT,
INTERNAL REVENUE SERVICE,
Washington, D.C., March 8, 1962.

Hon. JOHN J. WILLIAMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: This will give you the annual report on our taxpayer delinquent account inventories requested in your letter of February 1, 1962.

I think it is significant to note that the trend is again down in the matter of total dollars outstanding. In fact, our gain this year was sufficient to more than offset the modest loss in ground of a year ago, with the result that the dollar inventory is now lower than it has been in any recent year. We feel that this is particularly noteworthy since it was brought about in a year when our issuance figures were particularly high. Actually, in the trust fund area, the year-end figures are inflated.

The latter statement, of course, needs some explanation. Here I would like to point out that shortly after the first of the year, we instituted a program aimed at accelerating contact with those employers who file their employment tax returns unaccompanied by required payments. The issuance of taxpayer delinquent accounts has now been stepped up by about a month in the case of those who do not respond to our initial demand for payment. As a result, some 36,000 employment tax accounts normally issued in January were actually issued in December and appear as an abnormal increase in our 1961 yearend inventory. Except for this program, we would have increased our employment tax inventories of a year ago only slightly. As a matter of interest, our current inventory for all classes of tax is lower both in number and amount than at the same time last year.

The vigor of our collection enforcement program is evidenced by increases in closures of delinquent accounts—up 323,000 or 11.8 percent over 1960, as well as in the money represented by these closures—up $124.3 million or 8.8 percent over 1960.

The table which follows is a summary as of December 31, 1960 and 1961 of the taxpayer delinquent account inventory broken down as to those in an active and an inactive status. As we have previously advised you, inactive accounts are those on which collection action has been deferred pending the outcome of court decisions, audit examinations or other contingent actions:

Amount

[Thousands]

	Active	Inactive	Total
Dec. 31, 1960	$649,243	$423,197	$1,072,440
Dec. 31, 1961	637,328	425,920	1,063,248
Change from Dec. 31, 1960 to 1961	−11,915	+2,723	−9,192
Percent of change	−1.8	+0.6	−0.9

Number

	Active	Inactive	Total
Dec. 31, 1960	934,994	88,776	1,023,770
Dec. 31, 1961	972,400	99,260	1,071,660
Change from Dec. 31, 1960 to 1961	+37,406	+10,484	+47,890
Percent of change	+4.0	+11.8	+4.7

The inactive accounts are shown in the columns to the right in the attached tabulation. As in previous years, however, the figures reported in the columns under the various tax groups include those in the inactive category. All offices were current in their issuances as of December 31, with the result that the table includes all accounts that were in a delinquent status as of that date.

In closing, we would like to assure you that the delinquent account situation will receive our continuing attention. We believe it is already beginning to respond to the measures we have adopted. Although issuances of delinquent accounts have been so heavy that we have had to concentrate most of our collection enforcement manpower on delinquent account collections during the past year, we hope soon to be able to put more of our manpower on returns compliance activity. We are committed to a balanced, well-rounded program aimed at bringing about maximum voluntary compliance with both the filing and paying requirements as well as with all other provisions of the internal revenue laws.

With kind regards,

Sincerely,

BERTRAND M. HARDING,
Acting Commissioner.

Delinquent taxes

District	Year	Employment tax		Percent change over previous year	Total taxes		Percent change over previous year
		Number	Amount		Number	Amount	
			Thousands			*Thousands*	
Augusta, Maine	1954	1,145	$665		3,478	$2,582	
	1955	1,119	489	−26.4	3,018	1,915	−25.8
	1956	1,138	543	+11.0	3,582	1,489	−22.2
	1957	1,185	543		4,027	2,032	+36.4
	1958	1,176	588	+8.2	3,986	1,569	−22.7
	1959	889	815	+38.6	2,992	3,842	+144.8
	1960	1,003	851	+4.4	3,242	3,565	−7.2
	1961	1,715	977	+14.7	4,361	3,857	+8.1
Boston, Mass	1954	15,058	11,226		57,082	41,306	
	1955	11,122	10,000	−10.9	39,723	37,835	−8.4
	1956	9,477	9,632	−3.6	36,337	36,896	−2.4
	1957	8,826	8,597	−10.7	36,239	30,255	−17.9
	1958	9,372	8,456	−1.6	34,992	34,107	+12.7
	1959	8,837	8,586	+1.5	30,952	31,601	−7.3
	1960	9,595	9,531	+11.0	31,389	33,512	+6.0
	1961	12,411	13,455	+41.1	35,486	36,658	+9.3
Burlington, Vt	1954	619	241		1,424	644	
	1955	441	145	−39.8	1,245	409	−36.4
	1956	421	201	+38.6	1,714	685	+67.4
	1957	510	236	+17.4	1,936	604	−11.8
	1958	762	322	+36.4	2,514	1,009	+67.0
	1959	373	200	−37.8	1,601	722	−28.4
	1960	658	396	+98.0	1,807	876	+21.3
	1961	769	370	−6.5	2,054	937	+6.9
Hartford, Conn	1954	4,232	2,831		22,554	15,271	
	1955	5,079	3,298	+16.4	21,219	15,348	+.5
	1956	4,079	3,202	−2.9	21,783	11,445	−25.4
	1957	5,156	4,317	+34.8	23,188	14,572	+27.3
	1958	4,836	4,370	+1.2	22,122	14,402	−1.1
	1959	3,885	3,413	−21.8	16,149	13,077	−9.2
	1960	5,610	4,973	+45.7	18,172	13,380	+2.3
	1961	6,771	5,313	+6.8	20,977	13,920	+4.0
Portsmouth, N.H	1954	1,017	460		2,854	3,252	
	1955	840	310	−32.6	2,347	2,179	−32.9
	1956	829	315	+1.6	3,144	1,948	−10.6
	1957	718	347	+10.1	2,556	1,018	−47.7
	1958	779	307	−11.5	2,785	911	−10.5
	1959	511	266	−13.3	2,006	744	−18.3
	1960	538	357	+34.2	2,628	979	+31.5
	1961	547	314	−12.0	2,107	905	−7.5
Providence, R.I	1954	1,847	1,204		8,060	7,389	
	1955	1,259	894	−25.7	5,985	7,173	−2.9
	1956	1,874	1,254	+40.2	7,329	6,041	−15.7
	1957	2,447	1,358	+8.2	7,169	3,331	−44.8
	1958	2,234	1,383	+1.8	6,828	3,421	+2.7
	1959	1,960	1,243	−10.1	5,551	2,864	−16.2
	1960	1,935	1,303	+4.8	5,381	2,760	−3.6
	1961	2,693	1,907	+46.3	5,922	7,275	+163.5
Albany, N.Y	1954	4,679	3,559		13,822	15,061	
	1955	4,770	3,454	−2.9	14,246	11,274	−25.1
	1956	3,818	3,368	−2.4	14,296	11,142	−1.1
	1957	3,960	3,366		15,598	12,223	+9.7
	1958	4,177	3,200	−4.9	13,413	8,988	−26.4
	1959	3,014	2,074	−35.1	9,233	8,397	−6.5
	1960	2,698	2,044	−1.4	9,384	6,912	−17.6
	1961	3,666	2,925	+43.1	10,663	7,338	+6.1
Brooklyn, N.Y	1954	28,903	18,534		88,274	106,522	
	1955	37,482	24,523	+32.3	100,932	133,339	+25.1
	1956	33,648	23,624	−3.6	105,604	129,428	−2.9
	1957	35,112	24,882	+5.3	108,819	125,382	−3.1
	1958	28,275	21,773	−12.4	83,173	90,776	−27.6
	1959	22,196	18,637	−14.4	62,176	75,461	−16.8
	1960	13,658	14,431	−22.5	41,091	60,670	−19.6
	1961	11,743	13,588	−5.8	38,621	58,504	−3.5
Buffalo, N.Y	1954	4,664	2,351		21,869	12,368	
	1955	4,756	2,916	+24.0	18,203	12,058	−2.5
	1956	4,141	2,778	−4.7	20,172	12,309	+2.0
	1957	4,836	3,436	+23.6	19,184	12,869	+4.5
	1958	4,031	2,969	−13.5	17,021	10,174	−20.9
	1959	3,128	2,508	−15.5	10,655	7,961	−21.7
	1960	3,395	2,666	+6.2	9,089	6,786	−14.7
	1961	3,255	2,218	−16.8	10,727	5,772	−14.9
Lower Manhattan (2 New York).	1954	22,636	17,622		48,155	171,309	
	1955	25,952	20,573	+16.7	53,341	169,476	−1.0
	1956	19,669	21,087	+2.4	44,725	153,697	−9.3
	1957	17,600	18,495	−12.2	36,963	124,178	−19.2
	1958	13,497	13,689	−25.9	30,560	117,290	−5.5
	1959	10,081	13,867	+1.3	20,980	73,946	−36.9
	1960	(1)	(1)	(1)	(1)	(1)	(1)
Upper Manhattan (3 New York).	1954	24,420	26,447		67,328	158,538	
	1955	31,922	32,691	+23.6	109,567	195,098	+23.0
	1956	33,586	31,514	−3.6	124,641	202,676	+3.8
	1957	32,259	32,466	+3.0	121,388	176,094	−13.1
	1958	30,135	32,199	−.8	116,608	182,180	+3.4
	1959	19,616	21,505	−33.2	78,620	120,370	−33.9
	1960	(2)	(2)	(2)	(2)	(2)	(2)
Manhattan (New York)	1960	24,325	32,750	−7.4	81,025	149,762	−22.9
	1961	22,607	28,346	−13.4	68,863	115,918	−22.5
Syracuse, N.Y	1954	3,046	1,552		12,486	5,650	
	1955	2,565	1,664	+7.2	9,308	5,395	−4.5
	1956	3,341	2,019	+21.3	13,955	6,443	+19.4
	1957	4,593	2,411	+19.4	16,618	5,921	−8.1
	1958	2,974	2,044	−15.2	11,859	5,415	−8.5
	1959	2,185	1,841	−9.9	7,287	5,550	+2.4
	1960	2,584	1,917	+4.1	8,555	5,226	−5.8
	1961	3,270	2,146	+11.9	9,649	5,338	+2.1
Baltimore (Maryland and District of Columbia).	1954	12,249	$6,296		120,870	$68,663	
	1955	9,577	5,733	−8.9	95,861	62,497	−8.9
	1956	6,963	4,402	−23.2	60,642	42,778	−31.5
	1957	7,246	5,100	+15.8	44,982	36,069	−15.6
	1958	5,965	4,010	−21.3	32,469	25,705	−28.7
	1959	3,560	2,739	−31.6	29,066	17,133	−33.3
	1960	4,662	3,014	+10.0	32,941	23,106	+34.8
	1961	6,485	4,341	+44.0	37,783	23,390	+1.2
Camden, N.J	1954	3,526	2,090		16,986	10,638	
	1955	3,684	2,657	+27.1	16,958	16,896	+58.8
	1956	4,709	2,950	+11.0	19,659	14,015	−17.0
	1957	4,876	3,590	+21.6	19,376	14,881	+6.1
	1958	4,379	4,194	+16.8	16,187	15,040	+1.0
	1959	2,700	1,984	−52.6	10,848	8,580	−42.9
	1960	3,445	2,852	+43.7	11,952	10,745	+25.2
	1961	4,070	3,308	+15.9	14,654	11,883	+10.5
Newark, N.J	1954	37,438	24,083		122,953	92,962	
	1955	23,673	22,244	−7.6	84,883	79,793	−14.1
	1956	17,240	18,193	−18.2	71,578	79,913	+.1
	1957	14,575	17,170	−5.6	55,722	55,667	−30.3
	1958	10,929	13,291	−22.5	36,048	44,825	−19.4
	1959	8,169	10,160	−23.5	30,459	38,527	−14.0
	1960	9,432	11,998	+18.0	39,146	37,731	−2.0
	1961	10,347	12,441	+3.6	37,028	37,905	+.4
Philadelphia, Pa	1954	18,014	15,700		95,824	63,450	
	1955	17,918	17,060	+8.6	87,594	74,744	+17.7
	1956	11,923	12,342	−27.6	55,994	66,115	−11.5
	1957	7,564	10,317	−16.4	42,254	48,455	−26.7
	1958	5,816	8,944	−13.3	29,852	42,563	−12 1
	1959	4,387	6,274	−29.8	21,134	34,203	−19.6
	1960	5,222	7,515	+19.7	26,953	36,874	+7.8
	1961	9,095	10,393	+38.2	29,948	34,577	−6.2
Pittsburgh, Pa	1954	4,880	3,800		40,973	28,955	
	1955	6,651	5,079	+33.6	34,891	30,144	+4.1
	1956	5,251	4,858	−4.3	28,534	23,103	−23.3
	1957	4,592	3,583	−26.2	21,759	15,683	−32.1
	1958	5,976	4,569	+27.5	27,821	17,374	+10.7
	1959	3,998	3,206	−29.8	20,494	12,386	−28.7
	1960	4,301	3,823	+19.2	19,233	16,849	+36.0
	1961	7,179	6,091	+59.3	26,104	19,934	+18.3
Scranton, Pa	1954	2,134	2,345		9,414	7,948	
	1955	1,743	2,324	−.8	6,659	7,233	−8.9
	1956	1,397	2,220	−4.4	4,975	6,516	−9.8
	1957	1,547	2,127	−4.1	5,096	8,075	+23.9
	1958	1,598	1,655	−22.1	5,393	6,196	−23.2
	1959	1,563	1,421	−14.1	4,897	5,931	−4.2
	1960	1,585	1,679	+18.1	4,841	3,900	−34.2
	1961	2,016	1,907	+13.5	5,439	5,192	+33.1
Wilmington, Del	1954	571	303		5,460	22,009	
	1955	683	327	+7.5	4,586	3,639	−83.4
	1956	621	301	−7.9	5,522	3,722	+2.2
	1957	522	272	−9.6	4,817	3,811	+2.3
	1958	331	347	+27.5	3,706	3,296	−13.5
	1959	325	184	−46.9	3,435	2,043	−38.0
	1960	695	415	+125.5	3,743	2,701	+32.2
	1961	516	248	−40.2	3,717	2,591	−4.0
Columbus, Ohio	1954	1,207	594		13,054	6,652	
	1955	1,290	657	+10.6	11,010	6,624	−.4
	1956	1,517	845	+28.6	12,340	9,972	+50.5
	1957	1,625	878	+3.9	13,217	9,079	−8.9
	1958	1,714	1,087	+23.8	12,916	10,244	+12.6
	1959	904	681	−37.3	6,917	6,433	−37.2
	1960	(3)	(3)	(3)	(3)	(3)	(3)
Cincinnati, Ohio	1954	3,431	1,784		26,545	15,128	
	1955	3,630	1,947	+9.0	24,423	12,685	−16.1
	1956	3,060	1,801	−7.4	22,534	11,410	−10.0
	1957	3,349	1,980	+9.9	24,995	10,228	−10.3
	1958	2,764	1,529	−22.7	16,539	9,681	−5.3
	1959	1,886	1,273	−16.7	8,652	6,916	−28.5
	1960	5,015	3,102	+58.7	23,794	16,245	+21.6
	1961	5,212	4,243	+36.7	21,184	15,038	−7.4
Toledo, Ohio	1954	929	392		6,072	3,317	
	1955	785	393	+.2	4,855	2,896	−12.6
	1956	1,078	617	+56.9	6,277	2,471	−14.6
	1957	980	633	+2.5	6,328	3,180	+28.6
	1958	981	500	−21.0	6,449	2,373	−25.3
	1959	1,396	772	+54.4	5,426	4,495	+89.4
	1960	(4)	(4)	(4)	(4)	(4)	(4)
Cleveland, Ohio	1954	7,958	5,272		49,841	42,963	
	1955	8,720	5,523	+4.7	46,546	35,547	−17.2
	1956	8,219	5,924	+7.2	39,521	42,590	+19.8
	1957	7,431	5,788	−2.2	37,631	36,371	−14.6
	1958	5,951	3,794	−34.4	26,206	29,076	−20.0
	1959	4,777	3,021	−20.3	16,291	21,195	−27.1
	1960	6,444	4,351	+14.7	26,993	24,311	−5.3
	1961	6,579	4,899	+12.5	26,165	27,511	+13.1
Indianapolis, Ind	1954	3,420	2,477		23,475	19,133	
	1955	4,767	2,953	+19.2	22,273	20,760	+8.5
	1956	3,959	3,120	+5.6	20,007	20,574	−.8
	1957	4,667	3,386	+8.5	19,952	21,993	+6.8
	1958	3,594	2,907	−14.1	15,511	16,397	−25.4
	1959	2,889	2,376	−18.2	10,164	13,072	−20.2
	1960	4,278	3,070	+29.2	14,577	13,992	+7.0
	1961	5,337	5,643	+83.8	15,290	19,682	+40.6
Louisville, Ky	1954	2,019	1,035		12,161	11,834	
	1955	2,934	1,228	+18.6	12,963	13,172	+11.3
	1956	2,457	1,343	+9.3	12,331	12,930	−1.2

[1] Merged with Upper Manhattan as "Manhattan."
[2] Merged with Lower Manhattan as "Manhattan."
[3] Merged with Cincinnati.
[4] Merged with Cleveland.

Delinquent taxes—Continued

District	Year	Employment tax		Percent change over previous year	Total taxes		Percent change over previous year
		Number	Amount		Number	Amount	
			Thousands			*Thousands*	
Louisville, Ky.—Con.	1957	2,468	$1,380	+2.7	11,367	$10,876	−15.8
	1958	1,696	1,117	−19.0	8,725	8,378	−22.9
	1959	1,981	1,034	−7.4	7,463	8,682	+3.6
	1960	2,940	1,630	+57.6	11,289	9,609	+10.6
	1961	3,050	1,839	+12.8	11,954	8,807	−8.3
Parkersburg, W. Va.	1954	3,221	1,952		15,917	12,931	
	1955	2,257	1,376	−29.5	11,094	10,627	−17.8
	1956	1,533	1,064	−22.6	8,357	9,032	−15.0
	1957	1,574	1,117	+4.9	6,877	6,860	−24.0
	1958	1,769	1,077	−3.5	7,794	5,372	−21.6
	1959	1,518	997	−7.4	5,243	4,299	−19.9
	1960	1,807	1,055	+5.8	6,446	4,492	+4.4
	1961	2,114	1,188	+12.6	6,674	3,581	−20.2
Richmond, Va.	1954	4,692	2,239		32,611	20,986	
	1955	5,147	2,663	+18.9	29,332	21,881	+4.2
	1956	4,118	2,420	−9.1	26,199	23,932	+9.3
	1957	3,988	2,263	−6.4	19,830	15,687	−34.4
	1958	3,502	1,929	−14.7	15,574	12,333	−21.3
	1959	3,339	2,235	+15.8	14,553	11,927	−3.2
	1960	3,920	2,471	+10.5	18,203	12,781	+7.1
	1961	5,607	3,693	+49.4	21,895	13,762	+7.6
Atlanta, Ga.	1954	4,963	2,947		26,021	20,972	
	1955	5,889	3,572	+21.2	24,979	18,809	−10.3
	1956	5,540	3,432	−3.9	24,713	17,080	−9.1
	1957	5,864	3,829	+11.5	25,328	18,972	+11.0
	1958	5,981	3,948	+3.1	23,875	15,388	−18.8
	1959	4,506	2,101	−46.7	16,554	10,763	−30.0
	1960	5,610	2,362	+12.4	22,928	10,996	+2.1
	1961	5,410	2,539	+7.4	18,469	11,386	+3.5
Birmingham, Ala.	1954	4,874	2,299		19,506	19,488	
	1955	3,655	1,965	−14.5	16,003	17,636	−9.5
	1956	3,658	1,880	−4.3	16,780	21,969	+24.5
	1957	3,826	1,772	−5.7	15,986	18,889	−14.0
	1958	3,653	1,735	−2.0	14,130	17,066	−9.6
	1959	2,489	1,461	−15.7	12,188	14,954	−12.3
	1960	2,796	1,753	+19.9	12,516	11,930	−20.2
	1961	3,604	2,183	+24.5	15,121	13,156	+10.2
Columbia, S.C.	1954	3,727	1,078		14,246	7,201	
	1955	3,318	822	−23.7	12,972	6,511	−9.5
	1956	3,311	850	+3.4	13,202	5,413	−16.8
	1957	2,938	948	+11.5	13,339	4,462	−17.5
	1958	2,773	1,064	+12.2	11,573	4,471	+.2
	1959	1,697	1,011	−4.9	7,141	3,082	−31.0
	1960	2,595	1,159	+14.6	10,681	3,882	+25.9
	1961	3,362	1,308	+12.8	10,621	3,843	−1.0
Greensboro, N.C.	1954	5,332	2,016		22,459	26,395	
	1955	4,318	1,998	−.8	15,687	21,018	−20.3
	1956	4,336	1,957	−2.0	17,696	22,222	+5.7
	1957	4,922	2,023	+3.3	17,598	14,872	−33.0
	1958	4,186	1,359	−32.8	15,706	12,716	−14.4
	1959	4,078	1,441	+6.0	15,763	10,381	−18.3
	1960	3,682	1,597	+10.8	18,321	9,917	−4.4
	1961	4,834	2,079	+30.1	20,255	7,661	−22.7
Jackson, Miss.	1954	1,500	636		5,563	4,717	
	1955	1,526	596	−6.2	5,231	2,957	−37.3
	1956	1,321	656	+10.0	5,371	2,744	−7.2
	1957	1,634	684	+4.2	7,229	2,975	+8.4
	1958	1,774	852	+24.5	5,999	2,411	−18.9
	1959	1,505	614	−27.9	5,165	2,903	+20.4
	1960	1,891	797	+29.8	7,190	2,674	−7.8
	1961	2,725	1,267	+58.9	7,800	3,750	+40.2
Jacksonville, Fla.	1954	8,451	4,686		31,020	47,883	
	1955	8,239	4,996	+6.6	30,918	49,361	+3.0
	1956	10,203	6,562	+31.3	36,962	41,546	−15.8
	1957	11,447	8,519	+29.8	36,770	39,272	−5.4
	1958	10,375	8,029	−5.7	33,938	39,915	+1.6
	1959	9,947	8,608	+7.2	27,780	34,367	−13.8
	1960	10,813	9,407	+9.2	33,299	31,131	−9.4
	1961	14,095	10,436	+10.9	38,359	34,787	+11.7
Nashville, Tenn.	1954	3,721	1,775		15,763	12,463	
	1955	3,181	1,601	−9.8	12,971	13,220	+6.0
	1956	3,100	1,587	−.8	13,320	11,457	−13.3
	1957	3,214	1,679	+5.7	13,248	12,115	+5.7
	1958	2,522	1,287	−23.3	10,667	9,053	−25.2
	1959	1,910	870	−32.4	8,943	7,166	−20.8
	1960	2,411	1,142	+31.2	13,616	10,353	+44.4
	1961	4,065	1,993	+74.5	16,756	11,043	+6.6
Chicago, Ill.	1954	21,439	12,802		136,532	81,659	
	1955	22,891	15,915	+24.3	119,822	87,843	+7.5
	1956	24,597	20,829	+30.8	143,457	120,971	+37.7
	1957	35,678	32,698	+56.9	180,796	154,085	+27.3
	1958	25,352	22,996	−29.7	122,072	120,323	−21.9
	1959	20,410	17,580	−23.5	76,597	83,625	−30.4
	1960	16,550	15,445	−12.1	59,022	63,051	−24.6
	1961	15,062	12,682	−17.8	62,488	60,273	−4.4
Detroit, Mich.	1954	11,891	7,782		68,809	44,787	
	1955	16,325	10,808	+38.8	81,569	68,904	+53.8
	1956	16,871	13,328	+23.3	93,782	70,964	+2.9
	1957	20,538	15,168	+13.8	95,549	68,369	−3.6
	1958	18,337	14,121	−6.9	75,443	62,288	−8.8
	1959	14,465	13,259	−6.1	45,933	46,530	−25.2
	1960	14,326	12,437	−6.1	43,908	44,154	−5.1
	1961	16,816	13,830	+11.2	43,712	38,163	−13.5
Milwaukee, Wis.	1954	3,759	1,704		16,962	16,592	
	1955	3,781	2,087	+22.4	14,322	16,279	−1.8
	1956	4,534	2,314	+10.8	14,936	13,455	−17.3
	1957	4,529	2,551	+10.2	18,403	14,964	+11.2
	1958	4,608	3,033	+18.9	12,065	13,418	−10.3
	1959	3,090	2,180	−28.1	9,139	10,893	−18.8
	1960	4,015	3,176	+45.6	10,827	12,047	+10.5
	1961	3,933	2,992	−5.7	10,489	9,929	−17.5
Springfield, Ill.	1954	4,563	$1,903		19,192	$9,101	
	1955	3,381	1,627	−14.5	12,885	8,723	−4.1
	1956	3,374	2,171	+33.4	15,117	8,526	−2.2
	1957	3,255	2,007	−7.5	15,829	9,442	+10.7
	1958	2,027	1,378	−31.3	8,070	7,126	−24.5
	1959	1,432	885	−35.7	5,478	5,759	−19.1
	1960	1,995	1,474	+66.5	6,338	5,289	−8.1
	1961	1,837	1,092	−25.9	5,333	5,597	+5.8
Aberdeen, S. Dak.	1954	734	282		3,092	1,255	
	1955	604	248	−12.0	2,488	1,613	+28.5
	1956	823	248		2,948	1,441	−10.6
	1957	788	264	+6.4	2,844	1,391	−3.4
	1958	515	209	−20.8	1,865	971	−30.1
	1959	439	137	−34.4	1,476	676	−30.3
	1960	559	242	+76.6	1,763	1,003	+48.3
	1961	665	277	+14.4	2,006	1,420	+41.5
Cheyenne, Wyo.	1954	688	248		2,445	1,629	
	1955	727	256	+3.2	2,215	1,344	−17.4
	1956	639	264	+3.1	2,126	1,077	−19.8
	1957	490	205	−22.3	2,013	1,266	+17.5
	1958	616	264	+28.7	2,305	1,326	+4.7
	1959	354	182	−31.0	1,480	1,053	−20.5
	1960	667	380	+108.7	2,405	1,513	+43.6
	1961	946	448	+17.8	3,275	1,244	−17.7
Denver, Colo.	1954	2,754	1,319		9,888	7,552	
	1955	3,056	1,642	+24.4	9,748	7,960	+5.4
	1956	2,483	1,402	−14.6	10,236	8,142	+2.2
	1957	2,346	1,475	+5.2	10,336	7,163	−12.0
	1958	2,917	1,586	+7.5	10,946	7,938	+10.8
	1959	1,806	1,042	−34.3	7,339	4,795	−39.5
	1960	2,674	1,818	+74.4	10,078	8,056	+68.0
	1961	3,420	1,983	+9.0	11,772	8,605	+6.8
Des Moines, Iowa	1954	1,781	770		5,810	9,737	
	1955	1,596	749	−2.7	5,207	8,200	−15.7
	1956	1,989	989	+32.0	6,729	9,118	+11.1
	1957	2,069	947	−4.2	6,351	7,480	−17.9
	1958	1,730	850	−10.2	5,101	4,564	−38.9
	1959	1,217	683	−19.6	3,995	4,965	+8.7
	1960	1,987	1,138	+66.6	6,236	5,289	+6.5
	1961	2,310	1,056	−7.2	6,945	4,566	−13.6
Fargo, N. Dak.	1954	843	310		2,352	1,353	
	1955	578	217	−30.0	1,607	1,011	−25.2
	1956	563	228	+5.0	2,199	1,336	+32.1
	1957	628	236	+3.5	2,135	1,414	+5.8
	1958	729	307	+30.0	2,320	1,342	−5.0
	1959	397	255	−16.9	1,430	1,001	−25.4
	1960	682	391	+53.3	2,038	1,073	+7.1
	1961	962	463	+18.4	2,558	1,248	+16.3
Kansas City, Mo.	1954	1,783	884		8,155	9,021	
	1955	2,030	1,146	+29.6	7,615	9,433	+4.5
	1956	2,522	1,466	+27.9	8,650	8,673	−8.0
	1957	2,591	1,497	+2.1	10,168	7,887	−9.0
	1958	2,882	1,454	−2.8	9,889	8,820	+11.8
	1959	1,754	1,414	−2.7	5,902	8,298	−5.9
	1960	2,324	1,539	+8.8	8,005	23,454	+182.6
	1961	2,875	1,514	−1.6	9,574	22,990	−1.9
Omaha, Nebr.	1954	810	548		3,932	4,180	
	1955	638	480	−12.4	2,697	3,364	−19.5
	1956	770	528	+10.0	3,441	3,544	+5.3
	1957	834	585	+10.7	2,884	2,729	−22.9
	1958	601	267	−54.3	2,234	2,770	+1.5
	1959	512	267		1,764	1,684	−39.2
	1960	585	366	+37.0	2,456	2,052	+21.8
	1961	919	640	+74.7	2,721	2,071	+.9
St. Louis, Mo.	1954	1,958	974		11,539	12,267	
	1955	2,686	1,323	+35.8	9,999	10,085	−17.7
	1956	2,001	1,119	−15.4	8,997	9,606	−4.7
	1957	2,202	1,308	+16.8	10,578	10,031	+4.4
	1958	2,665	1,302	−.4	12,875	9,447	−5.8
	1959	1,824	846	−35.0	7,876	6,167	−34.7
	1960	1,699	956	+13.0	8,147	6,138	−.4
	1961	2,483	1,247	+30.4	10,745	6,096	−.6
St. Paul, Minn.	1954	3,096	1,929		10,916	9,725	
	1955	3,110	2,093	+8.5	9,616	9,270	−4.6
	1956	3,590	2,546	+21.1	12,035	11,203	+20.8
	1957	3,830	2,711	+6.4	12,512	13,600	+21.3
	1958	3,969	2,494	−8.0	11,474	12,139	−10.7
	1959	2,376	1,951	−21.7	7,481	10,644	−12.3
	1960	2,735	2,176	+11.5	9,271	11,012	+3.4
	1961	3,287	2,384	+9.5	9,708	12,702	+15.3
Wichita, Kans.	1954	2,405	939		10,542	7,316	
	1955	2,912	1,018	+8.4	10,279	6,757	−7.6
	1956	2,300	1,269	+24.6	9,038	8,047	+19.0
	1957	2,294	1,299	+2.3	7,703	7,084	−11.9
	1958	2,298	1,104	−15.0	7,044	7,621	−6.5
	1959	1,815	1,094	−.9	5,612	6,323	−5.8
	1960	2,138	1,224	+11.8	7,121	5,203	−16.5
	1961	2,570	1,438	+17.4	8,147	5,359	+2.9
Albuquerque, N. Mex.	1954	1,911	741		5,491	2,824	
	1955	1,994	853	+15.1	5,078	2,960	+4.8
	1956	1,957	1,062	+24.3	5,888	3,926	+32.6
	1957	2,378	1,192	+12.2	6,777	3,935	+.2
	1958	2,077	1,075	−9.8	6,085	3,233	−17.8
	1959	1,717	1,095	+1.8	4,576	2,915	−9.7
	1960	1,947	1,345	+22.8	5,391	3,930	+34.8
	1961	1,954	1,434	+6.6	5,104	3,671	−6.5
Austin, Tex.	1954	5,609	3,021		22,355	20,202	
	1955	6,580	2,702	−10.5	18,391	12,754	−36.8
	1956	5,283	3,080	+13.9	19,534	15,230	+19.4
	1957	5,664	3,336	+8.3	23,351	14,386	−5.5
	1958	4,445	2,797	−16.1	19,437	12,246	−14.8

Delinquent taxes—Continued

District	Year	Employment tax		Percent change over previous year	Total taxes		Percent change over previous year
		Number	Amount		Number	Amount	
			Thousands			*Thousands*	
Austin, Tex.—Con.	1959	3,700	$2,439	−12.7	18,126	$14,070	+14.8
	1960	3,306	5,271	+116.1	24,407	17,744	+26.1
	1961	5,798	5,486	+4.0	25,329	17,874	+.7
Dallas, Tex.	1954	9,311	5,077	-------	31,244	23,748	-------
	1955	6,816	3,608	−28.9	22,420	16,337	−31.2
	1956	6,158	3,642	+.9	25,793	20,822	+27.4
	1957	8,225	4,750	+30.4	30,526	22,022	+5.7
	1958	5,530	3,225	−32.1	23,620	18,221	−17.2
	1959	5,515	3,658	+13.4	20,481	18,037	−1.0
	1960	5,187	3,976	+8.6	26,676	20,660	+14.5
	1961	7,678	5,918	+48.8	25,741	23,377	+13.1
Little Rock, Ark.	1954	1,801	462	-------	5,431	2,315	-------
	1955	1,259	319	−30.9	4,182	2,108	−8.9
	1956	1,179	453	+41.5	4,781	2,355	+11.7
	1957	1,209	489	+7.9	5,338	2,465	+4.6
	1958	975	374	−23.5	4,115	6,930	+181.1
	1959	1,511	437	+16.8	4,481	8,849	+27.5
	1960	1,179	465	+6.4	4,256	8,844	-------
	1961	2,377	800	+72.0	5,636	9,435	+6.6
New Orleans, La.	1954	4,566	1,948	-------	19,566	17,472	-------
	1955	4,261	2,260	+16.0	14,225	13,613	−22.0
	1956	4,097	2,214	−2.0	15,298	11,536	−15.2
	1957	4,300	2,489	+12.4	15,851	10,182	−11.7
	1958	4,342	2,420	−2.7	14,751	9,249	−9.1
	1959	3,638	1,920	−20.6	12,920	6,977	−24.5
	1960	3,569	2,093	+9.0	13,962	7,968	+14.2
	1961	5,140	3,041	+45.2	15,077	9,534	+19.6
Oklahoma City, Okla.	1954	3,311	1,790	-------	9,994	9,043	-------
	1955	3,123	1,825	+1.9	9,455	9,421	+4.1
	1956	3,764	2,167	+18.6	12,886	8,737	−7.2
	1957	4,998	2,239	+3.3	15,637	7,629	−12.6
	1958	3,975	2,189	−2.2	11,580	8,452	+10.7
	1959	3,425	1,965	−10.2	9,482	11,017	+30.3
	1960	3,176	1,973	+.4	9,448	6,125	−44.4
	1961	3,255	2,177	+10.3	10,052	5,976	−2.4
Anchorage, Alaska [5]	1961	851	996	-------	2,314	2,079	-------
Boise, Idaho	1954	1,050	470	-------	3,115	2,083	-------
	1955	1,099	472	+.5	2,949	1,988	−4.5
	1956	860	411	−13.1	3,211	2,155	+8.4
	1957	842	513	+24.8	3,559	2,280	+5.8
	1958	760	395	−23.0	2,812	2,213	−2.9
	1959	791	509	+28.8	2,382	2,106	−4.8
	1960	1,068	656	+28.8	3,241	1,381	−34.4
	1961	1,066	659	+.4	3,059	1,546	+11.9
Helena, Mont.	1954	1,064	436	-------	3,214	2,863	-------
	1955	831	333	−23.6	2,912	2,575	−10.0
	1956	1,035	527	+58.2	3,299	1,799	−30.1
	1957	1,122	624	+18.4	4,136	2,047	+13.7
	1958	1,040	550	−11.8	3,572	2,024	−1.1
	1959	802	398	−27.6	2,857	1,510	−25.3
	1960	1,231	742	+86.4	3,912	2,098	+38.9
	1961	1,835	1,022	+37.7	5,031	2,368	+12.8
Honolulu, Hawaii	1954	1,338	898	-------	4,682	4,620	-------
	1955	1,196	876	−2.4	3,835	4,345	−5.9
	1956	1,047	668	−23.7	3,800	3,929	−9.5
	1957	1,095	772	+15.5	4,101	3,297	−16.0
	1958	989	606	−21.5	3,448	2,887	−12.4
	1959	738	543	−10.3	2,092	1,606	−44.3
	1960	770	631	+16.2	2,064	1,828	+13.8
	1961	873	950	+50.5	2,565	5,102	+179.1
Los Angeles (6th California).	1954	16,989	13,396	-------	86,733	88,047	-------
	1955	22,429	19,706	+47.1	105,039	83,679	−4.9
	1956	17,151	16,600	−15.7	92,176	68,937	−17.6
	1957	19,853	20,762	+25.0	89,014	76,679	+11.2
	1958	19,895	18,723	−9.8	81,683	83,911	+9.4
	1959	15,736	16,199	−13.4	58,231	60,562	−27.8
	1960	20,005	20,468	+26.3	71,305	79,326	+30.9
	1961	25,123	28,692	+40.1	79,080	92,954	+17.1
Phoenix, Ariz.	1954	2,158	1,384	-------	8,957	5,510	-------
	1955	2,059	1,327	−4.1	7,023	5,057	−8.2
	1956	1,533	1,169	−11.9	5,871	4,095	−19.0
	1957	2,039	1,396	+19.4	6,760	4,452	+8.7
	1958	1,961	1,288	−7.7	6,218	4,276	−3.9
	1959	1,881	1,560	+21.1	5,162	4,265	−.2
	1960	2,674	2,019	+29.4	7,463	6,169	+44.6
	1961	2,823	2,218	+9.8	8,263	7,076	+14.7
Portland, Oreg.	1954	4,059	2,053	-------	14,799	15,351	-------
	1955	3,950	2,281	+11.1	11,636	12,429	−19.0
	1956	2,767	1,934	−15.2	10,300	13,215	+6.3
Portland, Oreg.—Con.	1957	2,554	$2,073	+7.1	10,295	$13,139	−0.5
	1958	2,410	1,766	−14.8	9,496	12,879	−1.9
	1959	2,659	1,857	+5.1	9,471	10,798	−16.1
	1960	3,140	2,248	+21.0	13,638	15,107	+39.9
	1961	3,366	2,879	+28.0	13,732	13,138	−13.0
Reno, Nev.	1954	1,455	1,480	-------	4,576	6,043	-------
	1955	1,195	1,470	−.6	3,782	6,697	+10.8
	1956	1,038	1,574	+7.0	3,545	5,995	−10.4
	1957	928	1,393	−11.4	3,739	6,324	+5.4
	1958	717	1,174	−15.7	3,152	6,804	+7.5
	1959	715	1,143	−2.6	2,665	4,965	−27.0
	1960	1,088	1,977	+72.9	4,140	5,984	+20.5
	1961	1,170	2,194	+10.9	4,095	4,628	−22.6
Salt Lake City, Utah.	1954	1,671	925	-------	5,554	4,649	-------
	1955	1,491	809	−12.5	4,668	3,560	−23.4
	1956	1,374	778	−3.8	4,505	3,771	+5.9
	1957	1,527	861	+10.6	4,878	3,906	+3.5
	1958	1,344	807	−6.2	4,572	4,084	+4.5
	1959	1,137	741	−8.1	3,929	3,605	−11.7
	1960	1,517	968	+30.6	4,102	3,160	−12.3
	1961	1,849	1,122	+15.9	5,022	3,334	+5.5
San Francisco (1st California).	1954	17,616	10,597	-------	85,750	66,858	-------
	1955	17,509	11,951	+12.7	73,245	88,983	+33.0
	1956	11,473	9,214	−22.9	61,138	77,550	−12.8
	1957	12,797	10,119	+9.8	60,441	74,781	−3.5
	1958	12,169	9,562	−5.5	50,947	63,834	−14.6
	1959	8,360	7,103	−25.7	37,997	56,626	−11.2
	1960	8,972	7,909	+11.3	43,648	59,661	+5.3
	1961	11,763	9,480	+19.4	43,675	57,977	−2.8
Seattle, Wash.	1954	5,932	4,324	-------	27,707	19,804	-------
	1955	6,417	5,409	+25.0	22,634	18,285	−7.6
	1956	5,937	5,687	+5.1	20,852	16,441	−10.0
	1957	5,715	4,786	−15.8	20,940	15,890	−3.3
	1958	5,238	3,935	−17.7	18,424	13,462	−15.2
	1959	4,315	3,246	−17.5	14,446	10,886	−19.1
	1960	4,997	4,011	+23.5	15,166	13,294	+22.1
	[5]1961	4,095	2,500	−12.8	11,493	11,779	+4.2
International Operations (exclusive of Puerto Rico).	1956	197	146	-------	11,812	16,704	-------
	1957	129	69	−52.7	11,372	16,722	+.1
	[6]1958	255	120	+73.9	7,637	41,230	+146.5
	1959	428	175	+45.8	19,886	35,532	−13.8
	1960	475	490	+180.0	20,166	50,492	+42.1
	1961	512	689	+40.6	19,651	44,280	−12.3
Puerto Rico	1954	1,530	147	-------	2,020	273	-------
	1955	1,853	252	+71.4	3,249	622	+127.8
	1956	1,307	296	+17.4	2,509	624	+.3
	1957	1,755	375	+26.6	2,674	721	+15.5
	1958	1,612	290	−22.6	2,451	593	−17.7
	1959	1,129	260	−10.3	1,682	393	−33.7
	1960	1,616	428	+64.6	2,205	686	+74.5
	1961	1,850	565	+32.0	2,622	951	+38.6

TOTALS

Year	Employment tax		Percent increase or decrease over preceding year	Total taxes		Percent increase or decrease over preceding year
	Number	Amount		Number	Amount	
		Thousands			*Thousands*	
1954	390,398	$254,062	----------	1,725,474	$1,614,494	----------
1955	399,269	284,803	+12.0	1,596,615	1,646,383	+1.9
1956	356,748	279,183	−1.9	1,560,685	1,619,629	−1.6
1957	377,253	300,678	+7.6	1,554,876	1,504,709	−7.0
1958	329,457	263,186	−12.4	1,280,642	1,375,737	−8.5
1959	256,287	216,439	−17.7	949,146	1,071,016	−22.1
1960	268,396	236,843	+9.4	1,023,770	1,072,440	+.1
1961	316,612	268,465	+13.3	1,071,660	1,063,248	−.8

[5] Alaska included in Seattle prior to 1962. Percentage change for Seattle for 1962 adjusted to reflect separation of Alaska from that office.

[6] Result of district offices' transferring to this division delinquent accounts of taxpayers known to be abroad and out of reach.

ACCESS ROUTES TO BERLIN

Mr. SCOTT. Mr. President, the matter upon which I wish to speak cannot be delayed because of the fact that Secretary of State Rusk is meeting in Athens at about this time, and I wish to say certain things regarding our commitments on West Berlin.

Mr. President, there is a memorial in front of Tempelhof Airport in Berlin that is dedicated to those who gave their lives to sustain the Berlin airlift in 1948. There are three fork-like prongs symbolizing the three air corridors used by the free world as access routes into Berlin. I would wonder, Mr. President, if those who gave their lives to sustain our rights and those 161,000 who died in the European theater in World War II to win those rights would endorse any proposal by our Government to mitigate them.

I hardly feel it necessary, Mr. President, to argue that the United States has an undeniable right not only to the occupation of Berlin but free access thereto.

Every Secretary of State and every President since the cessation of hostilities with Nazi Germany has, without equivocation, taken that position. Thus, from our standpoint, there is no disagreement as to our hardwon rights.

Recently, Mr. Rusk, the Secretary of State, met with Soviet Ambassador Anatoly F. Dobrynin and reached an agreement that formal negotiations on the Berlin question would be conducted in Washington. Although no formal proposal was made by Mr. Rusk, it is my

understanding that the latest version of the U.S. proposal on Berlin calls for the creation of a 13-member international authority to control access to that city. It has been reported by Murray Marder, in the Washington Post of April 21, 1962, that such an authority which would control all traffic to Berlin might supervise such access. The countries reported to be included in this proposal are the United States, Britain, France, West Germany, the Soviet Union, Poland, Czechoslovakia, East Germany, Switzerland, Sweden, and Austria, and East Berlin and West Berlin would also be represented on the Council.

Again, only in proposal form, it is contemplated that a majority of these countries voting would determine traffic and access rights.

Understandably our Government as well as our allies are anxious to reach a peaceful settlement of the Berlin question. But such a settlement must be not only peaceful but honorably in keeping with our obligations to free peoples.

For the life of me, I cannot understand how a country dedicated to the principles of individual and national freedom can negotiate or propose to negotiate on the basis of new limitations upon the people of West Berlin and indeed upon the rights of the Western World.

I cannot help recalling what two of our Presidents have said about Berlin: First, President Eisenhower:

> We have no intention of forgetting our rights or of deserting a free people.

Second, President Kennedy:

> We cannot and will not permit the Communists to drive us out of Berlin either gradually or by force.

Mr. President, those statements reflect the views of a nation that is now alleged to be proposing a mitigation of our rights.

We have the right of free access, we have fought to sustain that right and it would be a step in the wrong direction to bargain away a part, or perhaps ultimately, all of that right.

It is my feeling that this provision or proposal to internationalize the access routes to Berlin will dilute the American commitment to Berlin on the key issue of access.

It is reported that Secretary Rusk will present this proposal to the British, French, and West German foreign ministers during the ministerial conference of the North Atlantic Treaty Organization in Athens this week. It is a pity that Congress has no knowledge of whether we are, or are not, about to make costly concessions to the Soviet and to East Germany.

I might add that I was happy to read that both the United States and Britain are reported to be strongly against any de facto recognition of Communist East Germany.

But, Mr. President, not the willingness to negotiate but the tendency to negotiate away one's rights is alarming.

Because of my desire not unnecessarily to delay the Senate at this time, I purposely have not gone into great detail, although this problem deserves serious consideration.

Such a proposal merits close study by the Senate, which has also the duty of advising the Executive on such matters.

Because of my belief that this reported proposal would seriously dilute a right won with the blood of our Nation's youth, I have written to both the chairman of the Committee on Foreign Relations and the chairman of the Committee on Armed Services, asking that they promptly consider the feasibility of calling before them—in executive session, if necessary—General Clay, the retiring personal representative of the President to Berlin. General Clay's intimate knowledge of Berlin and its relation to our foreign policy and our military posture in Europe and the free world ought to be made available to the relevant committees of Congress before, not after, the making of such commitments as might result in de facto recognition of East Germany or the dilution of American rights by submission to a possibly hostile multinational commission.

Mr. President, I shall read the text of my letter to both chairmen:

> DEAR SENATOR: Because I am concerned about the steps the United States may take in the near future in relation to our access rights to Berlin, I feel it imperative to write this letter. The proposal to internationalize our right of access to this citadel of freedom could not only jeopardize our position in Berlin, in Europe, but in the world.
>
> It is for this reason that, although I am not a member of the Senate Armed Services Committee or the Senate Foreign Relations Committee, I respectfully request your committee to consider the feasibility of shortly calling before you Gen. Lucius D. Clay for the purpose of getting the benefits of his views on this proposal.
>
> Because of your intimate knowledge on General Clay's background and his association with Berlin and its problems since World War II, it is unnecessary for me to spell out his qualifications as an expert on this matter.
>
> I would earnestly hope for your immediate and favorable consideration of this suggestion.

Mr. President, it is my understanding, although I may not be correct, that General Clay has not, as of now, had occasion to testify before either of these committees. While there is so much curiosity about General Clay's recall, and some persons have said, perhaps without warrant, that his recall may signify the end of the tough policy in West Berlin; because of the fear that the recall of General Clay may be misapprehended at home and abroad; and because of the concern which we all have that our attitude toward West Berlin as an integral part of the free world shall in no wise be mitigated or minimized, I hope that General Clay's testimony will be made available. I do not ask that it be made public; there may be many reasons why it is not desirable that such information be made available to general public consideration, possible controversy, or clash of opinion. However, it seems to me that the proper bodies of Congress ought to have and ought to embrace this opportunity, so that they may be able to reassure the rest of us in Congress that the United States does, indeed, intend to continue its strong, firm, unyielding policy in West Berlin.

Today the United Press International reports as follows:

> ATHENS.—The Western Big Four Foreign Ministers will meet tomorrow to work out new allied peace terms on Berlin, reliable sources reported today.
>
> The sources said Secretary Rusk, Britain's Lord Home, France's Maurice Couve de Murville, and West Germany's Gerhart Schroeder have agreed to meet privately to seek accord on the next in the Berlin probe with the Soviet Union.
>
> Rusk and Schroeder will meet separately before the Big Four session in an effort to iron out differences which have arisen from German fears that the projected American Berlin plan may imply recognition of the Communist East German regime.

Mr. President, if this report is correct, then it must be believed that West Germany holds what it believes to be valid fears that there may be some derogation from the hitherto strong stand which we have taken.

Also, the UPI today reports as follows from Washington:

> Senator JACOB K. JAVITS, Republican, of New York, cautioned the administration today against making concessions in Berlin that could compromise principles for which the United States has risked war in the past.

The distinguished senior Senator from New York is now in the Chamber. Without reading the rest of the news report, I may say that what he has said in his expression of concern is very much in accord with what I have just said. If he wishes to comment at this time on what I have said, I shall appreciate it.

Mr. JAVITS. Mr. President, I am most grateful to the Senator from Pennsylvania for making so gracious a comment on what I said about Berlin.

This is a subject in which, as the Senator from Pennsylvania knows, I have been interested and concerned for many years. In 1949 and 1950, I was a member of a special committee of the other body which investigated the situation, and actually held hearings the length of West Germany—from Hamburg to Munich—on this and other subjects; and as Chairman of the Economic Committee of the NATO Parliamentarians' Conference, I have also been deeply immersed in these problems.

What struck me so forcibly—and I am very much pleased that the thinking of the Senator from Pennsylvania coincides with my own—is the seeming lash on our backs in an attempt to force us to make an agreement on Berlin with the Russians. This could have very unfortunate repercussions insofar as the German people themselves are concerned, because their fidelity to the effort to make a community of Europe is one of the most essential guarantees of the peace of Europe and the peace of the world; and if they were to lose confidence in the capability of that movement, and were to feel that they had to take some other road, we would indeed be in trouble.

I should like to say to the Senator from Pennsylvania—and I should also like to have him express his view of the matter, if he will do so—that, in my opinion, if we ever let Khrushchev get any real influence in West Germany, Germany would be unified so quickly that it would

make our heads swim. That is all that Khrushchev wants—to unify Germany, but on his own terms.

Therefore, it is most important that we make an agreement, if that is at all possible, to improve the situation there, so as not to be upset constantly by Khrushchev's ultimatums.

But if we have to pay the price of compromising the fundamental position of West Germany, either by recognizing East Germany, or by jeopardizing the status of the central European countries now enslaved by the Communists, or by accepting some technique which would implicitly recognize East Germany or would in any way interfere with access to Berlin, based on what the neutral countries do or do not wish to allow, then we would be greatly weakened.

Mr. SCOTT. Mr. President, the Senator from New York has expressed my concern, too, particularly as to dealing with a multinationality committee. One may ask who would be the chairman of such a committee. Does anyone think the Russian member of the committee would agree to have the United States member be the chairman—or vice versa; or would we and our allies agree to have the East German member be the chairman; or, contrarywise, would the East German member agree to have the West German member be the chairman? In that event, would the chairmanship be given to the representative of one of the neutral countries or to the representative of one of the satellite countries? In that event, the chairman, with all the power he would have, would not necessarily operate in the interest of the United States and in the interest of the protection of Berlin and of the right of access to West Berlin.

Must we again throw the fate and the foreign policy of the United States into the hands of those whose interest in the United States is surely not paramount to their own national interest—those who perhaps might decide some questions favorably to us, but who would almost certainly decide other questions unfavorably to us—in other words, against us. Whenever the committee first decided against us, we would then be confronted with the possibility of violation of our commitment never to yield an inch and never to give up, as President Kennedy says, either directly or gradually, if I may paraphrase what he said—our rights to be in West Berlin.

I thank the distinguished Senator from New York for his comments.

Mr. KEATING. Mr. President, I commend the distinguished Senator from Pennsylvania on the eloquent and persuasive address he has just made. Mr. President, to enter into negotiations in which the East German Government may have some say over access rights to West Berlin would be a bitter renunciation of the position which we have upheld in the past. No matter what cloak of plausibility may be pulled over this maneuver, it is in essence catastrophic. Our experience with international authorities in cold war situations has been frightening. The situation in Laos and Vietnam today, for instance, is the immediate result of the failure of the International Control Commission to provide the surveillance and protection against outside aggression which was its principal reason for existence.

Mr. President, we have been severely handicapped in Berlin under present conditions because every American action has to be cleared with NATO. Differences between the United States, Britain, France, and Germany have to be argued down to the last letter. What will be the case if we have to get the approval of a 13-member Commission before we can enforce our rights, before we can enforce rights which exist not only in theory but also in the determination and practice of nearly 20 years? Furthermore, Mr. President, the United States appears to be entering these negotiations from the weakest conceivable point. Since last August 13, when the East Germans built their infamous wall, the Communists have learned that bit by bit they can chip away at Western rights. Bit by bit they can erode our position and we will not oppose it. From the very time that the wall was built—and, incidentally, it was built by East Germans who have no legal rights whatsoever to block anybody's access to anything—we have been retreating. Originally were many entry points that could be used. Today there is only one principal entrance. Originally West Berliners were permitted to travel freely in East Berlin. Now they are barred.

Originally American civilians could travel freely in East Berlin. Now they must show identification cards.

Originally the Western air corridors were reserved for Western flights. Now they are threatened by Soviet military flights, many of which are unannounced.

Mr. President, 90 percent of the American rights in Berlin today exist only on paper because we have failed to enforce them. Our whole position has been lost in a legalistic muddle. Before we react to any Soviet step, we must find a document giving us permission. If we do not find the document fast enough, we do not resist. Needless to say, the State Department does not call this losing rights. They merely say that we possess rights which we have not recently tried to exercise. Verbalisms and legalisms are the disguise for what, in fact, amounts to a complete lack of policy with regard to Berlin.

Mr. President, I am deeply concerned over this, for I fear we are entering negotiations with our feet on quicksand. Virtually all Soviet demands and pressures have been acceded to in practice, if not in theory. What demands have we put forward?

Mr. President, as far as I am aware there is not a single area of the entire Berlin situation where the United States has put forth a claim for a right which we did not previously possess. There is not a single instance where the United States has advanced its cause in Berlin, where our rights have been expanded in any way, whether so acknowldeged by the Soviets or not.

Mr. President, we have already retreated so far that in some ways it is hardly a surprise that our Government is planning now to permit a degree of East German control of access routes. Had this proposal been put forth last year when the President's brave words at the meeting with Khrushchev still rang in American ears, the reaction would have been astonishment and shock. Yet in one short year we have come to this position.

Mr. President, before entering any kind of serious negotiations, our own position must, where possible, be strengthened. The Soviets have still not dared question our rights to send uniformed soldiers on patrol through East Berlin. (We now send about two small patrols through East Berlin.) This is an important point. It is one of the basic strengths of our position that Allied forces have the right to patrol in any part of Berlin. It is one area in which we can take an initiative. American patrols through East Berlin should be increased and stepped up. The American flag should be shown on these patrols at frequent intervals; perhaps every 3 or 4 hours. Tanks, jeeps, and American soldiers, not just one or two, but many should patrol the dark and gloomy streets of the Soviet city steadily and thereby keep alive the recognition that, despite the wall, no Soviet or German force can keep American soldiers out of an area to which they have an inviolable right.

Mr. President, there are some who would say this action was provocative. But in the cold war in which we are today engaged, let me be perfectly honest, every step can be considered provocative unless it is a step backwards. Mr. President, the biggest step backwards we could possibly take would be to give the East Germans any kind of say whatsoever over access to West Berlin. One of the most important steps which we can take forward is to move right now to increase the American patrols, and thereby the American presence in East Berlin. This is one step we should take right now before entering into any kind of negotiations over Berlin.

PUBLIC WORKS EMPLOYMENT ACT OF 1962

Mr. PROUTY. Mr. President, unemployment is still a very serious problem.

The upturn in business has not spread to all sectors of the economy; and our recovery—the slowest recovery from any recession since the end of World War II—has done very little to help put groceries on the shelf of the distressed worker, or to improve the profit situation of the small business.

During the 11-month period after the economy began its upturn, the Federal Reserve Board industrial production index rose 11 percent. That is far below the 19-percent jump attained in the comparable period of the 1958–59 recovery, as well as the 14-percent rise achieved in the same period of the 1954–55 recovery.

Although there were rosy predictions by spokesmen for the administration in the first quarter of 1962, the actual outlay by industry for new plant-equipment spending fell at least half a billion dollars below official estimates.

The poor progress in industry has cast its shadow on the unemployed worker.

Today there are 4,400,000 Americans without jobs. One and a half million

men and women have been unemployed for 15 weeks, or longer. Of perhaps even greater concern is the fact that more than 700,000 human beings have been out of work for over 6 months.

Unskilled workers are among the hardest hit in this economy of ours which has not yet started to really move.

Although the unskilled make up only 5 percent of the Nation's labor force, they constitute 15 percent of the long-term unemployed.

Construction workers as a group have a very serious unemployment problem. One out of every eight of these workers is pounding the pavements looking for a job.

The President has brought into his administration a large number of bright young men who are full of sound and theory; thus far, their notions, seemingly directed toward a completely federally planned and managed economy, have been signifying nothing.

I hope that in the months ahead the White House will look to those with a more practical turn of mind and a broader background of experience.

We are badly in need of policies designed to spur private investment. Private investment means jobs. Jobs mean a healthy economy, and a healthy economy will be a growing economy.

It is time to discard the discredited and outworn creed that public spending is a good, long-range substitute for private investment.

The countries in which a high percentage of private income is plowed back into their economies are the ones with full employment and a good growth rate.

I have before me a table which lists a dozen nations; the average ratio of their total fixed investment to gross national product and their average annual increase in gross national product. This is a very interesting document, and I ask unanimous consent that it be inserted at this point in the RECORD.

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

[In percent]

	Average ratio of total fixed investment to gross national product, 1950–60	Average annual increase in gross national product at constant prices, 1950–60
Japan [1]	23.1	8.5
Germany	21.4	7.5
Austria	21.4	5.9
Italy	20.2	5.8
Netherlands	22.8	4.7
France	17.3	4.6
Switzerland [2]	23.5	4.3
Canada	23.3	3.7
Sweden	20.3	3.5
Belgium	16.3	3.1
United States	17.6	3.0
United Kingdom	14.5	2.6

[1] Data for 1953–60.
[2] Data for 1954–60.

Source: All data from "Capital Investment and Economic Progress in Leading Industrial Countries, 1950–60," George Terborgh, Machinery & Allied Products Institute.

Mr. PROUTY. Mr. President, the table indicates that the United States stands 11th in the average ratio of total fixed investment to gross national product, from 1950 to 1960, and stands 11th in the average annual increase in gross national product at constant prices, for the same period.

It is no coincidence that the nations, such as Japan, Germany, and Austria, which have a high ratio of fixed investment, also show the greatest increase in gross national product.

I firmly believe that tax cuts and increased unemployment compensation are the quickest and most direct means of stimulating a lagging economy. Another method of increasing employment is through the construction of public works projects which can be initiated and completed in a short period of time.

I cannot be persuaded, however, that in order to have a public works program, it is necessary for Congress to hand over to 1600 Pennsylvania Avenue every vestige of its discretion, power, and authority. This, Mr. President, is what would be done if the Senate approved the committee-reported bill, S. 2965.

The administration did not get everything it wanted. The administration asked for authority to spend $600 million now on public works, and $2 billion on public works every time in the future when there is a serious dip in employment.

It was decided that such a proposal would be laughed down in the Senate; and the committee reported, instead, a bill which will permit the executive branch to spend $1,850 million on projects which never have won a stamp of approval by Congress.

The committee bill would give the White House permission to spend $600 million now and raid the Treasury to the extent of $2 billion the next time the economy slides backward.

The President could snatch this $2 billion out of the funds of the Housing and Home Finance Agency, the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and other agency funds never intended for public works.

Both the press and the public are aware that the committee measure puts a tremendous political blackjack in the hands of the President. He may spend immense sums within a few States of his own choosing. He could, also, pump money into marginal districts which could go either way in a congressional race. This Federal largess would come, of course, at key times in key campaigns.

Power of this kind should not rest in the hands of any man, however respected and capable he may be.

Aside from the political overtones of the committee bill, there are other evils in this legislation which must be corrected.

I announced in the committee report that I would have a constructive alternative to offer in place of the administration program. I, therefore, introduce at this time a bill which will assist in the reduction of unemployment through the acceleration of public works programs of the Federal Government and State and local public bodies.

I send the bill to the desk and ask that it be appropriately referred.

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

The bill (S. 3236) to assist in the reduction of unemployment through the acceleration of public works programs of the Federal Government and State and local public bodies, introduced by Mr. PROUTY, was received, read twice by its title, and referred to the Committee on Public Works.

Mr. PROUTY. Mr. President, the provisions of my bill bear witness to the fact that we can aid our unemployed without subordinating their needs to political expediency and opportunism.

I think most reasonable men would agree that a program of public works, to be of maximum benefit, must foster employment not only during actual construction, but after completion as well.

Mending a sidewalk in an alley might provide a few temporary jobs, but constructing a hospital would make a lasting contribution to the employment of the jobless and the welfare of the community.

The only projects that would be eligible under my bill would be projects that help reduce unemployment permanently.

Virtually every project imaginable would be eligible under the committee measure, even though the project might bring only a very few pay checks to a very few people for a very short time.

It should be noted, also, that the committee bill would hold out false hope to millions of people in many of the 958 localities which are theoretically eligible for projects under the $600 million immediate program. Eligibility is one thing, but getting money is quite another.

There is another provision in the committee reported bill which would allow a single State to get as much as 12½ percent of the $600 million. This means that the President could spend the entire bundle in a handful of States of his own choosing.

As one Senator suggested, this calls to mind the "Now you see it, now you don't" shell game.

My bill requires that not more than 6 percent of the grant funds be spent in any one State.

During the depression—when unemployment never ran below 14 percent in any one year—the Roosevelt administration found it possible to conduct a public works program with a 30-percent Federal and 70-percent State and local matching requirement.

While it is true that the old PWA was permitted to lend money to States to put up their matching funds, nevertheless, the ultimate cost to the Government was only 30 percent.

How times have changed.

The committee reported bill would permit a 90-percent Federal and 10-percent State and local ratio. In my judgment, this provision is far too extreme.

A Governor of one of our great States suggested that the proportion of costs to be met by the Federal Government

should vary directly with the proportion of the local labor force that is unemployed. He recommended a scale which would provide in some instances for a Federal contribution as low as 10 percent. I think his approach, which takes into account the ability of the local community to participate in a public works program, is far more realistic than the provisions in the committee bill.

My proposal contains a section that allows a 40- to 50-percent Federal contribution for project construction in the average labor surplus area.

However, I recognize that there are some labor surplus areas in which there is extraordinary economic distress. In those areas, and in those areas alone, the President could make a 75-percent contribution to the cost of a public works program.

My bill authorizes the expenditure of $600 million and up to 50 percent of this sum may be used in areas of extraordinary economic distress.

The bill would, also, establish a $75 million loan fund which might be utilized by the Federal Government to aid the hardest hit States and local communities in their cost sharing.

Mr. President, I think few Senators are aware of the fact that there is a tremendous backlog of Federal projects, which have been specifically authorized by Congress. They represent a potential expenditure of $12.8 billion on nondefense construction.

States and local communities also have a project backlog, the potential cost of which is calculated to be nearly $22 billion.

Should we not ask ourselves then this very important question: Why should Congress give the President authority to spend $600 million immediately on projects never approved by the House and Senate when we have on the statute books billions of dollars worth of projects already authorized?

I am pleased to say that not one single dollar authorized by my bill could be expended for a public works program, unless that program has been previously specifically sanctioned by the Congress.

Mr. President, the committee reported bill is frequently referred to as one which will be of help during recessions. This tends to be very misleading.

Under the terms of the bill, if the unemployment rate should drop down to 2 percent and then within a year rise to 3 percent, the President would have the privilege of triggering a $2 billion construction program.

My bill would not permit anything of this kind to happen. It specifically provides that no funds may be obligated for the acceleration of public works projects when the national unemployment rate dips below 4 percent.

In summary, then, Mr. President, I am presenting to the Senate a bill which gives the unemployment problem priority over political considerations. The bill would cost $600 million contrasted with the $2,600 million administration proposal.

It is my hope that this measure will receive the thoughtful study and attention of every Senator.

By way of summary, may I briefly explain again just what the provisions of the bill are.

1. PUBLIC WORKS PLAN

The President shall draw up a public works plan immediately for:

First. The acceleration of Federal public works projects.

Second. The acceleration of public works projects of State and local governments.

The plan shall include only public works projects to be constructed in areas of substantial unemployment and redevelopment areas.

The plan shall give priority to those public works projects which will help reduce unemployment not only during construction but after completion.

2. ACCELERATION OF EXISTING FEDERAL CONSTRUCTION PROJECTS

The President may accelerate existing Federal public works projects and programs, or initiate new projects and programs already authorized by law.

3. ACCELERATION OF EXISTING FEDERAL GRANT-IN-AID PROGRAMS

The President may initiate or accelerate public works projects for which Federal grants to States and local governments are authorized by Congress.

The Federal Government shall match at the rate of not less than 40 percent nor more than 50 percent of the cost of undertaking and completing the project.

4. ACCELERATION OF GRANT-IN-AID PROGRAMS IN AREAS OF EXTRAORDINARY ECONOMIC DISTRESS

In areas suffering extraordinary economic distress, the President may make grants for projects authorized by Congress on a 75-percent Federal and 25-percent State basis.

Up to $300 million may be spent in the areas of extraordinary economic distress.

The high 75-percent Federal contribution will not be made in all surplus labor and redevelopment areas—rather only in those areas where the President finds extraordinary economic distress.

5. FEDERAL LOANS

When the President makes a determination that proposed projects authorized by Congress are in areas suffering extraordinary economic distress, the executive branch may make loans to States and local governments which would be unable to meet their 25-percent share of the cost of the projects. The loans would run up to 40 years.

The loan funds would not be made available to all surplus labor and redevelopment areas but only to those where the President finds extraordinary economic distress.

6. RESTRICTIONS AND LIMITATIONS

There can be no financial assistance with respect to any project unless the project, first, can be initiated or accelerated within a reasonably short period of time; second, can be completed within 20 months after enactment of the Prouty bill; third, will meet an essential public need; and fourth, is not inconsistent with local plans.

7. OTHER RESTRICTIONS AND LIMITATIONS WHICH REPRESENT SUBSTANTIAL CHANGES IN THE COMMITTEE BILL

Not more than 6 percent of the funds provided for in the form of grants shall be made available within any one State.

No Federal funds shall be obligated under the Prouty bill with respect to any project when the national rate of unemployment falls below the level of 4 percent of the civilian labor force after adjustment for seasonal variation.

8. TOTAL COST OF THE BILL

There is an authorization of $600 million which specifies that the money may be used only for projects authorized by Congress.

Mr. President, I ask unanimous consent that the text of the bill may be printed in the RECORD at this point.

There being no objection, the bill was 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,

SHORT TITLE

SECTION 1. This Act may be cited as the "Public Works Employment Act of 1962".

FINDINGS AND PURPOSE

SEC. 2. The Congress finds that unemployment in the United States has reached an undesirable level, and that measures to increase employment opportunities are necessary in the interest of the public welfare. The Congress further finds that one means of increasing employment is through the acceleration of public works programs of the Federal, State, and local governments particularly through smaller projects which can be initiated promptly and completed in a short period of time. Many communities in the Nation in which there is severe unemployment have a backlog of needed public works projects, and an acceleration of these projects now will not only increase employment at a time when jobs are most urgently required but will also meet longstanding public needs, improve community services, and enhance the health and welfare of the citizens of the Nation.

It is the purpose of this Act to stimulate the economy where needed by accelerating programs of Federal public works projects.

It is also the purpose of this Act to provide where needed an incentive, through Federal grants, for State and local governmental bodies to accelerate their capital expenditures programs through the initiation of public works projects which can be begun promptly and completed over a reasonably short period of time, such assistance to be automatically terminated when the rate of unemployment falls below the level of 4 per centum of the civilian labor force after adjustment for seasonal variation.

PUBLIC WORKS PLAN

SEC. 3. The President may prepare and carry out a public works plan which—

(1) shall have as its basic purpose the acceleration of the construction of public works necessary to increase employment and to stabilize the economy;

(2) shall provide for the use of the authority granted in this Act to the extent of funds authorized in this Act for the achievement of such purpose;

(3) shall include only public works projects to be constructed in areas currently designated by the Secretary of Labor as having been areas of substantial unemployment in each of at least nine of the twelve immediately preceding months, and in areas currently designated as "redevelopment

areas" pursuant to the Area Redevelopment Act;

(4) shall give priority to those public works projects which can contribute significantly to the reduction of unemployment during construction and after completion; and

(5) shall provide for the immediate termination of assistance to any public works project under the provisions of this Act when the rate of unemployment in the area of such project falls below the level of 4 per centum of the civilian labor force after adjustment for seasonal variation.

ACCELERATION OF FEDERAL PROJECTS

SEC. 4. In addition to the authority otherwise available to him, the President may, for the purpose of carrying out the plan prepared under section 3 of this Act, direct the departments and agencies of the executive branch, under such rules and regulations as he may prescribe, to use funds provided for the purpose of this Act to accelerate *existing* Federal public works projects and programs or to initiate new projects and programs already authorized by law.

ACCELERATION OF EXISTING FEDERAL GRANT PROGRAMS

SEC. 5. For the purpose of carrying out the plan prepared under section 3, the President may direct the departments and agencies of the executive branch to use funds provided for the purpose of this Act to make grants, upon application and under such rules and regulations as they may prescribe, to States and local governments to finance the initiation or acceleration of public works projects and programs for which Federal grants to such governments are authorized by the Congress and under the terms and conditions prescribed by the Congress: *Provided,* That all grants shall be made by the head of the department, agency, or instrumentality of the Federal Government administering the law authorizing such grants in accordance with all of the provisions of such law: *Provided further,* That no grant under this section shall be subject to any limitation in other laws with respect to the apportionment of funds, the time in which grants may be made, or the aggregate dollar amounts of grants for any prescribed purpose, project, or program: *And provided further,* That, notwithstanding any limitation in other laws, the amount of any grant made under the authority of this section shall be not less than 40 nor more than 50 per centum of the cost of undertaking and completing the project or program for which the grant is made.

AREAS SUFFERING EXTRAORDINARY ECONOMIC DISTRESS

SEC. 6. (a) If the President determines that an area suffering extraordinary economic distress (because of a sustained extremely severe rate of unemployment or an extremely low level of family income and severe underemployment) does not have economic and financial capacity to assume all of the additional financial obligations required by section 5, a grant otherwise authorized pursuant to such section for a project or program in such area may be made under the provisions of this section without regard to any provision of law limiting the amount of such grant to a fixed portion of the cost of the project or program, but the recipient of the grant shall be required to bear such portion of such cost as it is able to and in any event at least 25 per centum thereof.

(b) For the purpose of determining what constitutes an area suffering extraordinary economic distress the President shall prepare and use uniform standards as part of the plan under section 3.

(c) Of the funds authorized pursuant to section 9 not more than $300,000,000 shall be used for the purpose of this section.

FEDERAL LOANS

SEC. 7. (a) For the purpose of carrying out the plan prepared under section 3, the Housing and Home Finance Administrator, or such agency or officer of the Federal Government as he may designate, is authorized, upon application and under such rules and regulations as he shall prescribe, to purchase the securities and obligations of, or make loans to, States and local governments which otherwise would be unable to meet their share of the cost of projects and programs for which grants have been authorized pursuant to section 6 of this Act.

(b) All securities and obligations purchased and all loans made under this section shall be of such sound value or so secured as reasonably to assure retirement or repayment, and such loans may be made either directly or in cooperation with banks or other financial institutions through agreements to participate or by the purchase of participations or otherwise.

(c) No securities or obligations shall be purchased and no loans shall be made, including renewals or extensions thereof, which have maturity dates in excess of forty years.

(d) Financial assistance extended under this section shall bear interest at a rate determined by the Administrator which shall be not more than the higher of (1) 3 per centum per annum, or (2) the total of one-half of 1 per centum per annum added to the rate of interest required to be paid on funds obtained for the purposes of this section as determined by the Secretary of the Treasury as provided under subsection (e) of this section.

(e) The Administrator may use for loans authorized under this section funds appropriated pursuant to section 9 in amounts prescribed from time to time by the President: *Provided,* That the aggregate of all funds allocated by the President for the purposes of this section shall not exceed $75,000,000: *And provided further,* That funds obtained by the Administrator for the purposes of this section shall bear interest at a rate determined by the Secretary of the Treasury which shall be no more than the higher of (1) 2½ per centum per annum, or (2) the average annual interest rate of all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the preceding fiscal year and adjusted to the nearest one-eighth of 1 per centum.

RESTRICTIONS AND LIMITATIONS

SEC. 8. The authority conferred by this Act shall be subject to the following restrictions and limitations:

(1) No financial assistance shall be made with respect to any project or program unless the project or segment of work to be assisted under this Act—

(A) can be initiated or accelerated within a reasonably short period of time;

(B) will meet an essential public need;

(C) if initiated hereunder, can be completed within 20 months after enactment of this Act; and

(D) is not inconsistent with locally approved comprehensive plans for the jurisdictions affected, wherever such plans exist.

(2) Not more than 6 per centum of the funds provided for in the form of grants pursuant to sections 5 and 6 of this Act shall be made available within any one State.

(3) Each department or agency administering financial assistance authorized by this Act shall adopt such rules, regulations, and procedures as will assure that no such assistance shall be made available to any State or local government unless such project or program for which the assistance is granted produces a net increase in the expenditures of the State or local government for public works projects approximately equal to the non-Federal contribution to the project or program.

APPROPRIATIONS

SEC. 9. There is hereby authorized to be appropriated the sum of $600,000,000 to carry out the provisions of this Act.

DELEGATION OF POWERS

SEC. 10. The President may exercise any functions conferred upon him by this Act through such agency or officer of the United States Government as he shall specify. The head of any such agency or such officer may from time to time promulgate such rules and regulations as may be necessary to carry out such functions, and may delegate authority to perform any such functions, including, if he shall so specify, the authority successively to redelegate any of such functions.

DEFINITIONS

SEC. 12. As used in this Act—

(a) The term "States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Territories and possessions of the United States.

(b) The term "local governments" includes public corporate bodies or political subdivisions; public agencies or instrumentalities of one or more States, municipalities, or political subdivisions of States; Indian tribes, and boards of commissions established under the laws of any State to finance specific public works projects.

(c) The term "public works" includes the construction, repair, and improvement of: public streets, sidewalks, highways, parkways, bridges, parking lots, airports, and other public transportation facilities; public hospitals, rehabilitation and health centers and other public health facilities; public refuse and garbage disposal facilities, water, sewage, sanitary facilities, and other public utility facilities; civil defense facilities; public police and fire protection facilities; public educational facilities, libraries, museums, offices, laboratories, employee housing, and other public buildings; and public land, water, timber, fish and wildlife, and other conservation facilities and measures.

(d) The term "project" includes a separable, usable feature of a larger project or development.

(e) The term "segment of work" means a part of a program on which the work performed can be separately identified by location and will provide usable benefits or services.

DICTATOR FRANCO

Mr. YOUNG of Ohio. Mr. President, the time has come for this country to reexamine a policy whereby the United States is enriching the coffers of one of the world's most powerful dictators.

Gen. Francisco Franco is in every way as much a dictator in Spain as Khrushchev is in Russia. Franco is chief of state, dictator, commander in chief of the armed forces, Prime Minister of Spain, and also protector of the church. He is head of the Falange Party which is the only legal political party in Spain. He holds absolute veto power over all legislation submitted by the Spanish Parliament. He has complete control over education, books, newspapers, radio, communications, and speech.

The story of Franco is a story of violence. He rose to power during the Spanish Civil War which lasted from

July 1936 until March 1939. General Franco was a leader of the rebel forces against the then republican government in a brutal war during which hundreds of thousands were killed in battle, cities were destroyed, industries wrecked, and agriculture starved. With the military and financial support of Hitler and Mussolini, the Spanish Fascists under Franco were finally victorious.

Franco emerged from this war as absolute ruler of Spain, since the end of the war he has maintained his power by ruthlessly suppressing all opposition. It is estimated that 6,000 political prisoners are now languishing in Spanish prisons. Thousands more have died in concentration camps or were executed without legal trials.

In 1959 17 Spanish youths were tried for "military rebellion" before the supreme military tribunal of Spain. They were civilians—university students. Their "crime" was that at a football match they distributed leaflets condemning low wages and the high cost of living. The judges at this trial were four generals with an admiral presiding. None of the prisoners was allowed to be present nor testify during the proceedings. All 17 were found guilty.

Mr. President, the Spanish people of today are deprived of even the rudiments of civil liberty, parliamentary rule, and democratic processes. Franco would not be dictator today except for the financial help and military and air assistance during the civil war from his axis partners, Hitler and Mussolini. The tyranny of Hitler and Mussolini has been ended, but Franco is with us still.

After the Allied victory in Europe the countries that had fought in the war against Fascist dictators classified Spain as a defeated Fascist country. In March of 1946 our State Department published a "White Paper" on Spain. This publication exposed Spain's and Franco's intimate relations with Nazi Germany. These documents include a letter to Hitler on February 26, 1941, in which Franco states:

> I stand ready at your side, entirely and decidedly at your disposal, united in a common historical destiny.

In 1946 the Governments of France, the United Kingdom, and the United States agreed that so long as Franco continued to rule Spain, that nation could not participate in the United Nations. At that time it was hoped that Franco's power would collapse and a democratic form of government would be established in Spain.

In 1953 an astonishing turnabout took place. The United States changed its attitude toward Spain. It was decided that we needed bases for our Armed Forces on the Spanish side of the Pyrenees. The United States signed three military aid agreements with Spain. Franco by this single act acquired international respectability. In 1955 Spain was admitted to membership in the United Nations.

Thus America, the main bulwark of democratic traditions and freedom, heretofore contemptuous of Fascist Spain, changed overnight apparently to high appreciation of Dictator Franco. This development has continued. It reached its culmination in the visit by President Eisenhower to Madrid in December 1959. This visit placed the official seal of approval on Franco.

Notwithstanding how much American foreign policy has changed, there has certainly been no change in Franco Spain. It is still a legalized tyranny with a Fascist dictator in power.

Mr. President, I would never advocate any measure which I felt would weaken the military security of our country. I feel strongly that we should thoroughly investigate the need for continuing our alliance with Franco Spain.

We should ask our defense experts if the Strategic Air Command bases in Spain are truly vital to our defense and our retaliatory capability. We now have new long-range ballistic missiles such as the Atlas ICBM and Polaris firing submarines.

Since January 1961, our defenses and the might of our arms and retaliatory power have been greatly strengthened in missilry, and our Polaris-firing submarine force is being added to constantly.

Could these new weapons be based in other areas of the European-Mediterranean sector without sacrificing any of the retaliatory power which our Strategic Air Command bases in Spain now afford us? That is an inquiry for our military experts to answer.

Since the first year of the Eisenhower administration—1953—we have poured more than $1.3 billion into Spain. Three major Strategic Air Command built in Spain at a cost of over $400 million. Franco can use and has used these bases to try to put us over a barrel. The Generalissimo is not bashful about making demands on the United States, and there is always the veiled threat of confiscation of our bases if we fail to comply.

Dictators come high these days and this dictator has our bases as hostages. Indications are that Franco will increase his demands for money and for modern arms to strengthen his dictatorship. He wants not only modern aircraft, but also nuclear arms for his army and air force.

We would do well to consider the words of John Gunther in his recent book, "Inside Europe Today":

> One lesson that may well be drawn from all this is that it is always dangerous for a democracy, like the United States, to become too closely involved with a dictator or semi-dictator, no matter how convenient this may seem to be. It is the people who count in the long run, and no regime is worth supporting if it keeps citizens down—if only for the simple reason that they will kick it out in time.

Mr. President, we should now reassess our policy of knuckling under to Franco. The time has come to cut this despot down to size. Franco has demonstrated that he is quite capable of ruthlessness and treachery. Can we tolerate his demands? Can we put aside our democratic ideals? Do we really need those bases in Spain?

Throughout that portion of the Eisenhower administration while I was a Senator and throughout the present administration, I have supported our Nation's foreign assistance program. However, I am not convinced that $4.9 billion should be appropriated for the coming fiscal year for foreign assistance, at one time improperly called mutual assistance, or as was improperly camouflaged in the last years of the Eisenhower administration, mutual security, I intend to support the administration's proposal but my present view is that it calls for expenditures of too much money for foreign assistance to some governments where I consider assistance should be denied, and would not in fact help the citizens of those countries.

I assert that the waste and fat should be cut from all foreign assistance authorizations and appropriations. More money has flowed from this country overseas than has returned due in large part to the establishment of military bases in many foreign countries and the drain of our dollars in maintaining them. In my judgment a thorough reexamination of our oversea military installations should be made. Some of these bases may be as unnecessary and useless as our frontier forts maintained so long against the Indians after their uselessness should have been apparent to everyone.

With the advance of science and the continuing development of missiles and other modern weapons, surely some of our bases overseas should be eliminated. I find the practice of paying many millions of dollars to Franco's government abhorrent. We should stop, look, and listen before handing out taxpayers' money lest we further enrich the ruling class in countries such as Spain, where the ruling group is already swollen with wealth and power while the millions of common people of such countries are subjects practically in chains.

JAMES M. NORMAN—LITERACY TEST FOR VOTING

The Senate resumed the consideration of the bill (H.R. 1361) for the relief of James M. Norman.

Mr. EASTLAND obtained the floor.

Mr. DIRKSEN. Madam President——

Mr. EASTLAND. Madam President, I ask unanimous consent that at this time I may yield to the distinguished Senator from Illinois [Mr. DIRKSEN], with the understanding that in yielding to him, I shall not lose my right to the floor; that at the conclusion of his remarks, I may proceed with my speech; and that my yielding for this purpose shall not be counted as one speech by me against the pending measure.

The PRESIDING OFFICER (Mrs. NEUBERGER in the chair). Is there objection? Without objection, it is so ordered.

Mr. DIRKSEN. Madam President, it has been almost 100 years since the Congress has stated as clearly and unmistakably as it can be said in the 14th and 15th amendments to the U.S. Constitution

that "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States" and 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, [and] the Congress shall have power to enforce this article by appropriate legislation."

The pages of history since the adoption and ratification of these amendments have reflected the glory of our republican form of government to every corner of this planet and have inspired the souls of men everywhere in the long struggle toward freedom, self-determination, and the investing by them of their brothers with the sacred duty and responsibility to preserve ideals of personal freedoms unparalleled in the history of mankind.

Enriched by the transfusion of freedom-loving people who deported from home and homeland for our shores, very often with little else than hope and a rugged will to make good in a new life, we have built upon the foundations laid down for us by them to the envy and inspiration of men everywhere.

At this very moment, government of, by, and for the people stirs the hearts and minds of oppressed peoples who risk, and frequently encounter, death in piercing curtains of iron, and walls of concrete, to demonstrate that such barriers will never effectively shackle the mind of man, designed by his Creator a little less than the angels and endowed with free choice in the equal pursuit of liberty.

Liberty came not easily to this Nation, nor has its enjoyment been peaceful. In almost every generation it has become necessary for us to take up arms in defense of our heritage and we are today on guard in far places to protect our form of government from those who would bury it. Our dedication to personal freedom must not be impassive to the pleas of our own citizens who ask only to be allowed to vote.

The findings of the U.S. Commission on Civil Rights and the testimony of the chief law enforcement officer of the United States, the Attorney General, have made it abundantly clear that there are "grounds to believe that substantial numbers of Negro citizens are, or recently have been, denied the right to vote on grounds of race or color."

Abhorrent for 98 years to fairness and decency has been the history of such discrimination, be it applied to only the minutest number of our citizens. It is today, intolerable. No thinking person can seriously rebut evidence that literacy and other tests have been for a long time, and are today, widely used and abused by persons sworn to uphold the law and the Constitution who subvert the Constitution and distort the law, under whose sacred mantle they operate, to impede and preclude the registration of Negroes who desire only to be allowed to cast a vote for their representation in government.

The U.S. Civil Rights Commission has found and reported that in one State for example, a Federal district judge found that six Negro applicants—two with master's degrees, five with bachelor's degrees, and one with a year of college training—were denied the right to vote on the grounds that they could not read intelligibly or write sections of the State constitution.

In another State it was found that Negro registrants, clearly able to read and write had been disqualified for misspellings, mispronunciations or for failing to answer questions which were clearly irrelevant to literacy or to intelligent exercise of the right to vote.

Father Theodore Hesburgh, president of the University of Notre Dame and a member of the Civil Rights Commission, stated in a speech on February 14, 1960, some of his experiences in the investigation of voter discrimination. Referring to individuals who were qualified but unable to vote he said:

> Some were veterans with long months of oversea duty and decorations for valor in service. Some of the people were ministers. Some of them were college teachers. Some of them were lawyers, doctors. All of them were taxpayers. Some were mothers of families who were hard pressed to tell their children what it is to be a good American citizen when they could not vote themselves. All of them were decent, intelligent American people, and yet they could not cast their ballots for the President of the United States. Some had gone through incredible hardships in attempting to register and had been subjected to incredible indignities. I don't know if any of you in this room have had to go through this experience, but vicariously we had to go through it in listening to their tales. They would go down to the courthouse and instead of going in where the white people registered, they would have to go to a room in the back where they would stand in line from 6 in the morning until 2 in the afternoon, since only two were let in at a time. Then people with Ph. D.'s and the master's degrees and high intelligence would sit down and copy like a schoolchild the first article or the second article of the Constitution. Then they would be asked the usual questions, make out the usual questionnaires, hand in a self-addressed envelope and hear nothing for 3 months. And then they would go back and do it over again, some of them five, six or seven times, some of them standing in line 2 or 3 days until their turn came.

Attorney General Kennedy has stated that existing laws are inadequate to solve this problem and that the 14th and 15th amendments are an affirmative grant of power to Congress to enact legislation to guarantee rights protected by these amendments, including principally the right to vote.

With respect to the 14th and 15th amendments, Mr. Kennedy has said:

> I have no doubt that this bill is valid under that grant of power. There is no doubt that widespread deprivations of the right to vote because of race have occurred and continue to occur. The question is not whether this bill is valid, but whether it would correct the situation. Voting tests, which in this day of high educational achievement can exclude persons with a sixth grade education, are potential devices for discrimination. In my judgment, virtually no one with that amount of education has been turned down as a voter for other than racial reasons. Congressional action adapted to correcting this evil is not a questionable innovation. It is overdue.

Even among opponents of this bill, there are those who concede that it is constitutionally sound, and again in a letter to the distinguished chairman of the Constitutional Rights Subcommittee, dated April 19, 1962, the Assistant Deputy Attorney General stated: "S. 2750, therefore, avoids any real constitutional problem."

Accordingly, Madam President, I urge you who are present today in this Chamber only by reason of free elections, you who are sensitive to their right to vote, to listen to the supplications of our disenfranchised Americans who ask only that we fulfill the command of the 15th amendment to the Constitution, ratified in 1870, which reads as follows:

> SECTION 1. 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.
>
> SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

There exists incontrovertible evidence given by the Attorney General of the United States and by the U.S. Civil Rights Commission that citizens of the United States are today denied the right to vote because of their color.

A compelling urgency exists for the passage of this bill. The authority for congressional action has been clearly spelled out for us. We would be derelict in our duty not to act. I urge your support for this substitute measure now before us, which is identical in text with S. 2750.

In connection with my remarks, I ask unanimous consent to include in the RECORD as a part of my remarks, first, a memorandum prepared by the Department of Justice on the constitutionality of the pending bill, and, second, a staff memorandum from the U.S. Commission on Civil Rights, which also deals with the constitutionality of the pending measure.

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

CONSTITUTIONALITY OF S. 2750

The facts calling for the exercise of congressional power under S. 2750 are set forth in the statements of the Attorney General; in the findings and unanimous recommendations of the Civil Rights Commission; and in other statements and materials. This memorandum discusses the constitutional bases for that exercise of power in the context of those facts.

Under the bill the States would be prohibited from denying the right to vote for Federal officials on account of performance in any educational-type examination (whether for literacy or otherwise) to any person who is otherwise qualified by law, has not been adjudged incompetent, and has completed the sixth primary grade of any public school or accredited private school in any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico.

Because separate legal problems are involved, this memorandum deals separately with (1) congressional authority to prohibit denials of the right to vote to citizens who

have completed the sixth grade in a school in a State or territory or the District of Columbia, and (2) its authority to prohibit denials to citizens who have completed the sixth grade in a school in Puerto Rico. Part I is concerned with the general application of the bill; part II discusses it as applied to citizens who have completed six grades in a Puerto Rican school.

THE BILL AS IT APPLIES TO CITIZENS WHO HAVE COMPLETED SIX GRADES IN A SCHOOL IN A STATE OR TERRITORY OR THE DISTRICT OF COLUMBIA

The Civil Rights Commission has unanimously found that literacy and interpretation tests have been widely employed to disenfranchise Negroes. It has reported that (Report of the U.S. Commission on Civil Rights on Voting, 1961, p. 137):

"A common technique of discrimination against would-be voters on racial grounds involves the discriminatory application of legal qualifications for voters. Among the qualifications used in this fashion are requirements that the voter be able to read and write, that he be able to give a satisfactory interpretation of the Constitution, that he be able to calculate his age to the day, and that he be of good character."

To remedy this situation the Commission unanimously recommended (report, at 141):

"That Congress enact legislation providing that in all elections in which, under State law, a 'literacy' test, an 'understanding' or 'interpretation' test or an 'educational' test is administered to determine the qualifications of electors, it shall be sufficient for qualification that the elector have completed at least six grades of formal education."

As it applies to elections for Federal officials, this unanimous recommendation of the Commission is embodied in S. 2750.

Although no language in the Constitution expressly confers such authority, the courts have held that the States have the power to prescribe reasonable qualifications for voting in State and Federal elections. *Lassiter* v. *Northampton Election Board*, 360 U.S. 45, 60 (1959); *Breedlove* v. *Suttles*, 302 U.S. 277 (1937); *Pope* v. *Williams*, 193 U.S. 621, 633 (1904). But no court has held that, acting pursuant to its delegated powers, Congress cannot restrict the States with respect to the qualifications they impose or the manner of testing those qualifications. There are at least four constitutional sources of such congressional power: section 2 of the 15th amendment; section 5 of the 14th amendment; article I, section 4; and the implied power of Congress to protect the purity of Federal elections. The article I, section 4 power in terms extends only to congressional elections; the implied power of Congress extends to all Federal elections; and the 14th and 15th amendments are adequate to reach both State and Federal elections. S. 2750 extends only to Federal elections, and it is therefore not necessary to discuss congressional power to deal with State elections as such.

A. The 15th amendment

The 15th amendment prohibits the racially discriminatory administration of State voting laws, even if such laws are valid on their face. *United States* v. *Raines*, 362 U.S. 17 (1960); *United States* v. *Thomas*, 180 F. Supp. 10 (E.D. La., 1960), affirmed 362 U.S. 58 (1960); see *Davis* v. *Schnell*, 81 F. Supp. 872 (S.D. Ala., 1949), affirmed 336 U.S. 933. It also prohibits "contrivances by a State to thwart equality in the enjoyment of the right to vote by citizens of the United States regardless of race or color * * *"; it "nullifies sophisticated as well as simple-minded modes of discrimination"; it forbids "onerous procedural requirements which effectively handicap exercise of the franchise by the colored race although the abstract right to vote may remain unrestricted as to race" (*Lane* v. *Wilson*, 307 U.S. 268, 275 (1939); see also *Myers* v. *Anderson*, 238 U.S. 368 (1915); *Guinn* v. *United States*, 238 U.S. 347 (1915)); and it vitiates measures which have the "inevitable effect" of disenfranchising Negroes. *Gomillion* v. *Lightfoot*, 364 U.S. 339, 342 (1960). Where there is a purpose or effect of discrimination, the amendment forbids qualification laws which vest broad discretion in State voting officials, including laws which permit State officials to determine whether an applicant can understand or explain constitutional or other provisions. *Davis* v. *Schnell*, *supra*.

Under section 2 of the 15th amendment Congress is vested with the power to enact appropriate legislation to enforce the amendment. This power is to be interpreted broadly, and includes the enactment of measures reasonably adapted to counteract discriminatory devices. See, *e.g.*, *United States* v. *Raines*, 362 U.S. 17, 25 (1960); *Hannah* v. *Larche*, 363 U.S. 420, 452 (1960).

The measure of congressional power to enforce prohibitory constitutional amendments is illustrated by *James Everard Breweries* v. *Day*, 265 U.S. 545 (1924). There, the Supreme Court held that, although the 18th amendment in terms prohibited only the manufacture and sale of intoxicating liquors for beverage purposes, Congress could, under the appropriate legislation clause of that amendment, bar the prescription of intoxicating liquor for medicinal purposes, for the sole reason that prohibiting traffic in the latter was reasonably adapted to enforcing the terms of the amendment. The Court said (265 U.S. at 561):

"The opportunity to manufacture, sell and prescribe intoxicating malt liquors for medicinal purposes, opens many doors to clandestine traffic in them as beverages under the guise of medicines; facilitates many frauds, subterfuges and artifices; aids evasion; and thereby and to that extent, hampers and obstructs the enforcement of the 18th amendment."

See also *Ruppert* v. *Caffey*, 251 U.S. 264 (1920); *United States* v. *Darby*, 312 U.S. 100, 121 (1941); *McCulloch* v. *Maryland*, 4 Wheat. 316 (1819); *Westfall* v. *United States*, 274 U.S. 256, 258–59 (1927).

This means that Congress, acting under its power to enforce provisions such as those of the 18th or the 15th amendment by appropriate legislation, is not limited to outlawing practices which are forbidden by the terms of the provisions themselves. It may also do whatever is reasonably necessary to remove obstructions to fulfillment of the purposes of the provisions. Congress may restrict the employment of literacy or other qualifying tests, even though on their face they do not violate the amendment, if it deems this necessary effectively to eliminate their use in a manner forbidden by the amendment.

The findings of the Commission on Civil Rights, and those contained in section 1 of S. 2750, make clear that the adoption of objective standards is necessary in order to enforce in an effective way the prohibitions of the 15th amendment. By substituting an objective standard for vague and subjective tests, the bill would strike both at tests which on their face vest excessive and uncontrolled discretion in State registrars and at tests (or other requirements, such as the completion of forms which are treated as tests) which have been administered in a discriminatory manner.

B. The 14th amendment

(1) The Equal Protection Clause

The actions of voting registrars in applying literacy and other qualification tests so as to disenfranchise Negroes, while applying the same tests to whites in a different manner, constitute a denial of the equal protection of the laws guaranteed by the 14th amendment. See, e.g., *Davis* v. *Schnell*, *supra*. See also, *Cooper* v. *Aaron*, 358 U.S. 1 (1958); *Yick Wo* v. *Hopkins*, 118 U.S. 356 (1886); *Rice* v. *Elmore*, 165 F. 2d 387, 392 (C.A. 4, 1947). These actions are a proper subject of congressional power under section 5 of the amendment, which grants Congress authority to enforce the provisions of the amendment by "appropriate legislation." *Virginia* v. *Rives*, 100 U.S. 313 (1879); *Ex parte Virginia*, 100 U.S. 339 (1879); *Strauder* v. *West Virginia*, 100 U.S. 303 (1879). The scope of congressional powers under section 5 has been broadly defined by the Supreme Court. Thus, in *Ex parte Virginia*, the Court said (100 U.S. at 345–46):

"Whatever legislation is appropriate, that is, adapted to carry out the objects the amendments have in view, whatever tends to enforce submission to the prohibitions they contain, and to secure to all persons the enjoyment of perfect equality of civil rights and the equal protection of the laws, against State denial or invasion, if not prohibited, is brought within the domain of congressional power."

The power vested in Congress by section 5 of the 14th amendment is like its power under the enforcement clause of the 18th amendment, which was sustained in *James Everard Breweries* v. *Day*, 265 U.S. 545 (1924), discussed above.

It is sufficient to support restrictions upon qualification tests which may be valid on their face if Congress finds such action appropriate or necessary effectively to eliminate the discriminatory application of the tests.

(2) The Privileges and Immunities Clause

In *Twining* v. *New Jersey*, 211 U.S. 78, 97 (1908), the Supreme Court said that "* * * among the rights and privileges of national citizenship recognized by this Court are * * * the right to vote for national officers, *Ex parte Yarbrough*, 110 U.S. 651 * * *." See also *United States* v. *Thomas*, 180 F. Supp. 10 (E.D. La., 1960), affirmed, 362 U.S. 58 (1960). The power of Congress to enforce the provisions of the 14th amendment extends to all its provisions. It is as applicable to the privileges and immunities clause as it is to the equal protection clause. Since the bill is limited to Federal elections, the privileges and immunities clause independently supports remedial legislation such as S. 2750 to secure the right to vote.

(3) The Due Process Clause

Arbitrary State tests to determine qualifications of voters in national elections are invalid under the due process clause. *Davis* v. *Schnell*, 81 F. Supp. 872 (S.D. Ala. 1949), affirmed, 336 U.S. 933 (1949). As a privilege and immunity of national citizenship (*Twining* v. *New Jersey*, supra) and as a right implicit in and guaranteed by the Constitution (*United States* v. *Classic*, 313 U.S. 299, 315 (1941) and cases cited), the right of qualified voters to vote for Federal officers cannot be denied without violating "fundamental principles of liberty and justice which lie at the base of all of our civil and political institutions. * * *" *Herbert* v. *Louisiana*, 272 U.S. 312, 316 (1926). The right to vote for such officers is therefore an aspect of "liberty" protected by the due process clause of the 14th amendment from arbitrary and unreasonable infringement by the States. By virtue of its power under section 5 of the 14th amendment, Congress may proscribe State qualification tests which are arbitrary and which for that reason violate the amendment.

Beyond that, however, Congress shares with the judiciary the power to enforce the 14th

amendment. *Ex parte Virginia,* 100 U.S. 339, 345 (1879). Upon appropriate findings, it may declare that certain State restrictions upon the exercise of the franchise (i.e., the requirement that an applicant with a sixth grade education must take a literacy, understanding, or interpretation test) are arbitrary in nature. This is essentially what S. 2750 would do.

The starting basis for the declaration by Congress would be the finding that it is reasonable to believe that persons who have achieved a sixth-grade educational level are sufficiently literate to understand the nature and operation of our Government. Congress can note the generally accepted high standards of education which prevail throughout the United States. Since virtually no one can reasonably be expected to fail a literacy or similar test—fairly administered—if he has completed six grades. Congress is beyond question justified on the evidence available to it in finding that the exclusion of Negroes from the voting rolls is the real purpose of the testing in those places where persons of sixth-grade or higher educational achievement are rejected. It can find that the tests are required on arbitrary grounds having no relations to literacy. Such a finding, based in part on the Civil Rights Commission's report, would be entitled to great weight in the courts. See *Communist Party* v. *Subversive Activities Control Board,* 367 U.S. 1, 94–95 (1961). There the Court said:

"It is not for the courts to reexamine the validity of these legislative findings [about the dangers to the United States of the "worldwide Communist conspiracy"] and reject them. * * * They are the products of extensive investigation in committees of Congress over more than a decade and a half. * * * We certainly cannot dismiss them as unfounded or irrational imaginings."

On the basis of its findings Congress may declare that State performance test requirements are arbitrary and, notwithstanding decisions such as *Lassiter* v. *Northampton Election Board, supra,* and *Camacho* v. *Rogers,* 199 F. Supp. 155 (S.D. N.Y. 1961), it may restrict their application. It is pertinent to note that findings of this sort were not before the courts in the *Lassiter* and *Camacho* cases. The arbitrary use of literacy tests on a wide scale in a matter peculiarly within the province of the National Legislature to investigate—either directly, or through a congressionally created arm such as the Civil Rights Commission, or in both ways. And where Congress, upon the basis of such an investigation makes a declaration of arbitrariness, that declaration is entitled to very great weight in the courts. See Goodnow, *Congressional Regulation of State Taxation,* 28 Pol. Sci. Q. 405, 429–431 (1913); cf. *NLRB* v. *Hearst Publications, Inc.,* 322 U.S. 11 (1944).

Congress has, in fact, previously exercised similar power in order to prevent discriminatory State action by defining the equal protection of the laws to which a person is entitled under the 14th amendment to include the right to make and enforce contracts, to sue, and to give evidence, 42 U.S.C. 1981, and the right to inherit, purchase, lease, sell, hold and convey property, 42 U.S.C. 1982, and by defining under the enforcement clause of the 13th amendment, involuntary servitude to include the voluntary or involuntary service or labor of any persons as peons, in liquidation of any debt or obligation, 42 U.S.C. 1994.

There is little doubt that the courts would be bound by a congressional declaration that literacy and similar tests required of persons who have completed the sixth grade are arbitrary and unreasonable within the meaning of the due process clause of the 14th amendment.

C. Article I, section 4

(1) Historical Evidence

Article I, section 4 of the Constitution provides that:

"The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators."

With minor revision, this was substantially the provision as it was submitted by the Committee of Detail of the Constitutional Convention on August 9, 1787. As submitted by the committee, the provision read as follows (Prescott, "Drafting the Federal Constitution," 488 (1941)):

"The times, and places, and manner of holding the elections of the members of each house, shall be prescribed by the legislature of each State; but their provisions concerning them may, at any time, be altered by the Legislature of the United States."

A motion was made by Pickney and Rutledge to strike out the words "but their provisions concerning them may, at any time, be altered by the Legislature of the United States." It was urged that the States could and must be relied on in such cases (id. at 489). James Madison answered this contention as follows (ibid.):

"The necessity of a general government supposes that the State legislatures will sometimes fail or refuse to consult the common interest at the expense of their local convenience or prejudices. The policy of referring the appointment of the House of Representatives to the people and not to the legislatures of the States supposes that the result will be somewhat influenced by the mode. This view of the question seems to decide that the legislatures of the States ought not to have the uncontrolled right of regulating the times, places, and manner, of holding elections. These were words of great latitude. It was impossible to foresee all the abuses that might be made of the discretionary power."

His arguments were persuasive and, after relatively brief discussion, the motion to strike was defeated (id. at 490).

Madison's statement affords impressive support for the view that the authority conferred upon Congress by article I, section 4 should be construed broadly so as to permit Congress to counteract State election laws which leave the election of national officers wholly at the mercy of local prejudices. His words suggest, moreover, that the congressional power was intended to reach the substance, not merely the form, of such an election. That this indeed was the intent is confirmed by the discussion of article I, section 4 in the Federalist No. 59 (The Federalist (Ed. J. E. Cooke, 1961), 398–399), written by Hamilton:

"It will not be alleged, that an election law could have been framed and inserted in the Constitution, which would have been always applicable to every probable change in the situation of the country; and it will, therefore, not be denied, that a discretionary power over elections ought to exist somewhere. It will, I presume, be as readily conceded, that there are only three ways in which this power could have been reasonably modified and disposed: That it must either have been lodged wholly in the National Legislature, or wholly in the State legislatures, or primarily in the latter and ultimately in the former. The last mode has, with reason, been preferred by the Convention. They have permitted the regulation of elections for the Federal Government, in the first instance, to the local administration; which, in ordinary cases, and when no improper views prevail, may be both more convenient and more satisfactory; but they have reserved to the national authority a right to interpose, whenever extraordinary circumstances might render that interposition necessary to its safety.

"Nothing can be more evident, than that an exclusive power of regulating elections for the National Government, in the hands of the State legislatures, would leave the existence of the Union entirely at their mercy."

Hamilton also stressed that "it is more consonant to the rules of a just theory to intrust the Union with the care of its own existence, than to transfer that care to any other hands." (Id. at 399.)

Similarly, when a motion to strike the portion of article I, section 4, vesting authority in the Congress to regulate elections of national officers was made, Madison said (5 Elliot's "Debates on the Federal Constitution" 402):

"What danger could there be in giving a controlling power to the National Legislature? Of whom was it to consist? First, of a Senate to be chosen by the State legislatures. If the latter, therefore, could be trusted, their representatives could not be dangerous. Secondly, or Representatives elected by the same people who elect the State legislatures. Surely, then, if confidence is due to the latter, it must be due to the former. It seems as improper in principle, though it might be less inconvenient in practice, to give to the State legislatures this great authority over the election of the Representatives of the people in the General Legislature, as it would be to give to the latter a like power over the election of the Representatives of the State legislatures."

Madison's views were concurred by King, who said (ibid.):

"If this power be not given to the National Legislature, their right of judging of the returns of their members may be frustrated."

It is true that in The Federalist No. 60, in discussing whether the congressional power under article I, section 4 could be used to favor the wealthy and the well born, Hamilton said (The Federalist (Ed. J. E. Cooke, 1961) 408, 409):

"The truth is that there is no method of securing to the rich the preference apprehended, but by prescribing qualifications of property either for those who may elect, or be elected. But this forms no part of the power to be conferred upon the National Government. Its authority would be expressly restricted to the regulation of the times, the places, and the manner of elections. The qualifications of the persons who may choose or be chosen, as has been remarked upon another occasion, are defined and fixed in the Constitution; and are unalterable by the Legislature.

Hamilton's view that the congressional power was not so broad as to permit Congress to alter the qualifications of voters (it may be noted parenthetically that Hamilton was discussing the issue of whether Congress could impose more stringent requirements for voting) reflects a measure of disagreement as to the ultimate scope of article I, section 4. Others took the view that such power was conferred by article I, section 4. The question was touched upon in the Massachusetts ratifying convention. Hon. Mr. White said (2 Elliot's "Debates on the Federal Constitution" 28):

"If we give up this section * * * there is nothing left. Suppose the Congress should say that none should be electors but those worth 50 or a 100 [pounds] sterling; cannot they do it? Yes, said he, they can."

So too, Dr. Taylor mentioned the possibility that the two branches of Congress could agree to play into each other's hands, and "by making the qualifications of electors 100 [pounds] by their power of regulat-

ing elections fix the matters of elections so as to keep themselves in." (Id. at 49–50.) Compare the statement of Rufus King (id. at 51). Similarly, speaking of article I, section 4 in the Virginia convention, Patrick Henry said (2 Elliot's "Debates" 149):

"According to the mode prescribed, Congress may tell you that they have a right to make the vote of 1 gentleman go as far as the votes of 100 poor men."

He continued (ibid):

"The power over the manner admits of the most dangerous latitude. They may modify it as they please. They may regulate the number of votes by the quantity of property without involving any repugnancy to the Constitution."

As this memorandum emphasizes in detail elsewhere, S. 2750 does not prescribe or alter State-imposed qualifications for voting, but simply establishes an objective method of ascertaining whether an applicant possesses the State-imposed qualification, i.e., ability to inform one's self of election issues. The critical question, then, is not whether the Founding Fathers intended to permit Congress to alter qualifications—an issue upon which history provides inconclusive answers—but whether they intended to permit the States, without redress by Congress, to abuse their powers over Federal electoral processes by enacting procedures for determining the existence of particular qualifications which are of such a nature as to permit local prejudice to disfranchise qualified citizens. Unquestionably the Founding Fathers did not intend to confer such vast and unchecked power on the State legislatures.

The power given Congress by article I, section 4, was intended to provide the means to remedy abuses by the States in their regulations concerning congressional elections.

In the Virginia ratifying convention, for example, Monroe wanted to know "why Congress had the ultimate control over the time, place, and manner, of elections of Representatives * * *." Madison gave article I, section 4, this construction (3 Elliot's "Debates on the Federal Constitution," 367):

"Should the people of any State by any means be deprived of the right of suffrage, it was judged proper that it should be remedied by the General Government. It was found necesary to leave the regulation of these, 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 prevent its own dissolution."

In the Massachusetts convention, Parsons feared that without the power vested in Congress under section 4, "the people can have no remedy" against unequal and partial division of the States into districts for the election of Representatives, and that if the manner were left to State legislatures free from control by Congress, "they might even disqualify one-third of the electors." (Id. at 27.) The various views in the Massachusetts convention were summarized by the reporters as follows (id. at 35):

"Several other gentlemen went largely into the debate on the fourth section, which those in favor of it demonstrated to be necessary; first, as it may be used to correct a negligence in elections; secondly, as it will prevent the dissolution of the Government by designing the refractory States; thirdly, as it will operate as a check in favor of the people against any designs of the Federal Senate and their constituents, the State legislatures, to deprive the people of their rights of election; and fourthly, as it provides a remedy for the evil, should any State, by invasion or other cause, not have it in its power to appoint a place where the citizens thereof may meet to choose their Federal Representatives."

In the debates in the New York convention, Jones opposed article I, section 4, upon the ground that it might be construed to deprive the States of an essential right which the Constitution intended to reserve to them. Morris replied (2 Elliott's "Debates on the Federal Constitution," 326):

"That so far as the people, distinct from their legislatures, were concerned in the operation of the Constitution, it was absolutely necessary that the existence of the General Government should not depend for a moment on the will of the State legislatures. The power of perpetuating the Government ought to belong to their Federal Representatives; otherwise, the rights of the people would be essentially abridged."

In the debates in the North Carolina convention, Spencer objected to article I, section 4, on the ground that it gave Congress unlimited power over the election of Representatives and "seemed to throw the whole power of election into the hands of Congress." (Id., vol. 4, p. 52). Iredell defended section 4 upon various grounds, saying at one point (id. at 54):

"It might also be useful for this reason: Lest a few powerful States should combine, and make regulations concerning elections which might deprive many of the electors of a fair exercise of their rights, and thus injure the community, and occasion great dissatisfaction."

In the debates in the Pennsylvania convention, Wilson said (id., vol. 2, p. 482):

"It is repeated again and again by the honorable gentleman, 'that the power over elections which is given to the General Government in this system is a dangerous power. * * * The times, places, and manner of holding elections for Representatives may be altered by Congress.' This power, sir, has been shown to be necessary, not only on some particular occasions, but even to the very existence of the Federal Government. I have heard some very improbable suspicions, indeed, suggested with regard to the manner in which it will be exercised. Let us suppose it may be improperly exercised, is it not more likely so to be by the particular States than by the Government of the United States? Because the General Government will be more studious of the good of the whole than a particular State will be; and, therefore, when the power of regulating the time, place or manner of holding elections is exercised by the Congress, it will be to correct the improper regulations of a particular State."

And in the debates in the South Carolina convention, Pinkney said (id. at 303):

"It is absolutely necessary that Congress should have this superintending power, lest by the intrigues of a ruling faction in a State the Members of the House of Representatives should not really represent the people of the State, and lest the same faction, through partial State views, should altogether refuse to send Representatives of the people to the General Government."

In the light of these debates at the National and State Conventions, it is fairly clear that sections 2 and 4 of article I, read together, are concerned with realities of the situation, not with mere form. These debates show that the Founding Fathers intended to secure not the shadow but the substance of the right of the people to choose Federal officers, and that they did not want to leave unprotected at the outset the very machinery by which the constitutional right to choose Federal officers could subsequently be exercised. Of what practical use would this important constitutional right be if a citizen could be barred at the threshold by subtle and sophisticated manipulation in order to disqualify him?

Little in the history of the Constitution prior to its adoption lends support to such an artificial, harsh, and undemocratic result. The most serious disagreement in the Constitutional Convention hinged over whether the people or the State legislatures should elect the Members of the House of Representatives. The conflict was resolved by specifically providing in article I, section 2 that Members of the House shall be "chosen by the people." The power of selection was not given to the State legislatures because of the fear that they might devise types of elections which would defeat the end of representative government, i.e., election by the people. Thus, when on June 21, 1787, General Pinckney moved "that the first branch [the House of Representatives], instead of being elected by the people, should be elected in such manner as the legislature of each State should direct" (Prescott, "Drafting the Federal Constitution" (1941), 208 et. seq.), his resolution was vigorously attacked, and ultimately defeated. According to Mr. Madison's note (id. at 208–209):

"Hamilton considered the motion as intended manifestly to transfer the election from the people to the State legislatures, which would essentially vitiate the plan. It would increase the State influence which could not be too watchfully guarded against.

"Wilson considered the election of the first branch by the people, not only as the cornerstone, but as the foundation of the fabric * * *. The difference was particularly worthy of notice in this respect, that the legislatures are actuated not merely by the sentiment of the people, but have an official sentiment opposed to that of the General Government, and perhaps to that of the people themselves.

"King enlarged on the same distinction. He supposed the legislatures would constantly choose men subservient to their own views, as contrasted to the general interest, and that they might even devise modes of election that would be subversive of the end in view. He remarked several instances in which the views of a State might be at variance with those of the General Government."

If the authority to determine the method of electing Representatives to Congress was denied to the State legislatures because of the fear that they "might * * * devise modes of election that would be subversive of the end in view," the framers could hardly have contemplated that Congress should sit powerless while States subvert "the end in view" by devices susceptible of abuse and actually used to disfranchise qualified citizens. Such a construction of the Constitution would be wholly inconsistent with its spirit.

It is significant, moreover, that in seven State conventions on the ratification of the Constitution, resolutions were adopted which embodied objections to article I, section 4, and proposed that it should not be invoked except where the legislatures of the States refused or neglected to perform their duties as required by the Constitution. "Documents, Formation of the Union of the American States" (1927): 1018–1019 (Massachusetts); 1023 (South Carolina); 1025 (New Hampshire); 1033 (Virginia); 1039–1040 (New York); 1056–1057 (Rhode Island); 1050 (North Carolina). Despite these objections and proposed changes in language, article I, section 4 was not revised when the Constitution was ratified, and, although the First Congress recommended 12 amendments to the Constitution, none of these related to article I, section 4. Indeed, the First Congress specifically considered and rejected an amendment which would have restricted the congressional power over elections. I "The Debates and Proceedings in the Congress of the United States" 797–800 (1834).

The attemped changes in article I, section 4 demonstrate common recognition that under article I, section 4, the power of Congress was sweeping, and reinforce the conclusion that the Founding Fathers intended the power of Congress under article I, section 4 to apply not merely to the mechanical aspects of elections for national officers, but also to the substance of such elections.

(2) Judicial Construction

The courts have also recognized that article I, section 4 is concerned with substance as well as with form. As the court said in *United States* v. *Munford*, 16 Fed. 223, 228 (C.C.E.D. Va., 1883):

"There is little regarding an election that is not included in the terms, time, place, and manner of holding it."

In *Smiley* v. *Holm*, 285 U.S. 355, 366 (1932), the Supreme Court spoke of article I, section 4 in equally broad terms:

"It cannot be doubted that these comprehensive words embrace authority to provide a complete code for congressional elections, not only as to times and places, but in relation to notices, registration, supervision of voting, protection of voters, prevention of fraud and corrupt practices, counting of votes, duties of inspectors and canvassers, and making and publication of election returns; in short, to enact the numerous requirements as to procedure and safeguards which experience shows are necesary in order to enforce the fundamental right involved."

Acting under article I, section 4, Congress in the Enforcement Act of 1870 and associated measures, 16 Stat. 144 (1870); 16 Stat. 254 (1870); 17 Stat. 347–349 (1872), provided measures (mostly later repealed) extensively regulating the conduct of elections of Members of the House. False registration, bribery, voting without legal right, making false returns, interference with election officers, and the neglect by any such officer of any duty required of him by State or Federal law, were made Federal offenses. These laws also made provision for the appointment by Federal judges of persons to attend at places of registration and at elections, with authority to challenge any person proposing to register or vote, to witness the counting of votes and to identify by their signatures the registration of voters and election tally sheets. See *United States* v. *Gradwell*, 243 U.S. 476, 483 (1917). This far-reaching legislation, which "committed to Federal officers a very full participation in the process of the election of Congressmen, from the registration of voters to the final certifying of the results," ibid., was held to be a constitutional exercise of the power conferred upon Congress by article I, section 4, with respect to the election of its Members. *Ex parte Siebold*, 100 U.S. 371 (1880); *Ex parte Clarke*, 100 U.S. 399 (1880); *United States* v. *Gale*, 109 U.S. 65 (1883).

In *Ex parte Siebold, supra*, the Court, in sustaining indictments of officers of election for stuffing ballot boxes, relied upon the power of Congress under article I, section 4. The Court said (100 U.S. at 388):

"It is the duty of the States to elect Representatives to Congress. The due and fair election of these Representatives is of vital importance to the United States. The Government of the United States is no less concerned in the transaction than the State government is. It certainly is not bound to stand by as a passive spectator, when duties are violated and outrageous frauds are committed. It is directly interested in the faithful performance, by the officers of election, of their respective duties. Those duties are owed as well to the United States as to the State."

S. 2750 would constitute a permissible regulation of the "manner" of holding elections for Federal officials in two respects. First, it would alter the method of testing whether a prospective voter possesses the particular educational or similar qualification set by the State. Instead, it would substitute an objective and easily ascertainable requirement—completion of six grades of formal education. Second, it would eliminate the racially discriminatory fashion in which existing tests have been administered. In these ways Congress would insure that "the manner" of holding elections for its members is not improper.

Improper conduct of election officials, as ex parte Siebold states, is an end within the reach of Congress under article I, section 4. As Chief Justice Marshall wrote in *McCulloch* v. *Maryland*, 321 U.S. 316, 421 (1820):

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

Although the validity of S. 2750 does not depend upon it, the Supreme Court has recognized that even the qualifications which the States may set for voting in elections for Members of Congress are subject to restrictions which Congress may impose under its article I, section 4 power. This was suggested as early as 1875, when, in holding that denial of suffrage to women did not contravene the privileges and immunities clause of the 14th amendment, the Court said (*Minor* v. *Happersett*, 21 Wall. 162 (1875)):

"It is not necessary to inquire whether this power of supervision [over congressional elections] thus given to Congress is sufficient to authorize any interference with the State laws prescribing the qualifications of voters, for no such interference has ever been attempted. The power of the State in this particular is certainly supreme until Congress acts."

In 1941, the Supreme Court went further to declare that under article I, section 4, as supplemented by article I, section 8, clause 18 (the "necessary and proper" clause) Congress may limit the States in the imposition of qualifications themselves. In *United States* v. *Classic*, 313 U.S. 299, 315 (1941), the Court, speaking through Justice Stone, declared:

"While, in a loose sense, the right to vote for Representatives in Congress is sometimes spoken of as a right derived from the States, see *Minor* v. *Happersett*, 21 Wall. 162, 170; *United States* v. *Reese*, 92 U.S. 214, 217–218; *McPherson* v. *Blacker*, 146 U.S. 1, 38–39; *Breedlove* v. *Suttles*, 302 U.S. 277, 283, this statement is true only in the sense that the States are authorized by the Constitution, to legislate on the subject as provided by section 2 of article I, to the extent that Congress has not restricted State action by the exercise of its powers to regulate elections under section 4 and its more general power under article I, section 8, clause 18 of the Constitution 'to make all laws which shall be necessary and proper for carrying into execution the foregoing powers.'"

The above language of the Court in the *Classic* case was cited with approval in *Lassiter* v. *Northampton Election Board*, 360 U.S. 45 (1959). Although holding that a North Carolina literacy test did not violate the 14th and 17th amendments, the Supreme Court was careful to note that it was not suggesting that the Congress had no power to set limits on the imposition of qualifications. Citing the passage from the *Classic* case quoted above, the Court said (360 U.S. at 51):

"So while the right of suffrage is established and guaranteed by the Constitution (*Ex parte Yarbrough*, 110 U.S. 651, 663–665; *Smith* v. *Allwright*, 321 U.S. 649, 661–662) it is subject to the imposition of State standards which are not discriminatory and which do not contravene any restriction that Congress, acting pursuant to its constitutional powers, has imposed. See *United States* v. *Classic*, 313 U.S. 299, 315."

The issue in the Lassiter case was the validity of State literacy tests. The Court in the quoted sentence was referring to literacy (as well as other qualifications) in speaking of the State "standards" which would be invalid and ineffective where they conflict with restrictions imposed by Congress "acting pursuant to its constitutional powers." The only constitutional power discussed on the page of the Classic opinion cited by the Court in Lassiter was the power of Congress under article I, section 4, and article I, section 8, clause 18. It is a necessary inference that the Court in Lassiter was reaffirming congressional power to restrict State standards or qualifications for voting for Federal officials. If the congressional power under article I extends this far, there can be no doubt that it permits Congress to set limits upon the manner in which particular qualifications are determined.

D. The implied power of Congress to protect the purity of the Federal ballot

It is settled that Congress possesses powers which, though not specifically enumerated in the Constitution, are implied because they are "necessary and proper" (art. I, sec. 8, clause 18) to carry out the powers expressly delegated by the Constitution to Congress. For example, the Federal criminal power is largely an implied power. *United States* v. *Fox*, 95 U.S. 670, 672 (1878); *United States* v. *Hall*, 98 U.S. 343, 357 (1879); *United States* v. *Metzdorf*, 252 Fed. 933, 935–36 (D. Mont. 1918). See *Ex parte Yarbrough*, 110 U.S. 651, 658–59 (1884). So, too, are the powers to protect the Government from armed rebellion, *Dennis* v. *United States*, 341 U.S. 494, 501 (1951); *Barenblatt* v. *United States*, 360 U.S. 109, 127–128 (1959); and to regulate lobbying for Federal legislation and financial contributions to candidates for Federal office. *United States* v. *Harriss*, 347 U.S. 612 (1954); *Burroughs and Cannon* v. *United States*, 290 U.S. 534, 545 (1934).

As the Burroughs case illustrates, the implied powers of Congress extend to measures to insure the purity of the Federal ballot. The Burroughs decision sustained the validity of the Federal Corrupt Practices Act, which required political committees to keep detailed accounts of contributions and to file statements thereof with the Clerk of the House of Representatives. The term "political committee" was defined as including any organization which accepted contributions for the purpose of influencing or attempting to influence the election of presidential or vice-presidential electors in two or more States. The defendants, charged with criminal violation of this act, contended that the power of appointment of presidential electors and the manner of their appointment are expressly committed by article II, section 1 of the Constitution to the States, and that congressional authority was limited by that section to prescribing "the time of choosing the electors, and the day on which they shall give their votes * * *." Rejecting this contention, the Court declared (290 U.S. at 545):

"While presidential electors are not officers or agents of the Federal Government (*In re Green*, 134 U.S. 377, 379), they exercise Federal functions under, and discharge duties in virtue of authority conferred by, the Constitution of the United States. The President is vested with the Executive power of the Nation. The importance of his election and the vital character of its relationship to and effect upon the welfare and safety of the whole people cannot be too strongly stated. To say that Congress is

without power to pass appropriate legislation to safeguard such an election from the improper use of money to influence the result is to deny to the Nation in a vital particular the power of self-protection. Congress, undoubtedly, possesses that power, as it possesses every other power essential to preserve the departments and institutions of the General Government from impairment or destruction whether threatened by force or by corruption."

In Burroughs the Court relied heavily upon the leading case of *Ex parte Yarbrough*, 110 U.S. 651 (1884). The decision in that case established that the right of qualified voters to vote in congressional elections is derived from the Constitution of the United States and that in the exercise of its implied power to secure the integrity of such elections Congress may legislate to bar the intimidation of voters in those elections. Addressing itself to the argument that "[b]ecause there is no express power to provide for preventing violence exercised on the voter as a means of controlling his vote, no such law can be enacted," the Court said (110 U.S. at 658).

"It [the argument] destroys at one blow, in construing the Constitution of the United States, the doctrine universally applied to all instruments of writing, that what is implied is as much a part of the instrument as what is expressed. This principle, in its application to the Constitution of the United States, more than to almost any other writing, is a necessity, by reason of the inherent inability to put into words all derivative powers—a difficulty which the instrument itself recognizes by conferring on Congress the authority to pass all laws necessary and proper to carry into execution the powers expressly granted and all other powers vested in the Government or any branch of it by the Constitution, article I, section 8, clause 18."

There is an obvious similarity between corruption of the Federal electoral process by the use of money and corruption of the same process by devices susceptible of being used and actually used to disenfranchise voters because of race. If anything, the latter is more subject to congressional control for a number of reasons: (1) it is directed toward a special class; (2) it is inconsistent with constitutional principles given express recognition in the 14th and 15th amendments; and (3) it is perpetrated by the State, or by State officials sworn to uphold the Constitution, rather than by private persons. As the Court of Appeals for the Fifth Circuit said in *United States* v. *Wood*, 295 F. 2d 772 (C.A. 5, 1961):

"The foundation of our form of government is the consent of the governed. Whenever any person interferes with the right of any other person to vote or to vote as he may choose, he acts like a political termite to destroy a part of that foundation. * * * Eradication of political termites, or at least checking their activities, is necessary to prevent irreparable damage to our Government."

E. The relationship between the powers granted to Congress and other powers reserved to the States

It has been suggested that, whatever powers to correct voting abuses Congress might possess, the exercise of these powers by S. 2750 would clash with other constitutional provisions: Article I, section 2 and the 17th amendment (which provide that the qualifications for voting in congressional elections shall be the same as those requisite for voting in elections for the most numerous branch of the State legislature); and article II, section 1 (which deals with the method of appointment of presidential electors). These provisions, however, are not inconsistent with the proposed legislation. Moreover, it is obvious that any exercise of State power based on these provisions cannot override the limitations imposed by the 14th and 15th amendments.

1. S. 2750 would not prescribe qualifications for voting in Federal elections and would not interfere with the imposition of qualifications by the States.

It would leave the substantive State-imposed qualification (e.g., literacy) untouched and merely prescribe an objective method of ascertaining whether an applicant possesses that qualification. The power to establish the manner of ascertaining this derives from the express language of article I, section 4 of the Constitution, and as such forms no part of the "qualifications" for voting, as that term is used in article I, section 2 and in the 17th amendment.

At the time of the adoption of the Constitution, the qualifications which the States required were the possession of such qualities or status as were thought to render probable a responsible exercise of the franchise. See *Minor* v. *Happersett*, 21 Wall. 162, 172–3 (1875) for a list of the qualifications then imposed by each State. There is no reason for believing that the means of proving the qualifications were regarded by the framers as an inseparable part of the qualifications themselves.

In short, article I, section 2 and the 17th amendment permit the States to prescribe qualifications for elections to congressional office—they do not vest in them the power to override a congressional judgment concerning the manner in which qualifications are to be tested. S. 2750 deals with the manner of testing qualifications—not with the qualifications themselves. Thus, it is clear that article I, section 2 and the 17th amendment do not conflict with the congressional exercise of power embodied in the instant bill.

2. Nor is there any conflict between the bill and article II, section 1, which deals with the appointment of presidential electors.

Congress has the power to protect the presidential election process from any corrupt influence, and it has exercised this power on a number of occasions. See, e.g., 42 U.S.C. 1985(c); 42 U.S.C. 1971(b); 18 U.S.C. 610. The courts have sustained this exercise as applied to the regulation of campaign contributions in presidential elections (*Burroughs & Cannon* v. *United States*, 290 U.S. 534 (1934) and to the protection from intimidation of Negroes who seek to vote in such elections (compare *Burroughs and Cannon, supra*, at 545–546 with *Ex parte Yarbrough*, 110 U.S. 651 (1884)). Upon the same basis, Congress may also adopt measures effectively to control racial or other discrimination in the administration of literacy or similar performance tests where such discrimination corrupts elections for the Presidency of the United States.

3. The 14th and 15th amendments prohibit arbitrary State action, denial of equal protection, and racial discrimination in the voting process, irrespective of whether these practices occur in connection with qualifications for voting or with the manner in which qualifications are tested. It is no defense to an action alleging violation of the 14th or the 15th amendment that the activity involved is otherwise within the jurisdiction of the State. Cf. *Gomillion* v. *Lightfoot*, 364 U.S. 339 (1960) (power of States to control their own municipalities overcome by the 15th amendment). Thus, appropriate congressional action under the amendments would be valid with respect to all elections, Federal and State, notwithstanding article I, section 4, article II, section 1, or the 10th amendment. And, as we have shown, supra, this proposed legislation constitutes an appropriate enforcement of the 14th and 15th amendments.

THE BILL AS IT AFFECTS CITIZENS WHO HAVE COMPLETED THE SIXTH GRADE IN A SCHOOL IN PUERTO RICO IN WHICH SPANISH IS THE LANGUAGE OF INSTRUCTION

There are also several independent sources of congressional power to support the bill as it affects citizens of the United States who have completed six grades of education in Puerto Rico.

In considering these powers it is important to understand the status of Puerto Ricans in relation to the United States and the development of that status. When Puerto Rico was acquired by the United States, Puerto Ricans lost the protection of the Government of Spain. As stated in *Balzac* v. *Porto Rico*, 258 U.S. 298, 308 (1922) "[t]hey had a right to expect, in passing under the domination of the United States a status entitling them to the protection of their new sovereign." Under the Treaty of Paris between the United States and Spain of 1899 (30 Stat. 1899), it was provided that "the civil rights and political status of the native inhabitants of [Puerto Rico] shall be determined by the Congress." In the Jones Act of 1917 Congress conferred U.S. citizenship on Puerto Ricans. In giving to Puerto Ricans the status of citizens of the United States, Congress was motivated "by the desire to put them as individuals on an exact equality with citizens from the American homeland, to secure them more certain protection against the world, and to give them an opportunity should they desire to move into the United States proper and there without naturalization to enjoy all political and other rights." *Balzac* v. *Porto Rico, supra*, at 308. The Jones Act "enables them to move into the continental United States and becoming residents of any State there to enjoy every right of any other citizen of the United States, civil, social, and political." Ibid. "A citizen of the Philippines must be naturalized before he can settle and vote in this country * * *. Not so the Puerto Rican under the Organic Act of 1917." Ibid.

At the present time Puerto Rico occupies what is designated as a "Commonwealth" status. It has a special and unique relationship to the United States. See Public Law 600, 64 Stat. 319 (1950); *Constitution of Puerto Rico*, 48 U.S.C. 713(d); 66 Stat. 327 (1952); Magruder, *The Commonwealth Status of Puerto Rico*, 15 U. Pitt. L. Rev. 1 (1953). This relationship is in the nature of a "union [of Puerto Rico] with the United States of America," *Const. of P.R., Preamble*, 48 U.S.C. 731(d). The Puerto Rican constitution recognizes the "coexistence in Puerto Rico of the two great cultures of the American Hemisphere * * *," ibid. It further declares that "We consider as determining factors in our life our citizenship of the United States of America and our aspiration continually to enrich our democratic heritage in the individual and collective enjoyment of its rights and privileges." Congress approved the Puerto Rican constitution by a joint resolution of July 3, 1952, 66 Stat. 327 (1952).

With this background in mind, there are a number of powers vested in Congress that support the Puerto Rican provision of the bill: (1) the express power of Congress provided by article IV, section 3, clause 2, of the Constitution to "make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States," (2) the implied power of Congress to regulate the activities of persons entitled to the special protection of the Government (cf. *United States* v. *Nice*, 241 U.S. 591, (1916) (American Indians); *United States* v. *Holliday*, 3 Wall. 407, 416 (1886) (same); *United States* v. *Kagama*, 118 U.S. 375 (1886) (same); and (3) the Treaty of Paris, 30 Stat. 1754 (1899) which provides that "the

civil rights and political status of the native inhabitants of Puerto Rico shall be determined by the Congress." Compare *Missouri* v. *Holland*, 252 U.S. 416 (1920) (reserved power) with *Reid* v. *Covert*, 354 U.S. 1 (1957) (express prohibition)).

In considering the extent of these powers as they relate to the instant bill, it is clear that whatever may ultimately be the status of Puerto Rico, they are to be construed in a manner that would enable Congress to encourage the close association of Puerto Rico with this Nation as contemplated in the constitution of Puerto Rico.

Moreover, as the decisions cited above show, the courts have recognized a far-reaching power in Congress to grant privileges to and to protect citizens who occupy a special dependent status with respect to the Federal Government, and have sustained the extension of this power to areas within the several States. The courts have also upheld the power of Congress to give U.S. citizenship status to citizens of Puerto Rico. S. 2750 would make more effective this grant of citizenship by precluding the denial of the franchise to a person of Puerto Rican origin merely because, even though he is literate, the language in which he was educated—under the auspices of the United States—is Spanish rather than English. Congress has the relatively vast power to confer citizenship upon Puerto Ricans. It must also have the power to accomplish the far more limited aim embodied in the bill. This is especially so since the bill deals only with elections to Federal office—a matter in which both the United States and those affected by this bill have an obviously close interest.

In addition to these several special sources of congressional power, the bill as applied to persons educated in Puerto Rico rests also upon the constitutional provisions discussed in part I of this memorandum. Article I, section 4 confers power to regulate the manner of testing State-imposed qualifications in congressional elections. Congress, as indicated, has the duty of assuring to every State a republican form of government and to legislate concerning arbitrary discrimination. The declaration of the Congress that denial of the franchise to Spanish-educated Puerto Ricans is arbitrary within the meaning of the due process clause of the 14th amendment, would, of course, be accorded considerable weight by the courts. See part I above. And the relationships of all these powers to article I, section 2, the 17th amendment and article II, section 1 is the same as that of the powers discussed in part I respecting English-speaking citizens.

The bill is valid in its several applications.

U.S. COMMISSION ON CIVIL RIGHTS STAFF MEMORANDUM, MARCH 1962

CONSTITUTIONALITY OF LEGISLATION ON THE SUBJECT OF LITERACY AS A REQUIREMENT FOR VOTING

In its 1962 report on voting the Commission on Civil Rights unanimously recommended legislation to provide "that Congress enact legislation providing that in all elections in which, under State law, a literacy test, an understanding or interpretation test, or an educational test is administered to determine the qualifications of electors, it shall be sufficient for qualification that the elector have completed at least six grades of formal education."

Legislation related to the Commission's recommendation is now before the Congress. There is ample support in the Constitution for legislation to correct the kinds of abuses to which literacy requirements for voting have been put. For the sake of convenience, relevant constitutional issues are discussed with reference to S. 2750, the Mansfield-Dirksen bill.

A. Substance of the bill

Section 2 of the bill defines a "deprivation of the right to vote" to include "(1) the application to any person of standards or procedures more stringent than are applied to others similarly situated and (2) the denial to any person otherwise qualified by law of the right to vote on account of his performance in any examination, whether for literacy or otherwise, if such other person has not been adjudged incompetent and has completed the sixth primary grade of any public school or accredited private school in any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico."

In a sense, the proposal does not establish qualifications of electors; it merely treats as a deprivation of the right to vote in Federal elections the refusal to qualify any person on the basis of any test, provided he has completed the sixth grade. Narrowly viewed, the provision tells the States that a sixth-grade education qualities an elector of Federal officers regardless of "any examination, whether for literacy or otherwise," which may be imposed by the States voter qualification laws.[1]

B. The power of the States to provide for the qualification of electors for Representatives and Senators

1. Article I, section 2, of the Constitution provides:

"The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature."

2. The 17th amendment makes similar provision for the qualification of electors for Senators.

3. Also pertinent is the 10th amendment providing that powers not delegated to the United States by the States are reserved to the States or to the people.

A series of cases illustrates the extent of the power of the States to provide for the qualification of electors. In *Minor* v. *Happersett*, 88 U.S. (21 Wall.) 162 (1874), the Court upheld a provision of the Missouri constitution limiting the suffrage to males. The power of a State to impose a literacy test requiring the prospective voter to read or interpret any section of the Constitution was upheld in *Williams* v. *Mississippi*, 170 U.S. 213 (1898). Similarly, the Court validated a provision of the Maryland constitution which required new residents to declare their intention to be a citizen before registering to vote, *Pope* v. *Williams*, 193 U.S. 621 (1904). The Court approved the constitutionality of the poll tax as a prerequisite to registering to vote, *Breedlove* v. *Suttles*, 302 U.S. 277 (1937). In a recent case the Court upheld the literacy test imposed by the State of North Carolina, *Lassiter* v. *Northampton County Bd. of Elections*, 360 U.S. 45 (1959).

Article I, section 2 is not, however, authority for the States to enact voter qualifications for State electors—that right existed prior to and independent of the Constitution. In a sense, article I, section 2, is not a grant of power to the States at all, for the Constitution, particularly article I, concerns the delegation of powers from the States and the people to the Federal Government. Nor does article I, section 2, grant a power to the States in any degree superior to or different from powers reserved to the States by the 10th amendment. This is clear from the Supreme Court's characterization of article I, section 2, and from its description by persons who attended the Constitutional Convention.

The Court considered article I, section 2, in *ex parte Yarbrough*, 110 U.S. 651 (1884), where the power of Congress to enact laws to protect the right to vote in Federal elections was in issue:

"The States, in prescribing the qualifications of voters for the most numerous branch of their own legislatures, do not do this with reference to the election for Members of Congress. Nor can they prescribe the qualification for voters for those eo nomine. They define who are to vote for the popular branch of their own legislature, and the Constitution of the United States says the same persons shall vote for Members of Congress in that State." *Ex parte Yarbrough*, *supra*, 663.

Turning to the 15th amendment to illustrate the nature of article I, section 2, the Court stated:

"The 15th amendment of the Constitution, by its limitation on the power of the States in the exercise of their right to prescribe the qualifications of voters in their own elections, and by its limitation of the power of the United States over that subject, clearly shows that the right of suffrage was considered to be of supreme importance to the National Government, and was not intended to be left within the exclusive control of the States." Supra, 664.

Referring again to the right of the States under article I, section 2, the Court in *Lassiter* v. *Northampton County Board of Elections*, 360 U.S. 45, 51 (1959), pointed out:

"While the right of suffrage is established and guaranteed by the Constitution [citations omitted] it is subject to the imposition of State standards which are not discriminatory and which do not contravene any restriction that Congress acting pursuant to its constitutional powers, has imposed."

James Madison explained:

"The definition of the right of suffrage is very justly regarded as a fundamental article of republican government. It was incumbent on the convention, therefore, to define and establish this right in this Constitution. To have left it open for the occasional regulation of the Congress would have been improper for the reason just mentioned. To have submitted it to the legislative discretion of the States would have been improper for the same reason; and for the additional reason that it would have rendered too dependent on the State governments that branch of the Federal Government which ought to be dependent on the people alone." "The Federalist Papers," Mentor Ed., pp. 325–326.

Viewed from the standpoint of the Federal Government, article I, section 2, serves to identify the class of persons who shall elect Federal officers; it incorporates by reference those qualified under the laws of the States. Viewed from the standpoint of the States, article I, section 2 is a limitation on the power of the Federal Government to create a different electorate from that created by the States. Properly speaking, then, article I, section 2 does not concern a grant of power either to the Federal Government or to the States. The only power involved is the power of the Federal Government to protect its elections. This power of protection is implied from the existence of Federal elections, the subject of article I,

[1] The following States provide for literacy as a qualification for voting: Alabama, Alaska, Arizona, California, Connecticut, Delaware, Georgia, Hawaii, Louisiana, Maine, Massachusetts, Mississippi, New Hampshire, New York, Oregon, North Carolina, South Carolina, Virginia, Washington, and Wyoming.

section 2. The same considerations apply to the identical language in the 17th amendment. In this connection the Court has said:

"If this Government is anything more than a mere aggregation of delegated agents of other States and governments, each of which is superior to the General Government, it must have the power to protect the elections on which its existence depends, from violence and corruption." *Ex Parte Yarbrough*, 110 U.S. 651, 658 (1884).

See also, *Wiley* v. *Sinkler*, 179 U.S. 58 (1908); *Swafford* v. *Templeton*, 185 U.S. 487 (1902); *United States* v. *Classic*, 313, U.S. 299 (1941). The power to protect the right thus secured is not limited to State action but extends to the acts of private individuals.

Yarbrough concerned private persons who intimidated a Negro from voting at an election for a Member of Congress. The criminal statute's application to private persons was therefore beyond the scope of the 14th and 15th amendments, which reach only State action. The power of Congress to protect Federal elections, even from racial discrimination, exists under article I, section 2, and appears to be independent of authority to do so under the amendments.

C. Constitutional limitations on the power of States to prescribe voter qualifications

The Constitution contains other important limitations on the power of the States to enact voter qualification laws. These take the form of powers granted to the Federal Government and limitations imposed upon the States.

1. Article I, section 2, has been dealt with above.

2. Article I, section 4, provides:

"The Times, Places, and Manner of holding Elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators."

The Constitution distinguishes between "qualifications" mentioned in article I, section 2, and the "times, places, and manner of holding elections" referred to in article I, section 4. No case has settled the issue of whether there may not be some qualifications which might also be subject to regulation by the Federal Government as affecting the times, places, and manner of holding elections.

3. The 14th amendment is a further limitation upon the States, and section 5 gives the Congress the power to enact legislation appropriate for its enforcement.

4. The 15th amendment is a limitation upon the United States and the States. It provides:

"SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude—"

Section 2 empowers Congress to enforce its provisions by appropriate legislation.

5. The 19th amendment imposes a further limitation upon both the Federal and State governments:

"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 sex."

Section 2 empowers Congress to enforce its provisions with appropriate legislation.

6. Two other provisions of the Constitution are relevant, the supremacy clause, article VI, clause 2, providing that the Constitution and laws shall be "the supreme Law of the Land," and the necessary and proper clause, article I, section 8, clause 18, empowering Congress "To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, * * *."

D. The bill's findings and references to constitutional powers

Section 1 of the bill lays a factual and legal predicate for the proposition that what follows in section 2 of the bill is designed as appropriate legislation. The most important of these facts are the following according to their designations in the text of the bill:

Section 1(c): "Congress further finds that many persons have been subjected to arbitrary and unreasonable voting restrictions on account of their race or color; that literacy tests and other performance examinations have been used extensively to effect arbitrary and unreasonable denials of the right to vote; and that existing statutes are inadequate to assure that all qualified persons shall enjoy the right to vote."

Section 1(d): "Congress further finds that education in the United States is such that persons who have completed six primary grades in public school or accredited private school cannot reasonably be denied the franchise on grounds of illiteracy or lack of sufficient education or intelligence to exercise the prerogatives of citizenship."

Section 1(e): "Congress further finds that large numbers of American citizens who are also citizens of the several States are deprived of the right to vote by virtue of their birth and education in a part of the United States in which the Spanish language is commonly used; that these citizens are well qualified to exercise the franchise; that such information as is necessary for the intelligent exercise of the franchise is available through Spanish-language news sources; that lack of proficiency in the English language provides no reasonable basis for excluding these citizens from participating in the democratic process."

Section 1(f) invokes article I, section 4, of the Constitution, section 2 of the 15th amendment, and the "power to protect the integrity of the Federal electoral process."

It is not clear how any provision of the bill fairly relates to regulation of the times, places, and manner of holding elections authorized by article I, section 4. However, as will be pointed out below, it is arguable that clause (1), section 2, of the bill relates to the manner of holding elections. *United States* v. *Classic*, 313 U.S. 299 (1941). The power of Congress to enact legislation to protect Federal elections, article I, section 2, and the powers to enact laws appropriate to the enforcement of the 14th and 15th amendments are clearly relevant, however.

Article I, section 2, has already been referred to. The scope of the 15th amendment is indicated by cases involving State as well as national legislation. In the cases of *Guinn* v. *United States*, 238 U.S. 347 (1915), and *Lane* v. *Wilson*, 307 U.S. 268 (1939), the Court struck down Oklahoma grandfather clauses. Referring to the scope of the 15th amendment the Court stated in the *Lane* case:

"The reach of the 15th amendment against contrivances by a State to thwart equality in the enjoyment of the right to vote by citizens of the United States regardless of race or color, has been amply expounded by prior decisions [citations omitted]. The amendment nullifies sophisticated as well as simple-minded modes of discrimination. It hits onerous procedural requirements which effectively handicap exercise of the franchise by the colored race although the abstract right to vote may remain unrestricted as to race." *Lane* v. *Wilson*, *supra*, 275.

The Court upheld the Civil Rights Act of 1957 as appropriate legislation for carrying out the purpose of the 15th amendment, *Hannah* v. *Larche*, 363 U.S. 420 (1960). In still another recent case the Court interposed the 15th amendment between citizens and the power of the State to draw political boundaries under circumstances indicating a purpose to disfranchise voters on the ground of race or color, *Gomillion* v. *Lightfoot*, 364 U.S. 339 (1960). In *Davis* v. *Schnell*, 336 U.S. 933, affirming 81 F. Supp. 872, the Court overturned a provision of State law requiring a citizen to understand and explain any article of the Constitution. The Court found that the purpose of the law was to discriminate and that the administration of the law was in fact discriminatory and therefore within the effective range of the 15th amendment.

E. The necessary and proper clause

It is reasonable to conclude that the States right to prescribe voter qualifications cannot be exercised in any area defined by the limitations of the 14th and 15th amendments. Difficulty arises from the fact that in many of the States whose voter qualification laws will be affected by the bill, there has been no discrimination. The power of Congress to enact legislation pursuant to a granted power regardless of the fact that such legislation affects objects and persons outside the scope of direct Federal control supports the power of Congress to strike at discrimination despite its effect upon nondiscriminatory State laws.

"Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional." *McCulloch* v. *Maryland*, 17 U.S. (4 Wheat.), 316, 421 (1819).

In the case of *United States* v. *Darby*, 312 U.S. 100 (1941), the Court upheld the Fair Labor Standards Act and in so doing approved the control of a purely intrastate activity, manufacturing, as a necessary and proper regulation of interstate commerce.

In *Guss* v. *Utah Labor Relations Board*, 353 U.S. 1 (1957), the Court approved the displacement of all similar labor measures affecting interstate commerce despite the fact that the NLRB declined to exercise its jurisdiction. In *First Iowa Hydro-Electric Cooperative* v. *Federal Power Commission*, 328 U.S. 152 (1946), the Court upheld provisions of the Federal Power Act authorizing Federal licenses to construct dams, even where the States forbade their construction. While some State dams would be harmless to the national interest, Congress found it necessary and proper to take over the control of all damming of streams, affecting interstate commerce. Likewise, the Court approved the Corrupt Practices Act, which employed the device of regulating campaign contributions.

"If it can be seen that the means adopted are really calculated to attain the end, the degree of their necessity, the extent to which they conduce to the end, the closeness of the relationship between the means adopted, and the end to be attained, are matters for congressional determination alone." *Burroughs* v. *United States*, 290 U.S. 534, 547 (1934).

See also, *Everards' Breweries* v. *Day*, 265 U.S. 545 (1924); *Westfall* v. *United States*, 274 U.S. 259 (1927); *Ruppert* v. *Caffey*, 251 U.S. 264 (1920).

F. Scope of the bill and the effect of its limitation to Federal elections

1. The Mansfield-Dirksen bill is an amendment to the Civil Rights Act of 1957. Subsection (b) of title 42, United States Code, section 1971, a part of the 1957 act, concerns threats, intimidation and coercion of persons for the purpose of interfering with their right to vote in Federal elections. Subsection (c) of the 1957 act authorizes the

Attorney General to enjoin violations of both subsection (a), which extends to State and Federal elections, and subsection (b).

Subsection (a) is based directly upon the 15th amendment; it concerns only denials of the right to vote on account of "race, color, or previous condition of servitude." The 15th amendment, and therefore subsection (a) implementing it, cover State as well as Federal elections. The limitation of subsection (b) to Federal elections indicates that it is based on article I, section 2, or on article I, section 4, both of which support the power of Congress to protect Federal elections. Subsection (b) reaches private as well as State action, which is beyond the scope of the 14th and 15th amendments. *James* v. *Bowman,* 190 U.S. 127 (1903); *United States* v. *Reese,* 92 U.S. 214 (1875).

The Mansfield-Dirksen bill amends subsection (b) rather than subsection (a). Presumably the limitation of subsection (b) to Federal elections was dictated by a desire to reach violations in the form of economic reprisals, usually committed by individuals and not by persons acting under color of State law. The limitation to Federal elections included in the Mansfield-Dirksen bill conforms to the original scope of the statute. However, there are several reasons why a limitation to Federal elections appears unnecessary, even if subsection (b) is to be amended.

(a) If it is the intent of the bill to rely upon the power of Congress to protect Federal elections (art. I, sec. 2) and to regulate the times, places, and manner of holding Federal elections (art. I, sec. 4), it is not clear why the bill expressly invokes the 14th and 15th amendments. Congress has the power under article I to secure its elections against any kind of abuse. *Ex parte Yarbrough,* 110 U.S. 651 (1884); *Ex parte Siebold,* 100 U.S. 371 (1879); *United States* v. *Classic,* 313 U.S. 299 (1941). But the factfindings and express reference in the bill to the amendments show an intention to invoke them. The fact that subsection (b) as amended by the bill will reach persons "whether acting under color of law or otherwise" does not mean that Congress is confined to its article I powers. Subsection (b) reaches private action in the form of economic reprisals. *United States* v. *Beaty,* 288 F. (2d) 653 (6th cir., 1961). As amended by the bill, it will still reach private action. In addition it will reach State registration officials. The fact that the law as amended will reach both private and State action does not mean that the law is not based upon the amendments or that it does not observe their limitation to State action. It only raises the question of what powers Congress has acted upon.

It is clear that the bill is based not only upon the article I powers but also upon the amendments. The 15th amendment supports clause (2), section 2, of the bill, which strikes at discriminatory use of literacy and other tests, while the 14th amendment supports clause (1), section 2, of the bill, which guarantees equal protection in the matter of administering standards and procedures. The power of Congress to act is in each particular clearly supported by the Constitution. The fact that different parts of the bill are based upon different powers under the Constitution does not, of course, limit the powers, unless there is some basis for assuming that power to do one thing will be used to accomplish another.

The bill's limitation to Federal elections is therefore not because the bill aims at private persons rather than persons acting under color of law. The limitation is not dictated by the amendments. The same powers in the Constitution support appropriate legislation to cover State as well as Federal elections.

(b) Once the legal distinction between these different powers is understood, there is no reason to assume that the Court will find that Congress has acted beyond the scope of one power rather than within the admitted range of the other.

(c) No case can be imagined which would involve deprivation of the right to vote by reason of a literacy test which did not also involve the necessary State action.

The Court has consistently found that voting is so integrally a Government function that the concept of State action is broad enough to include private persons not acting directly for the State. *Nixon* v. *Condon,* 286 U.S. 273 (1923), State executive committee of a political party; *Smith* v. *Allwright,* 321 U.S. 649 (1944), a State party convention; *United States* v. *Classic,* 313 U.S. 229 (1941), a party primary; *Terry* v. *Adams,* 345 U.S. 461 (1953), a preprimary convention; and most recently *United States* v. *McElveen,* 177 F. Supp. 355 (E.D. LS. 1959), affirmed sub nomine, *United States* v. *Thomas,* 362 U.S. 58 (1960), a citizens council.

(d) Finally, the Court has shown impatience with arguments based on this limitation of the Civil War amendments. The defendant registrars of voters in the recent case of *United States* v. *Raines,* 362 U.S. 17 (1960), had argued that the Civil Rights Act of 1957 was unconstitutional for the reason that subsection (b) of the act reached private action. Even though they were sued under subsection (a) of the act, they maintained that they could raise the issue of the scope of the law. To this the Court responded:

"In the exercise of that jurisdiction, it [the Court] is bound by two rules, to which it has rigidly adhered: One, never to anticipate a question of constitutional law in advance of the necessity of deciding it; the other, never to formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied." *United States* v. *Raines,* supra, 21.

2. Clause (1), section 2, of the bill, quoted above, broadens the basis upon which the Attorney General may proceed in voting cases. The bulk of litigation pursuant to the Civil Rights Act of 1957 and 1960 involves discriminatory registration procedures. These suits are based upon the power of the Attorney General to file a civil suit to enjoin violations of subsection (a) and (b) of title 42, United States Code, section 1971. One of the difficulties with subsection (a) is that it imposes the burden of proving that the acts or practices complained of are based on race or color. Clause (1), section 2, of the bill will permit the Attorney General to enjoin the use of different standards for Negroes and white persons without the necessity of proving that the use of such standards is motivated by race.

The use of different standards or procedures is not a voter qualification in the sense of article I, section 2, and therefore legislation to curb this kind of abuse is not in any sense controlled by the States. Discriminatory administration of voter qualification laws is within effective range of article I, section 2, as well as article I, section 4, *Ex parte Siebold,* 100 U.S. 371 (1870).

Direct support for clause (1), section 2, of the bill, however, flows from the equal protection clause of the 14th amendment under which Congress has the power to enact appropriate legislation. The equal protection clause has been the basis for judicial action to curb discriminatory administration of otherwise constitutional laws. *Yick Wo* v. *Hopkins,* 118 U.S. 256 (1886); *Davis* v. *Schnell,* 336 U.S. 933, affirming 81 F. Supp. 872 (1949).

3. Section 1(e) of the bill finds that American citizens who have been educated in a part of the United States where the Spanish language is commonly used are deprived of the right to vote by reason of their lack of proficiency in the English language and that "lack of proficiency in the English language provides no reasonable basis for excluding these citizens from participating in the democratic process."

The bill therefore provides in clause (2), section 2, that it will be a deprivation of the right to vote in Federal elections to deny any citizen the vote who has completed the sixth grade of any public school "in any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico." This provision, it should be noted, does not limit the law to Spanish.

The New York Court of Appeals on November 19, 1959, upheld the lower court's ruling that a New York resident, a citizen of Puerto Rican birth, was not deprived of his right to vote by reason of the refusal of the election officials to permit him to take a voter registration literacy test in the Spanish language.

"The inspectors of election contended in the court of appeals that distinction between literacy in English and literacy in another language was reasonable and did not violate the 14th amendment, and that the requirement of literacy in English did not violate the 15th amendment because it made no distinction based on race or color. Order affirmed, without costs. All concur." *Camacho* v. *Doe,* 5 Race Rel. Law Rep. 778, 7 N.Y. 2d 762, 194 N.Y.S. 2d 33 (1959).

The bill's fact findings in regard to the Puerto Ricans avoid reference to race or color. This part of the bill therefore seems to rest upon the powers of the Congress to enact laws pursuant to article I and the 14th amendment. At issue is the power of Congress so acting to substitute its judgment for that of the States in the matter of voter qualifications. This puts the issue in an unfavorable light, but it may be so argued. The Supreme Court has stated:

"We do not suggest that any standards which a State desires to adopt may be required of voters. But there is wide scope for exercise of its jurisdiction. Residence requirements, age, previous criminal record [citations omitted] are obvious examples indicating factors which a State may take into consideration in determining the qualifications of voters. The ability to read and write likewise has some relation to standards designed to promote intelligent use of the ballot. * * * Literacy and intelligence are obviously not synonymous. Illiterate people may be intelligent voters. * * * It was said last century in Massachusetts that a literacy test was designed to insure an independent and intelligent exercise of the right of suffrage. [Citation omitted] North Carolina agrees. We do not sit in judgment on the wisdom of that policy. We cannot say, however, that it is not an allowable one measured by constitutional standards." *Lassiter* v. *Northampton County Bd. of Elections,* 360 U.S. 51, 51–53 (1959).

However, the bill does not go so far as to outlaw literacy tests; it merely declares that a sixth-grade education in any public school, including those of Puerto Rico, is a sufficient demonstration of literacy. Under the bill it would be unreasonable and a denial of the right to vote to impose a higher standard. The bill assures all Americans, whether educated in a State or territory, the District of Columbia or the Commonwealth of Puerto Rico, of a minimum standard for voting purposes.

Since English is now required in the elementary schools in Puerto Rico, the effect of the bill on New York residents from Puerto Rico will be minimal.

Even if this part of the bill is regarded as an improper exercise of power under article I or the 14th amendment, the severability clause will save other portions of the bill.

Since Congress may clearly impose the standard of a sixth grade education as a

necessary and proper means of exercising its powers under article I and the amendments, it is possible that the extension of the standard to all Americans, including those of Puerto Rico, is but a part of the means adopted and therefore without need of direct support in the Constitution.

In conclusion, it appears beyond reasonable doubt that the Constitution supports the power of Congress to act by any necessary and proper means (art. I, sec. 8, cl. 18) to secure Federal elections from any abuse, private or public, which deprives citizens of the right to vote (art. I, sec. 2); that Congress may likewise regulate the times, places, and manner of holding elections (art. I, sec. 4); that Congress may, acting pursuant to the 15th amendment, legislate against abuses which deprive citizens of the right to vote in State or Federal elections on the grounds of race, color, or previous condition of servitude; and, under the equal protection clause of the 14th amendment, secure all elections from discriminatory administration of law.

The authority of the States to prescribe the qualifications of electors must yield to the exercise of these substantial powers. Finally, against generalized claims of interference with States rights, one further provision of the Constitution, should be cited:

"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof * * * shall be the supreme Law of the Land * * * any Thing in the Constitution or Laws of any State to the Contrary notwithstanding" (art. VI, cl. 2).

Mr. DIRKSEN. I am deeply grateful to my distinguished friend from Mississippi.

Mr. EASTLAND. Madam President, my distinguished friend from Illinois has grieved me very much by conducting a filibuster against a vote on this matter——

Mr. DIRKSEN. Madam President, will the Senator yield?

Mr. EASTLAND. The Senator is a very distinguished Member of this body. I know that he is sincere. I know that he is honest. I know that he is conscientious. What I am going to say does not apply to my distinguished friend, but the driving power behind this bill is not to give the Negro suffrage, because all who are qualified to vote, both black and white, exercise the right of suffrage in my State, as I am sure they do in Louisiana and other Southern States. I think the driving power behind it is an appeal to the Negro vote in northern cities for political purposes.

Mr. DIRKSEN. Madam President, will the Senator yield?

Mr. EASTLAND. For a question.

Mr. DIRKSEN. Without losing his right to the floor?

Mr. EASTLAND. No.

Mr. DIRKSEN. When my friend says I am participating in a filibuster, I can only say I am always entranced by his delightful sense of humor. [Laughter.]

Mr. EASTLAND. Now, you see, Madam President. See how he takes up time. [Laughter.]

What is happening, truly—and I hope I am not letting the cat out of the bag—is a filibuster against a vote on this measure, and it is not conducted by southerners. There are too many able Senators who know the Constitution of the United States and who will uphold that Constitution, and who realize that this bill cannot be enacted into law.

Madam President, our distinguished majority leader in his opening remarks on the substitute amendment he has offered to H.R. 1361, raised certain issues that go far beyond the immediate consideration of the so-called literacy standard bill that will be applied in fixing the qualifications for voters to participate in the election of national officers. It is my position that this proposed substitute is wholly and completely unconstitutional and beyond the power of Congress to enact by simple legislation. While the proposed legislation is confined to the narrow question of contravening existing or prospective literacy qualifications that are established or might be established by the 50 States, the principle involved deeply concerns the very bottom and foundation of our republican form of constitutional Government—the basic relationship of the sovereign States to the National Government, the relationship of the Federal judicial establishment to the legislative and executive branches of the Federal Government, and the relationship of both the judicial and executive branches of our Federal Government to the States. I say with all the sincerity and force that I can command that the fundamental issue involved is whether the United States of America will survive and continue under the form of government envisioned by our forefathers and now delineated in the U.S. Constitution and the amendments thereto, or whether it will be completely transformed and perverted into an instrument of power, oppression, and tyranny.

The majority leader said in his remarks:

I suggest again, therefore, that Members ponder the question before us as they should any other issue of significance. I suggest that they ponder it not only in the light of the Senate's capacity to prevent rash change but also in the light of the Constitution's wise provision for change. The recent constitutional history of this Nation is most pertinent in this connection. It makes clear that progress toward the equalization in practice of the ideals of human freedom on which this Nation stands will not be halted indefinitely. It makes clear that when one road to this end fails, others will unfold as, indeed, they have unfolded. If the process is ignored in legislative channels, it will not necessarily be blocked in other channels—in the executive branch and in the courts.

So said the majority leader.

First, I must say, Madam President, that I full well appreciate that different individuals can sincerely hold different ideas as to what constitutes progress toward the equalization in practice of the ideals of human freedom on which this Nation stands. If equalization of ideals means that we are going to destroy the individual, his individuality, individual initiative and the right of persons to live at the level of the local community and within the several States free from the oppressive, dictated and arbitrary powers and control of a Federal establishment, then I want no part of it. I hold with Jefferson that those who are governed best are those who are governed least, and if liberty and freedom require the subjection of an individual to the whims and dictates of a totalitarian central government, deliver me from it.

I deny that either the executive branch or the judicial branch of our Federal Government has any statutory or constitutional right or power to take the plain and simple language of the Constitution of the United States and the amendments thereto and consider the established judicial precedents that have existed for over 175 years in interpreting this document; overturn the precedents; deny the simple meaning and intent of the language itself, and embark on a course of judicial and executive tyranny with the pious disclaimer that these decisions, acts and orders are performed for the purpose of the equalization in practice of the ideals of human freedom on which this Nation stands.

The ideals of human freedom on which this Nation stands are founded upon the political position, heritage and history of those brave and courageous people who traveled an uncharted sea, settled this vast continent, and carved this great civilization out of a wilderness. They are the sources of our traditions. Their blood was shed to make possible the birth of these United States; and it was a document drafted by them in Philadelphia that constituted the charter of their liberties and set forth the details of the forms of the political institutions under which they wished to live. If we do not wish today to live under a charter of government such as they drafted, then we should abolish or change the Constitution—not pervert and distort it out of all semblance of its specific meaning and intent.

With sadness, I must agree with our distinguished majority leader that in the recent constitutional history of this Nation, the Supreme Court of the United States has infringed, invaded, and usurped the powers vested by the Constitution in the legislative branch of the Federal Government. Congress has from time to time vested in the executive branch of the Government vast power and authority to exercise prerogatives that are fundamentally in their nature legislative powers. Further, the executive branch of our Government, through the use of Executive orders, has invaded and usurped the power of the legislative branch in creating rules of law and conduct that are not to be found in any statute law of the United States and cannot be justified by any remote constitutional authority.

The Members of the Senate and our colleagues in the House of Representatives are the last bastion for the defense of constitutional government. Far from yielding to the pressures and demands of the courts and the Executive, it is our duty to resist on every side the encroachments on our power and prerogatives, and to begin here and now to restore to the people of the United States the proper balance of power between the three coordinate branches of the Federal Government, and to protect the rights of the States and of the people thereof in preserving to them all powers that were not specifically delegated to the National Establishment.

This is the challenge that is laid down, and I know of no greater service that could be performed for all the people of

the United States than that we here and now begin to turn and reverse the tide and to assert that our republican form of government shall continue to operate and exist in the manner and form that it was so designed to operate and exist under the Constitution of the United States.

It is a mockery for Congress to so concern itself over any federally established right to vote, when nine men appointed for life, with no responsibility to the people in either their appointments or tenure, can arrogate unto themselves the power to dictate to the sovereign States how they shall conduct their internal affairs, even to the point of stepping in and overturning the established constitutions and laws of the States and sitting down with a slide rule and dividing people by the head in the same way that a skilled butcher could carve meat. This is not a fancy—it is a fact. Not only has the Supreme Court directed the inferior judges in the Federal judiciary to undertake the task of remaking States, but also it has advised the judiciary systems of the States themselves that it is now their bounden duty under the U.S. Constitution to put the courts and judges in the political thickets, and for these State courts and judges to get about the business of either blackjacking State legislatures to reapportion or, if the threat and intimidation fails, do it themselves.

Madam President, the great genius of our constitutional system lies in the fact that it was designed, both at the level of the National Government and the State governments, to protect the liberty, freedom, and right of the individual as against actions by a raw majority of the people. Are we to define liberty and freedom as that which 51 percent of the people want, as opposed to the wishes of 49 percent who voted on the other side? If the individual is to be given a number, and the numbers are going to be added and divided, this will be the inevitable result. No one has ever claimed that our system of government is perfect, any more than anyone has ever claimed that courts and judges render perfect justice under the law. Only the Infinite can be infallible, but by and large we have rightly claimed that we have a better form of government and a system for deciding cases and controversies that has resulted in giving a better and more equitable form of justice than results from any other device, by human ingenuity. I deny that nine platonic guardians who sit on the bench of the U.S. Supreme Court have any more infallibility or perfection than either the people or the elected representatives of this country, be they at the level of the State or within the National Establishment.

As early as 1936 a U.S. Senator, speaking on the floor of the Senate, criticizing a decision of the Supreme Court, said:

> The Supreme Court now, in effect, for all practical purposes, is a continuous Constitutional Convention.

Another Senator said:

> This means that 120 million are ruled by 5 men.

Today he can amend his statement of a quarter of a century ago and say:

> One hundred and eighty million are ruled by five men, and I am one of them.

If Ripley himself were alive today and wanted to pose one of the most incredible and incredulous "believe it or nots," this would be the one for him, because this statement was made by none other than Associate Justice Hugo L. Black of Alabama when he was a member of the U.S. Senate.

On March 26, 1962, Justice Black joined with six of his colleagues on the Supreme Court Bench to render a decision that is the culmination of the long line of cases which this Court has previously decided destroying and usurping first one power and then another unconstitutionally invading and weakening the reserved powers of the States in first one area and then another, and lending aid and comfort to the conspiracy that is dedicated to the overthrow and destruction of our system of government itself. The case of Baker, et al. against Carr is commonly known as the Tennessee apportionment case, and in this case for the first time the Supreme Court declared that the Federal judiciary had an alleged constitutional authority to invalidate State constitutions and statutes and divide the representation in State legislatures in such a manner and form as the courts might deem just and equitable in the premises.

The impact of this decision is even now reverberating throughout State after State, and inevitably the judiciary in both the State and Federal departments is being drawn into the heart of the political thicket and will become so enmeshed in partisan power politics that it is doubtful if the courts can ever be restored to the point of dignity and confidence that is required in the character of a judicial system that was envisioned by the founders of this Republic and that continued down to the change in the complexion of the U.S. Supreme Court in the late 1930's.

The words that Mr. Justice Harlan wrote in his separate dissenting opinion in the Tennessee case will be prophetic. He said:

> In conclusion, it is appropriate to say that one need not agree as a citizen with what Tennessee has done or failed to do in order to deprecate, as a judge, what the majority is doing today. Those observers of the Court who see it primarily as the last refuge for the correction of all inequality or injustice, no matter what its nature or source, will no doubt applaud this decision and its break with the past. Those who consider that continuing national respect for the Court's authority depends in large measure upon its wise exercise of self-restraint and discipline in constitutional adjudication, will view the decision with deep concern.

Mr. Justice Frankfurter in his long dissenting opinion, with which Justice Harlan joined, said:

> The Court today reverses a uniform course of decision established by a dozen cases, including one by which the very claim now sustained was unanimously rejected only 5 years ago. The impressive body of rulings thus cast aside reflected the equally uniform course of our political history regarding the relationship between population and legislative representation—a wholly different matter from denial of the franchise to individuals because of race, color, religion or sex. Such a massive repudiation of the experience of our whole past in asserting destructively novel judicial power demands a detailed analysis of the role of this Court in our constitutional scheme. Disregard of inherent limits in the effective exercise of the Court's "judicial power" not only presages the futility of judicial intervention in the essentially political conflict of forces by which the relation between population and representation has time out of mind been and now is determined. It may well impair the Court's position as the ultimate organ of "the supreme law of the land" in that vast range of legal problems, often strongly entangled in popular feeling, on which this Court must pronounce. The Court's authority—possessed neither of the purse nor the sword—ultimately rests on sustained public confidence in its moral sanction. Such feeling must be nourished by the Court's complete detachment, in fact and in appearance, from political entanglements and by abstention from injecting itself into the clash of political forces in political settlements.

No language that I can employ can speak as loud and as forcefully as the words from these two dissenting opinions as to the ultimate result that is going to flow from this Tennessee decision, joined in by six of the nine justices. The sovereign States are hereby reduced to the status of automatons who must blindly follow the voice and direction of the Federal judges, regardless of what area of human conduct and relationship in either the political or social field the Court chooses to direct its attention. The day is coming when such a usurpation of power on the part of nine such men must and will be repudiated.

My voice has been raised time and time again in viewing with alarm both the language and effects of decisions by that body that transgress constitutional principles, established precedents, and threaten fundamentally the basic security of our country from the onslaught of the Communist conspiracy from without and within. In 1958 I had prepared charts and statistics concerning the attitudes and decisions of individual members of the Supreme Court in cases that involved one aspect or another of the Communist conspiracy. The rule of thumb applied to determine the results of the survey is simple. If the decision of the individual judge was in favor of the position advocated by the Communist Party, or the Communist sympathizer involved in the particular case, it was scored as pro, meaning pro-Communist. If the judge's decision was contrary to this position, he was scored as con—or contrary.

Since 1919 through June of 1961, the U.S. Supreme Court rendered 115 decisions involving Communists or subversive activities in cases where the position of the individual judge could be determined.

In 24 years—1919 to 1942—the Court decided only 11 cases in this category. Of these 11, the first 7 were decided

against the Communist position and in favor of the Government.

Since 1943 down to June 1961, 104 cases involving communism or subversion have been decided where the position of the individual judge could be ascertained.

Madam President, I ask unanimous consent that a chart containing a detailed breakdown of the cases to which I have referred be printed at this point in the RECORD.

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

Supreme Court cases involving subversive activities

[Legend: Pro—vote in accordance with position advocated by Communists; Con—vote against position advocated by Communists; Dnp—Justice did not participate in this case]

	Stone	Roberts	Black	Reed	Frankfurter	Douglas	Murphy	Jackson	Rutledge	Burton	Vinson	Clark	Minton	Warren	Harlan	Brennan	Whittaker	Stewart
Schneiderman v. U.S., 320 U.S. 118 (1943)	Con	Con	Pro	Pro	Con	Pro	Pro [1]	Dnp	Pro	-----	-----	-----	-----	-----	-----	-----	-----	-----
Bridges v. Wixon, 326 U.S. 135 (1945)	Con	Con	Pro	Pro	Con	Pro [1]	Pro	Dnp	Pro	-----	-----	-----	-----	-----	-----	-----	-----	-----
U.S. v. Lovett, 328 U.S. 303 (1946)	-----	-----	Pro [1]	Pro	Pro	Pro	Pro	Dnp	Pro	Pro	Pro	-----	-----	-----	-----	-----	-----	-----
Marzani v. U.S., 335 U.S. 895 (1948) [2]	-----	-----	-----	-----	-----	Dnp	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----
Christoffel v. U.S., 338 U.S. 84 (1949)	-----	-----	Pro	Con	Pro	Pro	Pro [1]	Con	Pro	Con	Con	-----	-----	-----	-----	-----	-----	-----
Dennis v. U.S., 339 U.S. 162 (1950)	-----	-----	Pro	Con	Pro	Dnp	-----	Con	-----	Con	Con	Dnp	Con [1]	-----	-----	-----	-----	-----
Morford v. U.S., 339 U.S. 258 (1950) [3]	-----	-----	Pro	Pro	Pro	Pro	-----	Pro	-----	Pro	Pro	Dnp	Pro	-----	-----	-----	-----	-----
U.S. v. Bryan, 339 U.S. 323 (1950)	-----	-----	Pro	Con	Pro	Dnp	-----	Con	-----	Con	Con [1]	Dnp	Con	-----	-----	-----	-----	-----
U.S. v. Fleischman, 339 U.S. 349 (1950)	-----	-----	Pro	Con	Pro	Dnp	-----	Con	-----	Con	Con [1]	Dnp	Con	-----	-----	-----	-----	-----
American Communications Assoc. v. Douds, 339 U.S. 382 (1950)	-----	-----	Pro	Con	Pro	Dnp	-----	Pro	-----	Con	Con [1]	Dnp	Dnp	-----	-----	-----	-----	-----
Osman v. Douds, 339 U.S. 846 (1950) [3]	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	Dnp	-----	-----	-----	-----	-----	-----
Blau v. U.S., 340 U.S. 159 (1950)	-----	-----	Pro [1]	Pro	Pro	Pro	-----	Pro	-----	Pro	Pro	Dnp	Pro	-----	-----	-----	-----	-----
Blau v. U.S., 340 U.S. 332 (1951)	-----	-----	Pro [1]	Pro	Pro	Pro	-----	Con	-----	Pro	Pro	Dnp	Con	-----	-----	-----	-----	-----
Rogers v. U.S., 340 U.S. 367 (1951)	-----	-----	Pro	Con	Pro	Pro	-----	Con	-----	Con	Con [1]	Dnp	Con	-----	-----	-----	-----	-----
Gerende v. Election Board, 341 U.S. 56 (1951) [3]	-----	-----	Pro	Pro	Pro	Pro	-----	Pro	-----	Pro	Pro	Pro	Pro	-----	-----	-----	-----	-----
Joint Anti-Fascist Refugee Committee v. McGrath, 341 U.S. 123 (1951)	-----	-----	Pro	Con	Pro	Pro	-----	Pro	-----	Pro [1]	Con	Dnp	Con	-----	-----	-----	-----	-----
NLRB v. Highland Park Manufacturing Co., 341 U.S. 322 (1951)	-----	-----	Dnp	Con	Pro	Pro	-----	Con [1]	-----	Con	Con	Con	Con	-----	-----	-----	-----	-----
Dennis v. U.S., 341 U.S. 494 (1951)	-----	-----	Pro	Con	Con	Pro	-----	Con	-----	Con	Con [1]	Dnp	Con	-----	-----	-----	-----	-----
Garner v. Board of Public Works of Los Angeles, 341 U.S. 716 (1951)	-----	-----	Pro	Con	Pro	Pro	-----	Con	-----	Pro	Con	Con [1]	Con	-----	-----	-----	-----	-----
Bailey v. Richardson, 341 U.S. 918 (1951) [3]	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	-----	Dnp	-----	-----	-----	-----	-----	-----
Stack v. Boyle, 342 U.S. 1 (1952)	-----	-----	Pro	Pro	Pro	Pro	-----	Pro	-----	Pro	Pro [1]	Pro	Dnp	-----	-----	-----	-----	-----
Adler v. Board of Education, 342 U.S. 485 (1952)	-----	-----	Pro	Con	Pro	Pro	-----	Con	-----	Con	Con	Con	Con [1]	-----	-----	-----	-----	-----
Carlson v. Landon, 342 U.S. 524 (1952)	-----	-----	Pro	Con [1]	Pro	Pro	-----	Con	-----	Pro	Con	Con	Con	-----	-----	-----	-----	-----
Harisiades v. Shaughnessy, 342 U.S. 580 (1952)	-----	-----	Pro	Con	Con	Pro	-----	Con [1]	-----	Con	Con	Dnp	Con	-----	-----	-----	-----	-----
L'Hommedieu v. Board of Regents, 342 U.S. 951 (1952) [3]	-----	-----	Pro	Con	Pro	Pro	-----	Con	-----	Con	Con	Con	Con	-----	-----	-----	-----	-----
Sacher v. U.S., 343 U.S. 1 (1952)	-----	-----	Pro	Con	Pro	Pro	-----	Con [1]	-----	Con	Con	Dnp	Con	-----	-----	-----	-----	-----
U.S. v. Spector, 343 U.S. 169 (1952)	-----	-----	Pro	Con	Pro	Con [1]	-----	Pro	-----	Con	Con	Dnp	Con	-----	-----	-----	-----	-----
Brunner v. U.S., 343 U.S. 918 (1952) [3]	-----	-----	Pro	Con	Dnp	Con	-----	Pro	-----	Pro	Pro	Pro	Pro	-----	-----	-----	-----	-----
Wieman v. Updegraff, 344 U.S. 183 (1952)	-----	-----	Pro	Pro	Pro	Pro	-----	Dnp	-----	Pro	Pro	Pro [1]	Pro	-----	-----	-----	-----	-----
NLRB v. Dant, 344 U.S. 375 (1953)	-----	-----	Pro	Pro [1]	Pro	Pro	-----	Pro	-----	Pro	Pro	Pro	Pro	-----	-----	-----	-----	-----
Orloff v. Willoughby, 345 U.S. 83 (1953)	-----	-----	Pro	Con	Pro	Pro	-----	Con [1]	-----	Con	Con	Con	Con	-----	-----	-----	-----	-----
Heikkila v. Barber, 345 U.S. 229 (1953)	-----	-----	Pro	Con	Pro	Con	-----	Con	-----	Con	Con	Con [1]	Con	-----	-----	-----	-----	-----
Albertson v. Millard, 345 U.S. 242 (1953) [3]	-----	-----	Pro	Con	Con	Pro	-----	Con	-----	Con	Con	Con	Con	-----	-----	-----	-----	-----
In re Isserman, 345 U.S. 286 (1953)	-----	-----	Pro	Con	Pro	Pro	-----	Pro	-----	Con	Con [1]	Dnp	Con	-----	-----	-----	-----	-----
Bridges v. U.S., 345 U.S. 979 (1953) [3]	-----	-----	Pro	Con	Pro	Pro	-----	Dnp	-----	Pro	Con	Dnp	Con	-----	-----	-----	-----	-----
Bridges v. U.S., 346 U.S. 209 (1953)	-----	-----	Pro	Con	Pro	Pro	-----	Dnp	-----	Pro [1]	Con	Dnp	Con	-----	-----	-----	-----	-----
Rosenberg v. U.S., 346 U.S. 273 (1953) [3]	-----	-----	Pro	Con	Pro	Pro	-----	Con	-----	Con	Con [1]	Con	Con	-----	-----	-----	-----	-----
Sacher v. Association of the Bar of the City of New York, 347 U.S. 388 (1954) [3]	-----	-----	Pro	Con	Pro	Pro	-----	Pro	-----	Con	-----	Dnp	Pro	Pro	-----	-----	-----	-----
Barsky v. Board of Regents, 347 U.S. 442 (1954)	-----	-----	Pro	Con	Pro	Pro	-----	Con	-----	Con [1]	-----	Con	Con	Con	-----	-----	-----	-----
Galvan v. Press, 347 U.S. 522 (1954)	-----	-----	Pro	Con	Con [1]	Pro	-----	Con	-----	Con	-----	Con	Con	Con	-----	-----	-----	-----
Quinn v. U.S., 349 U.S. 155 (1955)	-----	-----	Pro	Con	Pro	Pro	-----	-----	-----	Pro	-----	Pro	Con	Pro [1]	Pro	-----	-----	-----
Emspak v. U.S., 349 U.S. 190 (1955)	-----	-----	Pro	Con	Pro	Pro	-----	-----	-----	Pro	-----	Pro	Con	Pro [1]	Con	-----	-----	-----
Bart v. U.S., 349 U.S. 219 (1955)	-----	-----	Pro	Con	Pro	Pro	-----	-----	-----	Pro	-----	Pro	Con	Pro [1]	Con	-----	-----	-----
Peters v. Hobby, 349 U.S. 331 (1955)	-----	-----	Pro	Con	Pro	Pro	-----	-----	-----	Con	-----	Pro	Pro	Pro [1]	Pro	-----	-----	-----
Ullman v. U.S., 350 U.S. 422 (1956)	-----	-----	Pro	Con	Con [1]	Pro	-----	-----	-----	Con	-----	Con	Con	Con	Con	-----	-----	-----
Pennsylvania v. Nelson, 350 U.S. 497 (1956)	-----	-----	Pro	Con	Pro	Pro	-----	-----	-----	Con	-----	Pro	Con	Pro [1]	Pro	-----	-----	-----
Slochower v. Board of Education, 350 U.S. 551 (1956)	-----	-----	Pro	Con	Pro	Pro	-----	-----	-----	Con	-----	Pro [1]	Con	Pro	Con	-----	-----	-----
United Mine Workers v. Arkansas Oak Flooring Co., 351 U.S. 62 (1956)	-----	-----	Pro	Pro	Con	Pro	-----	-----	-----	Pro [1]	-----	Pro	Pro	Pro	Dnp	-----	-----	-----
U.S. v. Zucca, 351 U.S. 91 (1956)	-----	-----	Pro	Con	Pro	Pro	-----	-----	-----	Pro	-----	Con	Con	Pro [1]	Dnp	-----	-----	-----
Communist Party, U.S.A. v. Subversive Activities Control Board, 351 U.S. 115 (1956)	-----	-----	Pro	Con	Pro [1]	Pro	-----	-----	-----	Pro	-----	Con	Con	Pro	Pro	-----	-----	-----
Black v. Cutter Laboratories, 351 U.S. 292 (1956)	-----	-----	Pro	Con	Con	Pro	-----	-----	-----	Con	-----	Con [1]	Con	Pro	Con	-----	-----	-----
Jay v. Boyd, 351 U.S. 345 (1956)	-----	-----	Pro	Con [1]	Pro	Pro	-----	-----	-----	Con	-----	Con	Con	Pro	Con	-----	-----	-----
Cole v. Young 351 U.S. 536 (1956)	-----	-----	Pro	Con	Pro	Pro	-----	-----	-----	Pro	-----	Con	Con	Pro	Pro [1]	-----	-----	-----
Mesarosh v. U.S., 352 U.S. 1 (1956)	-----	-----	Pro	Pro	Con	Pro	-----	-----	-----	Con	-----	Pro	Pro	Pro [1]	Con	-----	-----	-----
Leedom v. International Union of Mine, Mill and Smelter Workers, 352 U.S. 145 (1956)	-----	-----	Pro	Pro	Pro	Pro [1]	-----	-----	-----	Pro	-----	Pro	-----	Pro	Pro	Pro	-----	-----
Amalgamated Meat Cutters and Butcher Workmen v. NLRB, 352 U.S. 153 (1956)	-----	-----	Pro	Pro	Pro	Pro [1]	-----	-----	-----	Pro	-----	Pro	-----	Pro	Pro	Pro	-----	-----
Gold v. U.S., 352 U.S. 985 (1957) [3]	-----	-----	Pro	Con	Pro	Pro	-----	-----	-----	Con	-----	Con	-----	Pro	Pro	Pro	-----	-----
U.S.A. v. George Witkovich, 353 U.S. 194 (1957)	-----	-----	Pro	-----	Pro [1]	Pro	-----	-----	-----	Con	-----	Con	-----	Pro	Pro	Pro	Dnp	-----
Schware v. Board of Bar Examiners of the State of New Mexico, 353 U.S. 232 (1957)	-----	-----	Pro [1]	-----	Pro	Pro	-----	-----	-----	Pro	-----	Pro	-----	Pro	Pro	Pro	Dnp	-----
Konigsberg v. State Bar of Calif. and the Committee of Bar Examiners of the State Bar of California, 353 U.S. 252 (1957)	-----	-----	Pro [1]	-----	Con	Pro	-----	-----	-----	Pro	-----	Con	-----	Pro	Con	Pro	Dnp	-----
Jencks v. U.S., 353 U.S. 657 (1957)	-----	-----	Pro	-----	Pro	Pro	-----	-----	-----	Pro	-----	Con	-----	Pro	Pro	Pro [1]	Dnp	-----
Joseph Curico v. U.S., 354 U.S. 118 (1957)	-----	-----	Pro	-----	Pro	Pro	-----	-----	-----	Pro [1]	-----	Pro [1]	-----	Pro	Pro	Pro	Pro	-----
Yates v. U.S., 354 U.S. 298 (1957)	-----	-----	Pro	-----	Pro	Pro	-----	-----	-----	Pro	-----	Con	-----	Pro	Pro [1]	Dnp	Dnp	-----
Schneiderman v. U.S., 354 U.S. 298 (1957)	-----	-----	Pro	-----	Pro	Pro	-----	-----	-----	Pro	-----	Con	-----	Pro	Pro [1]	Dnp	Dnp	-----
Watkins v. U.S., 354 U.S. 178 (1957)	-----	-----	Pro	-----	Pro	Pro	-----	-----	-----	Dnp	-----	Con	-----	Pro [1]	Pro	Pro	Dnp	-----
Sweezy v. New Hampshire, 354 U.S. 234 (1957)	-----	-----	Pro	-----	Pro	Pro	-----	-----	-----	Con	-----	Con	-----	Pro [1]	Pro	Pro	Dnp	-----
Service v. Dulles, 354 U.S. 363 (1957)	-----	-----	Dnp	-----	Pro	Pro	-----	-----	-----	Pro	-----	Dnp	-----	Pro	Pro [1]	Pro	Pro	-----
Heikkinen v. U.S., 355 U.S. 273 (1958)	-----	-----	Pro	-----	Pro	Pro	-----	-----	-----	Pro	-----	Pro	-----	Pro	Pro	Pro	Pro [1]	-----
Yates v. United States, 355 U.S. 66 (1957) [3]	-----	-----	Pro	-----	Con	Pro	-----	-----	-----	Con	-----	Con [1]	-----	Pro	Con	Con	Con	-----
Rowaldt v. Perfetto, 355 U.S. 115 (1957)	-----	-----	Pro	-----	Pro [1]	Pro	-----	-----	-----	Con	-----	Con	-----	Pro	Con	Pro	Con	-----
Green v. United States, 356 U.S. 165 (1958)	-----	-----	Pro	-----	Con	Pro	-----	-----	-----	Con	-----	Con	-----	Pro	Con	Pro	Con	-----
Winston v. United States, 356 U.S. 165 (1958)	-----	-----	Pro	-----	Con	Pro	-----	-----	-----	Con	-----	Con	-----	Pro	Con	Pro	Con	-----
Perez v. Brownell, 356 U.S. 44 (1958)	-----	-----	Pro	-----	Con [1]	Pro	-----	-----	-----	Con	-----	Con	-----	Pro	Con	Con	Con	-----
Yates v. United States, 356 U.S. 363 (1958) [3]	-----	-----	Pro	-----	Pro	Pro	-----	-----	-----	Con	-----	Con	-----	Pro	Pro	Pro	Con	-----
Sacher v. United States, 356 U.S. 576 (1958) [3]	-----	-----	Pro	-----	Pro	Pro	-----	-----	-----	Dnp	-----	Con	-----	Pro	Pro	Pro	Con	-----
Bonetti v. U.S., 356 U.S. 691 (1958)	-----	-----	Pro	-----	Con	Pro	-----	-----	-----	Pro	-----	Con	-----	Pro	Con	Pro	Pro [1]	-----
Nowak v. U.S., 356 U.S. 660 (1958)	-----	-----	Pro	-----	Pro	Pro	-----	-----	-----	Con	-----	Con	-----	Pro	Pro [1]	Pro	Con	-----
Maisenberg v. U.S., 356 U.S. 670 (1958)	-----	-----	Pro	-----	Pro	Pro	-----	-----	-----	Con	-----	Con	-----	Pro	Pro [1]	Pro	Con	-----
Kent et al. v. Dulles, 357 U.S. 116 (1958)	-----	-----	Pro	-----	Pro	Pro [1]	-----	-----	-----	Con	-----	Con	-----	Pro	Con	Pro	Con	-----
Briehl v. Rogers, 357 U.S. 116 (1958)	-----	-----	Pro	-----	Pro	Pro [1]	-----	-----	-----	Con	-----	Con	-----	Pro	Con	Pro	Con	-----

See footnotes at end of table.

Supreme Court cases involving subversive activities—Continued

[Legend: Pro—vote in accordance with position advocated by Communists; Con—vote against position advocated by Communists; Dnp—Justice did not participate in this case]

	Stone	Roberts	Black	Reed	Frankfurter	Douglas	Murphy	Jackson	Rutledge	Burton	Vinson	Clark	Minton	Warren	Harlan	Brennan	Whittaker	Stewart
Dayton v. *Dulles*, 357 U.S. 144 (1958)	------	------	Pro	------	Pro	Pro [1]	------	------	------	Con	------	Con	------	Pro	Con	Pro	Con	------
Beilan v. *Board of Public Education*, 357 U.S. 399 (1958)	------	------	Pro	------	Con	Pro	------	------	------	Con [1]	------	Con	------	Pro	Con	Pro	Con	------
Lerner v. *Casey*, 357 U.S. 468 (1958)	------	------	Pro	------	Con	Pro	------	------	------	Con	------	Con	------	Pro	Con [1]	Pro	Con	------
Speiser v. *Randall*, 357 U.S. 513 (1958)	------	------	Pro	------	Pro	Pro	------	------	------	Pro	------	Con	------	Dnp	Pro	Pro [1]	Pro	------
Prince v. *City and Co. San Francisco*, 357 U.S. 513 (1958)	------	------	Pro	------	Pro	Pro	------	------	------	Pro	------	Con	------	Dnp	Pro	Pro [1]	Pro	------
First Unitarian Church of L.A. v. *City and County of L.A.*, 357 U.S. 545 (1958)	------	------	Pro	------	Pro	Pro	------	------	------	Pro	------	Con	------	Dnp	Pro	Pro [1]	Pro	------
Valley Unitarian-Universal Church v. *City and Co. of L.A.*, 357 U.S. 545 (1958)	------	------	Pro	------	Pro	Pro	------	------	------	Pro	------	Con	------	Dnp	Pro	Pro [1]	Pro	------
Flazer v. *U.S.*, 358 U.S. 147 (1958)	------	------	Pro	------	Pro	Pro [1]	------	------	------	Pro	------	Pro	------	Pro	Pro	Pro	Pro	Pro
Uphaus v. *Wyman*, 360 U.S. 72 (1959)	------	------	Pro	------	Con	Pro	------	------	------	------	------	Con [1]	------	Pro	Con	Pro	Con	Con
Barenblatt v. *U.S.*, 360 U.S. 109 (1959)	------	------	Pro	------	Con	Pro	------	------	------	------	------	Con	------	Pro	Con [1]	Pro	Con	Con
In re Sawyer (Bousley), 360 U.S. 622 (1959)	------	------	Pro	------	Con	Pro	------	------	------	------	------	Con	------	Pro	Con	Pro [1]	Con	Pro
Nelson et al. v. *Cal.*, 362 U.S. 1 (1960)	------	------	Pro	------	Con	Pro	------	------	------	------	------	Con [1]	------	Dnp	Con	Pro	Con	Con
Abel v. *U.S.*, 362 U.S. 217 (1960)	------	------	Pro	------	Con [1]	Pro	------	------	------	------	------	Con	------	Pro	Con	Pro	Con	Con
Nuikkanen v. *McAlexander*, 362 U.S. 390 (1960)	------	------	Pro	------	Con	Pro	------	------	------	------	------	Con	------	Pro	Con	Pro	Con	Con
Chaunt v. *U.S.*, 364 U.S. 350 (1960)	------	------	Pro	------	Pro	Pro [1]	------	------	------	------	------	Con	------	Pro	Pro	Pro	Con	Con
McPhaul v. *U.S.*, 364 U.S. 372 (1960)	------	------	Pro	------	Con	Pro	------	------	------	------	------	Con	------	Pro	Con	Pro	Con [1]	Con
Polites v. *U.S.*, 364 U.S. 426 (1960)	------	------	Pro	------	Con	Pro	------	------	------	------	------	Con	------	Pro	Con	Pro	Con	Con [1]
Travis v. *U.S.*, 364 U.S. 631 (1960)	------	------	Pro	------	Con	Pro [1]	------	------	------	------	------	Con	------	Pro	Con	Pro	Pro	Pro
Wilkinson v. *U.S.*, 365 U.S. 399 (1961)	------	------	Pro	------	Con	Pro	------	------	------	------	------	Con	------	Pro	Con	Pro	Con	Con [1]
Braden v. *U.S.*, 365 U.S. 431 (1961)	------	------	Pro	------	Con	Pro	------	------	------	------	------	Con	------	Pro	Con	Pro	Con	Con [1]
Konigsberg v. *State Bar Cal.*, 366 U.S. 36 (1961)	------	------	Pro	------	Con	Pro	------	------	------	------	------	Con	------	Pro	Con [1]	Pro	Con	Con
In re Anastaple, 366 U.S. 82 (1961)	------	------	Pro	------	Con	Pro	------	------	------	------	------	Con	------	Pro	Con [1]	Pro	Con	Con
Scales v. *U.S.*,—U.S.—(6-5-1961)	------	------	Pro	------	Con	Pro	------	------	------	------	------	Con	------	Pro	Con [1]	Pro	Con	Con
Note v. *U.S.*,—U.S.—(6-5-1961)	------	------	Pro	------	Pro	Pro	------	------	------	------	------	Pro	------	Pro	Pro [1]	Pro	Pro	Pro
CPUSA v. *Board*—U.S.—(6-5-1961)	------	------	Pro	------	Con [1]	Pro	------	------	------	------	------	Con	------	Pro	Con	Pro	Con	Con
CPUSA v. *Catherwood*,—U.S.—(6-12-1961)	------	------	Pro	------	Pro	Pro	------	------	------	------	------	Pro	------	Pro	Pro [1]	Pro	Pro	Pro
Deutch v. *U.S.*,—U.S.—(6-12-1961)	------	------	Pro	------	Con	Pro	------	------	------	------	------	Con	------	Pro	Con	Pro	Con	Pro [1]

[1] Wrote opinion.
[2] Per curiam decision; Court equally divided.
[3] Per curiam decision.

Summary: Beginning with Schneiderman *v.* U.S. *(1943) and ending with* Deutch *v.* U.S. *(June 12, 1961)*

Justices	Number of cases participated	Number of opinions written	Pro	Con	Justices	Number of cases participated	Number of opinions written	Pro	Con
Stone	2	0	0	2	Burton	81	6	37	44
Roberts	2	0	0	2	Vinson	32	8	9	23
Black	102	5	102	0	Clark	82	8	21	61
Reed	54	3	14	40	Minton	45	2	10	35
Frankfurter	103	7	69	34	Warren	65	9	62	3
Douglas	100	10	97	3	Harlan	65	14	30	35
Murphy	4	2	4	0	Brennan	51	6	49	2
Jackson	31	4	11	20	Whittaker	42	3	12	30
Rutledge	4	0	4	0	Stewart	20	4	6	14

Mr. EASTLAND. Madam President, from 1943 through 1953, a total of 34 cases in the described category were considered. A majority of the Court voted in favor of the position advocated by the Communists in 15 cases, and held contrary to what the Communists wanted in 19 cases.

Earl Warren took the oath of office as Chief Justice in October 1953. In the 7½ years since he has been Chief Justice, the Court has heard the enormous total of 70 cases or more involving Communist or subversive activities in one form or another. Forty-six of these decisions have sustained the position advocated by the Communists, and 24 have been to the contrary.

In regard to decisions involving subversive activities, the balance of power on the presently constituted Court has been frightfully narrow. Justice Stewart was appointed to the Court in October 1958. He did not participate in any of the cases contained in the original tabulations. He has participated in 20 of the decisions now under discussion since that time. In 12 of these 20 decisions, he was the swing man in a 5-4 decision contrary to the position advocated by the Communist Party. If these 12 decisions had been on the "pro" side, the box score of the Warren Court would stand at 58 pro-Communist decisions and only 12 taking the contrary position.

Now let me turn from the composite results of the opinions to the box score registered by the individual judges. Hugo Black is the senior judge on the Supreme Court. He has been on the Court since August 1937. As to cases involving communism or subversive activities, it is impossible for a man to demonstrate greater consistency than he has evidenced. Over this span of 24 years, he participated in 102 decisions where his position could be ascertained. He supported the position urged upon the Court by the Communist Party or its sympathizers exactly 102 times. His support of decisions contrary to the position urged by the Communists is zero.

Justice Douglas participated in a total of 100 cases. Out of this total he reached a conclusion favorable to the position urged by the Communists 97 times and held to the contrary 3 times.

Chief Justice Warren participated in 65 decisions. His box score is 62 pro and 3 contrary.

Justice Brennan has participated in 51 cases. His score is 49 pro and 2 con.

Justice Frankfurter participated in a total of 103 decisions. His record reveals 69 votes pro and 34 votes con.

Now the pendulum swings to the judges who have opposed the position urged by the Communists more than they have supported it. Justice Clark has the longest record of vigorous opposition to the position favoring communism or subversive activities. Out of a total of 82 opinions, he has been on the pro side only 21 times and contrary 61.

Justice Harlan's decisions total 65—30 pro, 35 con.

Justice Whittaker, 42 decisions—12 pro, 30 con.

Justice Stewart, 20 decisions—6 pro, 14 con.

I ask unanimous consent, Madam President, that the chart reflecting the specific cases decided by the Supreme Court involving subversive activities, with the position of the individual judges and the summary of their pro and con votes, be inserted in the RECORD at this point in my remarks.

There being no objection, the chart was ordered to be printed in the RECORD.

Supreme Court cases involving subversive activities

[Legend: Pro—vote in accordance with position advocated by Communists; Con—vote against position advocated by Communists; Dnp—Justice did not participate in this case]

	Stone	Roberts	Black	Reed	Frankfurter	Douglas	Murphy	Jackson	Rutledge	Burton	Vinson	Clark	Minton	Warren	Harlan	Brennan	Whittaker	Stewart
Schneiderman v. U.S., 320 U.S. 118 (1943)	Con	Con	Pro	Pro	Con	Pro	Pro [1]	Dnp	Pro									
Bridges v. Wixon, 326 U.S. 135 (1945)	Con	Con	Pro	Pro	Con	Pro [1]	Pro	Dnp	Pro									
U.S. v. Lovett, 328 U.S. 303 (1946)			Pro [1]	Pro	Pro	Pro	Pro	Dnp	Pro	Pro	Pro							
Marzani v. U.S., 335 U.S. 895 (1948) [2]						Dnp												
Christoffel v. U.S., 338 U.S. 84 (1949)			Pro	Con	Pro	Pro	Pro [1]	Con	Pro	Con	Con							
Dennis v. U.S., 339 U.S. 162 (1950)			Pro	Con	Pro	Dnp		Con		Con	Con	Dnp	Con [1]					
Morford v. U.S., 339 U.S. 258 (1950) [3]			Pro	Pro	Pro	Pro		Pro		Pro	Pro	Dnp	Pro					
U.S. v. Bryan, 339 U.S. 323 (1950)			Pro	Con	Pro	Dnp		Con		Con	Con [1]	Dnp	Con					
U.S. v. Fleischman, 339 U.S. 349 (1950)			Pro	Con	Pro	Dnp		Con		Con	Con [1]	Dnp	Con					
American Communications Assoc. v. Douds, 339 U.S. 382 (1950)			Pro	Con	Pro	Dnp		Pro		Con	Con [1]	Dnp	Dnp					
Osman v. Douds, 339 U.S. 846 (1950) [2]												Dnp						
Blau v. U.S., 340 U.S. 159 (1950)			Pro [1]	Pro	Pro	Pro		Pro		Pro	Pro	Dnp	Pro					
Blau v. U.S., 340 U.S. 332 (1951)			Pro [1]	Pro	Pro	Pro		Con		Pro	Pro	Dnp	Con					
Rogers v. U.S., 340 U.S. 367 (1951)			Pro	Con	Pro	Pro		Con		Con	Con [1]	Dnp	Con					
Gerende v. Election Board, 341 U.S. 56 (1951) [3]			Pro	Pro	Pro	Pro		Pro		Pro	Pro	Pro	Pro					
Joint Anti-Fascist Refugee Committee v. McGrath, 341 U.S. 123 (1951)			Pro	Con	Pro	Pro		Pro		Pro [1]	Con	Dnp	Con					
NLRB v. Highland Park Manufacturing Co., 341 U.S. 322 (1951)			Dnp	Con	Pro	Pro		Con [1]		Con	Con	Con	Con					
Dennis v. U.S., 341 U.S. 494 (1951)			Pro	Con	Con	Pro		Con		Con	Con [1]	Dnp	Con					
Garner v. Board of Public Works of Los Angeles, 341 U.S. 716 (1951)			Pro	Con	Pro	Pro		Con		Pro	Con	Con [1]	Con					
Bailey v. Richardson, 341 U.S. 918 (1951) [2]												Dnp						
Stack v. Boyle, 342 U.S. 1 (1952)			Pro	Pro	Pro	Pro		Pro		Pro	Pro [1]	Pro	Dnp					
Adler v. Board of Education, 342 U.S. 485 (1952)			Pro	Con	Pro	Pro		Con		Con	Con	Con	Con [1]					
Carlson v. Landon, 342 U.S. 524 (1952)			Pro	Con [1]	Pro	Pro		Con		Pro	Con	Con	Con					
Harisiades v. Shaughnessy, 342 U.S. 580 (1952)			Pro	Con	Con	Pro		Con [1]		Con	Con	Dnp	Con					
L'Hommedieu v. Board of Regents, 342 U.S. 951 (1952) [3]			Pro	Con	Pro	Pro		Con		Con	Con	Con	Con					
Sacher v. U.S., 343 U.S. 1 (1952)			Pro	Con	Pro	Pro		Con [1]		Con	Con	Dnp	Con					
U.S. v. Spector, 343 U.S. 169 (1952)			Pro	Con	Pro	Con [1]		Pro		Con	Con	Dnp	Con					
Brunner v. U.S., 343 U.S. 918 (1952) [3]			Pro	Con	Dnp	Con		Pro		Pro	Pro	Pro	Pro					
Wieman v. Updegraff, 344 U.S. 183 (1952)			Pro	Pro	Pro	Pro		Dnp		Pro	Pro	Pro [1]	Pro					
NLRB v. Dant, 344 U.S. 375 (1953)			Pro	Pro [1]	Pro	Pro		Pro		Pro	Pro	Pro	Pro					
Orloff v. Willoughby, 345 U.S. 83 (1953)			Pro	Con	Pro	Pro		Con [1]		Con	Con	Con	Con					
Heikkila v. Barber, 345 U.S. 229 (1953)			Pro	Con	Pro	Con		Con		Con	Con	Con [1]	Con					
Albertson v. Millard, 345 U.S. 242 (1953) [3]			Pro	Con	Con	Pro		Con		Con	Con	Con	Con					
In re Isserman, 345 U.S. 286 (1953)			Pro	Con	Pro	Pro		Pro		Con	Con [1]	Dnp	Con					
Bridges v. U.S., 345 U.S. 979 (1953) [3]			Pro	Con	Pro	Pro		Dnp		Pro	Con	Dnp	Con					
Bridges v. U.S., 346 U.S. 209 (1953)			Pro	Con	Pro	Pro		Dnp		Pro [1]	Con	Dnp	Con					
Rosenberg v. U.S., 346 U.S. 273 (1953) [3]			Pro	Con	Pro	Pro		Con		Con	Con [1]	Con	Con					
Sacher v. Association of the Bar of the City of New York, 347 U.S. 388 (1954) [3]			Pro	Con	Pro	Pro		Pro		Con		Dnp	Pro	Pro				
Barsky v. Board of Regents, 347 U.S. 442 (1954)			Pro	Con	Pro	Pro		Con		Con [1]		Con	Con	Con				
Galvan v. Press, 347 U.S. 522 (1954)			Pro	Con	Con [1]	Pro		Con		Con		Con	Con	Con				
Quinn v. U.S., 349 U.S. 155 (1955)			Pro	Con	Pro	Pro				Pro		Pro	Con	Pro [1]	Pro			
Emspak v. U.S., 349 U.S. 190 (1955)			Pro	Con	Pro	Pro				Pro		Pro	Con	Pro [1]	Con			
Bart v. U.S., 349 U.S. 219 (1955)			Pro	Con	Pro	Pro				Pro		Pro	Con	Pro [1]	Con			
Peters v. Hobby, 349 U.S. 331 (1955)			Pro	Con	Pro	Pro				Con		Pro	Pro	Pro [1]	Pro			
Ullman v. U.S., 350 U.S. 422 (1956)			Pro	Con	Con [1]	Pro				Con		Con	Con	Con	Con			
Pennsylvania v. Nelson, 350 U.S. 497 (1956)			Pro	Con	Pro	Pro				Con		Pro	Con	Pro [1]	Pro			
Slochower v. Board of Education, 350 U.S. 551 (1956)			Pro	Con	Pro	Pro				Con		Pro [1]	Con	Pro	Con			
United Mine Workers v. Arkansas Oak Flooring Co., 351 U.S. 62 (1956)			Pro	Pro	Con	Pro				Pro [1]		Pro	Pro	Pro	Dnp			
U.S. v. Zucca, 351 U.S. 91 (1956)			Pro	Con	Pro	Pro				Pro		Con	Con	Pro [1]	Dnp			
Communist Party, U.S.A. v. Subversive Activities Control Board, 351 U.S. 115 (1956)			Pro	Con	Pro [1]	Pro				Pro		Con	Con	Pro	Pro			
Black v. Cutler Laboratories, 351 U.S. 292 (1956)			Pro	Con	Con	Pro				Con		Con [1]	Con	Pro	Con			
Jay v. Boyd, 351 U.S. 345 (1956)			Pro	Con [1]	Pro	Pro				Con		Con	Con	Pro	Con			
Cole v. Young 351 U.S. 536 (1956)			Pro	Con	Pro	Pro				Pro		Con	Con	Pro	Pro [1]			
Mesarosh v. U.S., 352 U.S. 1 (1956)			Pro	Pro	Con	Pro				Con		Pro	Pro	Pro [1]	Con			
Leedom v. International Union of Mine, Mill and Smelter Workers, 352 U.S. 145 (1956)			Pro	Pro	Pro	Pro [1]				Pro		Pro		Pro	Pro	Pro		
Amalgamated Meat Cutters and Butcher Workmen v. NLRB, 352 U.S. 153 (1956)			Pro	Pro	Pro	Pro [1]				Pro		Pro		Pro	Pro	Pro		
Gold v. U.S., 352 U.S. 985 (1957) [3]			Pro	Con	Pro	Pro				Con		Con		Pro	Pro	Pro		
U.S.A. v. George Witkovich, 353 U.S. 194 (1957)			Pro		Pro [1]	Pro				Con		Con		Pro	Pro	Pro	Dnp	
Schware v. Board of Bar Examiners of the State of New Mexico, 353 U.S. 232 (1957)			Pro [1]		Pro	Pro				Pro		Pro		Pro	Pro	Pro	Dnp	
Konigsberg v. State Bar of Calif. and the Committee of Bar Examiners of the State Bar of California, 353 U.S. 252 (1957)			Pro [1]		Con	Pro				Pro		Con		Pro	Con	Pro	Dnp	
Jencks v. U.S., 353 U.S. 657 (1957)			Pro		Pro	Pro				Pro		Con		Pro	Pro	Pro [1]	Dnp	
Joseph Curcio v. U.S., 354 U.S. 118 (1957)			Pro		Pro	Pro				Pro [1]		Pro [1]		Pro	Pro	Pro	Pro	
Yates v. U.S., 354 U.S. 298 (1957)			Pro		Pro	Pro				Pro		Con		Pro	Pro [1]	Dnp	Dnp	
Schneiderman v. U.S., 354 U.S. 298 (1957)			Pro		Pro	Pro				Pro		Con		Pro	Pro [1]	Dnp	Dnp	
Watkins v. U.S., 354 U.S. 178 (1957)			Pro		Pro	Pro				Dnp		Con		Pro [1]	Pro	Pro	Dnp	
Sweezy v. New Hampshire, 354 U.S. 234 (1957)			Pro		Pro	Pro				Con		Con		Pro [1]	Pro	Pro	Dnp	
Service v. Dulles, 354 U.S. 363 (1957)			Dnp		Pro	Pro				Pro		Dnp		Pro	Pro [1]	Pro	Pro	
Heikkinen v. U.S., 355 U.S. 273 (1958)			Pro		Pro	Pro				Pro		Pro		Pro	Pro	Pro	Pro [1]	
Yates v. United States, 355 U.S. 66 (1957) [3]			Pro		Con	Pro				Con		Con [1]		Pro	Con	Con	Con	
Rowaldt v. Perfetto, 355 U.S. 115 (1957)			Pro		Pro [1]	Pro				Con		Con		Pro	Con	Pro	Con	
Green v. United States, 356 U.S. 165 (1958)			Pro		Con	Pro				Con		Con		Pro	Con	Pro	Con	
Winston v. United States, 356 U.S. 165 (1958)			Pro		Con	Pro				Con		Con		Pro	Con	Pro	Con	
Perez v. Brownell, 356 U.S. 44 (1958)			Pro		Con [1]	Pro				Con		Con		Pro	Con	Con	Con	
Yates v. United States, 356 U.S. 363 (1958) [3]			Pro		Pro	Pro				Con		Con		Pro	Pro	Pro	Con	
Sacher v. United States, 356 U.S. 576 (1958) [3]			Pro		Pro	Pro				Dnp		Con		Pro	Pro	Pro	Con	
Bonetti v. U.S., 356 U.S. 691 (1958)			Pro		Con	Pro				Pro		Con		Pro	Con	Pro	Pro [1]	
Nowak v. U.S., 356 U.S. 660 (1958)			Pro		Pro	Pro				Con		Con		Pro	Pro [1]	Pro	Con	
Maisenberg v. U.S., 356 U.S. 670 (1958)			Pro		Pro	Pro				Con		Con		Pro	Pro [1]	Pro	Con	
Kent et al. v. Dulles, 357 U.S. 116 (1958)			Pro		Pro	Pro [1]				Con		Con		Pro	Con	Pro	Con	
Briehl v. Rogers, 357 U.S. 116 (1958)			Pro		Pro	Pro [1]				Con		Con		Pro	Con	Pro	Con	
Dayton v. Dulles, 357 U.S. 144 (1958)			Pro		Pro	Pro [1]				Con		Con		Pro	Con	Pro	Con	
Beilan v. Board of Public Education, 357 U.S. 399 (1958)			Pro		Con	Pro				Con [1]		Con		Pro	Con	Pro	Con	
Lerner v. Casey, 357 U.S. 468 (1958)			Pro		Con	Pro				Con		Con		Pro	Con [1]	Pro	Con	
Speiser v. Randall, 357 U.S. 513 (1958)			Pro		Pro	Pro				Pro		Con		Dnp	Pro	Pro [1]	Pro	
Prince v. City and Co. San Francisco, 357 U.S. 513 (1958)			Pro		Pro	Pro				Pro		Con		Dnp	Pro	Pro [1]	Pro	
First Unitarian Church of L.A. v. City and County of L.A., 357 U.S. 545 (1958)			Pro		Pro	Pro				Pro		Con		Dnp	Pro	Pro [1]	Pro	
Valley Unitarian-Universal Church v. City and Co. of L.A., 357 U.S. 545 (1958)			Pro		Pro	Pro				Pro		Con		Dnp	Pro	Pro [1]	Pro	

See footnotes at end of table.

Supreme Court cases involving subversive activities—Continued

[Legend: Pro—vote in accordance with position advocated by Communists ; Con—vote against position advocated by Communists ; Dnp—Justice did not participate in this case]

	Stone	Roberts	Black	Reed	Frankfurter	Douglas	Murphy	Jackson	Rutledge	Burton	Vinson	Clark	Minton	Warren	Harlan	Brennan	Whittaker	Stewart
Flaxer v. *U.S.*, 358 U.S. 147 (1958)	------	------	Pro	------	Pro	Pro [1]	------	------	------	Pro	------	Pro	------	Pro	Pro	Pro	Pro	Pro
Uphaus v. *Wyman*, 360 U.S. 72 (1959)	------	------	Pro	------	Con	Pro	------	------	------	------	------	Con [1]	------	Pro	Con	Pro	Con	Con
Barenblatt v. *U.S.*, 360 U.S. 109 (1959)	------	------	Pro	------	Con	Pro	------	------	------	------	------	Con	------	Pro	Con [1]	Pro	Con	Con
In re Sawyer (Bousley), 360 U.S. 622 (1959)	------	------	Pro	------	Con	Pro	------	------	------	------	------	Con	------	Pro	Con	Pro [1]	Con	Pro
Nelson et al. v. *Cal.*, 362 U.S. 1 (1960)	------	------	Pro	------	Con	Pro	------	------	------	------	------	Con [1]	------	Dnp	Con	Pro	Con	Con
Abel v. *U.S.*, 362 U.S. 217 (1960)	------	------	Pro	------	Con [1]	Pro	------	------	------	------	------	Con	------	Pro	Con	Pro	Con	Con
Nuikkanen v. *McAlexander*, 362 U.S. 390 (1960)	------	------	Pro	------	Con	Pro	------	------	------	------	------	Con	------	Pro	Con	Pro	Con	Con
Chaunt v. *U.S.*, 364 U.S. 350 (1960)	------	------	Pro	------	Pro	Pro [1]	------	------	------	------	------	Con	------	Pro	Pro	Pro	Con	Con
McPhaul v. *U.S.*, 364 U.S. 372 (1960)	------	------	Pro	------	Con	Pro	------	------	------	------	------	Con	------	Pro	Con	Pro	Con [1]	Con
Polites v. *U.S.*, 364 U.S. 426 (1960)	------	------	Pro	------	Con	Pro	------	------	------	------	------	Con	------	Pro	Con	Pro	Con	Con [1]
Travis v. *U.S.*, 364 U.S. 631 (1960)	------	------	Pro	------	Con	Pro [1]	------	------	------	------	------	Con	------	Pro	Con	Pro	Pro	Pro
Wilkinson v. *U.S.*, 365 U.S. 399 (1961)	------	------	Pro	------	Con	Pro	------	------	------	------	------	Con	------	Pro	Con	Pro	Con	Con [1]
Braden v. *U.S.*, 365 U.S. 431 (1961)	------	------	Pro	------	Con	Pro	------	------	------	------	------	Con	------	Pro	Con	Pro	Con	Con [1]
Konigsberg v. *State Bar Cal.*, 366 U.S. 36 (1961)	------	------	Pro	------	Con	Pro	------	------	------	------	------	Con	------	Pro	Con [1]	Pro	Con	Con
In re Anastaple, 366 U.S. 82 (1961)	------	------	Pro	------	Con	Pro	------	------	------	------	------	Con	------	Pro	Con [1]	Pro	Con	Con
Scales v. *U.S.*,—U.S.—(6-5-1961)	------	------	Pro	------	Con	Pro	------	------	------	------	------	Con	------	Pro	Con [1]	Pro	Con	Con
Note v. *U.S.*,—U.S.—(6-5-1961)	------	------	Pro	------	Pro	Pro	------	------	------	------	------	Pro	------	Pro	Pro [1]	Pro	Pro	Pro
CPUSA v. *Board*,—U.S.—(6-5-1961)	------	------	Pro	------	Con [1]	Pro	------	------	------	------	------	Con	------	Pro	Con	Pro	Con	Con
CPUSA v. *Catherwood*,—U.S.—(6-12-1961)	------	------	Pro	------	Pro	Pro	------	------	------	------	------	Pro	------	Pro	Pro [1]	Pro	Pro	Pro
Deutch v. *U.S.*,—U.S.—(6-12-1961)	------	------	Pro	------	Con	Pro	------	------	------	------	------	Con	------	Pro	Con	Pro	Con	Pro [1]

[1] Wrote opinion.
[2] Per curiam decision, Court equally divided.
[3] Per curiam decision.

Summary: Beginning with Schneiderman *v.* U.S. *(1943) and ending with* Deutch *v.* U.S. *(June 12, 1961)*

Justices	Number of cases participated	Number of opinions written	Pro	Con	Justices	Number of cases participated	Number of opinions written	Pro	Con
Stone	2	0	0	2	Burton	81	6	37	44
Roberts	2	0	0	2	Vinson	32	8	9	23
Black	102	5	102	0	Clark	82	8	21	61
Reed	54	3	14	40	Minton	45	2	10	35
Frankfurter	103	7	69	34	Warren	65	9	62	3
Douglas	100	10	97	3	Harlan	65	14	30	35
Murpy	4	2	4	0	Brennan	51	6	49	2
Jackson	31	4	11	20	Whittaker	42	3	12	30
Rutledge	4	0	4	0	Stewart	20	4	6	14

Mr. JAVITS. Madam President, will the Senator yield at that point?

Mr. EASTLAND. I yield.

Mr. JAVITS. May I ask the Senator, so that we may have his view clearly in the RECORD, whether before I came in, or whether he will do so now, state what specific criterion he has set for his statement?

Mr. EASTLAND. That has been put in the RECORD.

Mr. JAVITS. May I ask who sets the criterion that these are pro or anti-Communist decisions?

Mr. EASTLAND. Any lawyer with any sense at all could do that. Intelligent lawyers have done it.

Mr. JAVITS. Could the Senator tell us who the lawyers are who have done that?

Mr. EASTLAND. Yes; my staff has done it.

Mr. JAVITS. The Senator's staff?

Mr. EASTLAND. Yes.

Mr. JAVITS. The Senator's staff is the authority for the criterion?

Mr. EASTLAND. No. I believe the record speaks for itself. I believe the decisions speak for themselves. I do not want to argue the matter with the Senator from New York. This is what the record shows. I know it might displease the Senator from New York, but the record shows it. The test was, if the decision of the individual judge was in favor of the position advocated by the Communist Party or the Communist sympathizer involved in the particular case, it was scored a pro, meaning pro-Communist. If the judge's decision was contrary to this position, it was scored as a con, or contrary position.

Mr. JAVITS. Can we say, therefore, in all fairness that it is the Senator himself, then, who determined that standard, in the Senator's judgment?

Mr. EASTLAND. I think anybody with any intelligence, Madam President, must realize that these cases speak for themselves. This is taken from the documents of the Government of the United States. It is a public record.

Mr. JAVITS. There is no other authority, other than the Senator's statement, then?

Mr. EASTLAND. There is no other authority than the official record. That record speaks for itself.

Mr. JAVITS. The Senator's statement is that that is the official record.

Mr. EASTLAND. That is the official record. It is the record that has gone into the RECORD of this debate.

This is the grim picture of the individual and aggregate results of the attitudes and predilections of both the individual judges and the Court as a whole on issues that have involved the relationship of our laws with activities and manifestations of the Communist conspiracy or related subversive activities within this country. The present balance of opinions on the Court is such that each new decision becomes a grab bag or a game of chance as to which way the Court will go. This is a most narrow balance when fundamentally the issue involved is the security of this country and its ability to protect itself from the machinations of communism.

The Court must be restricted. Unless it is, it will not only snap and bite, but will tear to pieces and devour constitutional government.

Illegitimate and unconstitutional practices get their first footing * * * by silent approaches and slight deviations from legal modes of procedure (*Boyd* v. *United States*, 116 U.S. at page 635).

The widespread illegitimate and unconstitutional practices of today got their first footing by deviations from legal modes of procedure, deviations in fields and areas which aroused sympathy for those deviations rather than criticism of them.

Deviations were of no concern to those who were not harmed by them.

When, in 1944, the Court, with just one Justice dissenting—*Smith* v. *Allwright*, 321 U.S. 649—deliberately and brazenly overruled its decision of a few years before and nullified the white primary nominating system in Texas, people of the North and East and West thought that that served southerners right; why should not Negroes vote in nominating primaries? Overlooked was the fundamental principle: The fact that the Supreme Court, for political purposes, was in that presidential election year invading an area forbidden to it by the Constitution of the United States.

Having succeeded in this first stride, perceiving that most people would wink at deviations when they thought the end

justified the means, the Court took another stride.

With only one Justice dissenting, the Court nullified one of its 70-year-old decisions—*Hall* v. *DeCuir*, 95 U.S. 485, 1878—and held that a Virginia statute relating to the segregation of passengers according to color was a burden upon interstate commerce.

People outside of the South were not concerned about that. Tacitly they said, "Let Virginia and the other Southern States worry about that. Why should not Negroes ride on buses and be seated like any other people?" They overlooked the fundamental principle. They overlooked the fact that again the Supreme Court was testing its strength, and finding out just how far it could go without interference.

Having learned that only we southerners seemed much disturbed by its usurpation of power, and seeing that our fears, and that our expressions of our fears could be drowned out by shouts of "racism" and "demogoguery" and all sorts of name calling, and being aware of the election returns and having read the census reports, a couple of years later it took another step.

For years it had been held that agreements between property owners restricting sales of their property to white persons were not violative of the 14th amendment. The principle had been firmly established, we thought that the 14th amendment erected no shield against mere private conduct, however, discriminatory or wrongful—334 U.S. 13.

But along came election year 1948, and on May 3 of that year the Supreme Court decided that while these restrictive covenant agreements were perfectly legal as between the parties, they became unconstitutional if any State court attempted to enforce them—334 U.S. 1.

The Department of Justice of the United States intervened as a friend of the Court in that case, and helped to induce the Court to decide as it did.

The Honorable Tom C. Clark was Attorney General of the United States then. On August 24, 1949, after President Truman had been elected in November 1948, Mr. Clark became an Associate Justice of the Supreme Court. He still is. He was one of the six who participated in the judgment rendered on March 26, 1962.

At first, many people could not seem to understand the South's distress over the 1954 school segregation decision. Again they overlooked or ignored fundamental principles—eternal constitutional verities. Ever since the adoption of the 14th amendment, the Supreme Court and all other courts which had passed on the question had held that the field of public education was one reserved to the States. These United States had given their pledged word to us. We believed, as Justice Black recently said in an Indian case:

> Great nations like great men should keep their word.

We believed that the United States of America would keep its word to us. We believed that it was firmly established as a corollary to the written Constitution of the United States that the matter of the education of their people in their schools was one for decision by the legislatures of the several States. We believed that because Chief Justice Taft, speaking for a unanimous Court, had said so in 1927—*Gong Lum* v. *Rice*, 275 U.S. 91.

We believed that, and in our belief we spent billions of our people's money relying on the pledged word of the Nation to its people. Our belief was not well founded, as you know.

We tried to say that if the pledged word of the United States of America, speaking through their highest judicial tribunal, could be broken in one respect, it could be broken in any respect, and that your right, Madam President, and my right to worship, to speak, to write—that every one of our constitutional rights—was jeopardized if one of them could be swept aside by five men at any given time.

We "deprecated" them—as Senators and citizens—what now, belatedly, Judge Harlan, as a judge, does.

Where was this deprecation when the Supreme Court, time after time, in year after year, constituted itself "as the last refuge for the correction of" what any five of its members at a given time deemed to be inequality or injustice.

Most of those decisions and their break with the past were applauded.

Let me recount a few of them.

There was *Brown* v. *Board of Education*, 347 U.S. 483.

There were the extensions of that ruling which purported only to nullify the separate but equal doctrine as it applied to public education. Nevertheless, without opinion in any case the Court has applied it to swimming pools, municipal buses, parks, golf courses. The court in Brown against Topeka had said:

> In the field of public education, the doctrine of "separate but equal" has no place.

Without even deigning to tell us why, the Court has universally extended and applied that repeal, even to privately operated businesses—*Burton* v. *Wilmington Parking Authority*, 365 U.S. 715; *Boynton* v. *Virginia*, 364 U.S. 454.

There was *Thompson* v. *City of Louisville*, 362 U.S. 199, and the innumerable cases in which the Court has constituted itself as the supervisor of judicial processes of every State.

Now we turn again to Baker against Carr. We are supposed to live under a government of laws, not of men, and the law covering the question involved in the Tennessee apportionment case was supposed to have been established when *Colegrove* v. *Green*, 328 U.S. 549, was decided in 1946. The three judge court composed of Judges Martin, Boyd and Miller, all Tennesseeans, thought that it was, because they—179 F. Supp. 824—said:

> The question of the distribution of political strength for legislative purposes has been before the Supreme Court of the United States on numerous occasions. From a review of these decisions there can be no doubt that the Federal rule as enunciated and applied by the Supreme Court is that the Federal courts whether from a lack of jurisdiction or from the inappropriateness of the subject matter for judicial consideration will not intervene in cases of this type to compel legislative reapportionment.

Ten decisions of the Supreme Court were cited to support this conclusion of law. First among them was *Colegrove* v. *Green*, 328 U.S. 549. Also there was *MacDougall* v. *Green*, 335 U.S., and *Radford* v. *Gary*, 352 U.S. 991.

That was no answer then, and is no answer now to what Justice Frankfurter had said in his opinion in the Colegrove case regarding elections at large:

> Of course no court can affirmatively remap the Illinois districts so as to bring them more in conformity with the standards of fairness for a representative system. At best we could only declare the existing electoral system invalid. The result would be to leave Illinois undistricted and to bring into operation, if the Illinois Legislature chose not to act, the choice of Members for the House of Representatives on a statewide ticket. The last stage may be worse than the first. The upshot of judicial action may defeat the vital political principle which led Congress more than a hundred years ago to require districting. This requirement, in the language of Chancellor Kent, "was recommended by the wisdom and justice of giving as far as possible to the local subdivisions of the people of each State, a due influence in the choice of representatives so as not to leave the aggregate minority of the people in a State, though approaching perhaps to a majority, to be wholly overpowered by the combined action of the numerical majority, without any voice whatever in the national councils" (p. 553).

Those who speak so lightly of elections at large might think on those words of Chancellor Kent, and think of what an election of Representatives at large would mean in Illinois, New York, Pennsylvania, or even Georgia, with their heavy concentrations of population. They might think, too, of what an election of Senators at large would mean with State lines disregarded. Five States would probably be well represented, and 45 not at all.

The fallacy of the position of at least four of the majority in this Tennessee case follows the fallacy appearing in Justice Black's dissent in the case of Colegrove against Green. If a voter lives in a congressional district having a population of 900,000 and another voter lives in a congressional district having a population of 112,000, the former suffers no discrimination as to any voting right, despite the fact that Mr. Justice Black thought that in such a situation—

> Such a gross inequality in the voting power * * * irrefutably demonstrates a complete lack of effort to make an equitable apportionment (328 U.S. 569).

The right of an American citizen to representation in the American Congress stems from the Constitution of the United States, and he has only such rights as the Constitution or some amendment thereto gives him.

The right of an American citizen to representation in his State legislature is only such as the constitution of his State gives him, provided only that his rights shall not be affected by his race or color or sex.

The right of the States of the Union, and of an American citizen residing in any one of them, to representation in

the House of Representatives was initially determined by article I, section 2, paragraph 3, of the Constitution. After the War for Southern Independence, that paragraph was altered by section 2 of the 14th amendment. The appellants' rights were said to rest on section 1 of that amendment; to wit, that no State shall deny to any person within its jurisdiction the equal protection of the laws. But the very next section is the only basis upon which any State or any person in a State can claim any constitutional right to be represented in Congress. That constitutional provision is that Representatives shall be apportioned among the several States according to their respective numbers. If there are 437 Members of the House of Representatives, to be divided among 50 States having a population of 180 million, a State having a population of 3 million has a constitutional right to three one-hundred-and-eightieths or one-sixtieth of those Representatives. That is the sum total of the State's constitutional right. A fortiori, no citizen of a State can have a greater constitutional right. I am not unmindful of *Smiley* v. *Holm*, 285 U.S. 355, nor of the statute codified as title 2, section 2a, United States Code, the validity of which has never been confirmed. (See 171 F. 2d 986; 339 U.S. 162, *Dennis* v. *United States*.)

The right of the States of the Union and the right of an American citizen residing in any one of them, to representation in the Senate of the United States was initially determined by article I, section 3, paragraph 1 of the Constitution. It is now determined by amendment 17:

> The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof for 6 years and each Senator shall have one vote.

It makes not the slightest difference in a State's constitutional rights to the Senators, or in whatever constitutional right any citizen of a State may have in that respect, that both of those Senators may be from the same block in the same street.

I have said that the right of an American citizen with respect to his State legislature is only such as the Constitution of his State gives him, provided only that his rights shall not be adversely affected by his race, color, or sex—*Smith* v. *Blackwell*, 34 F. Supp. 989, affirmed 115 F. 2d 186; *Tedesco* v. *Board of Supervisors*, 43 So. 2d 514, 339 U.S. 940.

All of the States had governments when the Constitution was adopted. In all, the people participated to some extent, through their representatives elected in the manner specially provided. These governments the Constitution did not change. They were accepted precisely as they were, and it is therefore to be presumed that they were such as it was the duty of the States to provide. Thus we have unmistakable evidence of what was republican in form, within the meaning of that term as employed in article IV, section 4 of the Constitution. It is this clause which expresses the full limit of national control over the internal affairs of the State—*South Carolina* v. *United States*, 199 U.S. 454.

The 14th amendment added nothing to the national control over the internal affairs of the State so far as a citizen's right to representation is concerned. Indeed, until the recent change in notions by Justices of the Supreme Court, it could safely have been said that it added nothing to the national control over the internal affairs of the State, so far as a citizen's right to vote was concerned.

That that is a truism is demonstrated by the fact that in 1875 the Supreme Court decided that the 14th amendment did not require a State to permit women to vote—*Minor* v. *Happersett*, 21 Wall. 175. It was not until the adoption of the 19th amendment in 1920, a half century after the ratification of the 14th, that female citizens received the constitutional right to vote.

If the 14th was not intended to give a female citizen the right to vote, and was not sufficiently broad in its terms so to do, certainly it could have no legal, constitutional effect on the question at issue in the Tennessee case.

Long after the adoption of the 14th amendment, the Supreme Court had for adjudication the meaning of the term "legislatures" as used in article V of the Constitution.

Of it, the Court said:

> That was not a term of uncertain meaning when incorporated into the Constitution. What it meant when adopted it still means for the purpose of interpretation. A legislature was then the representative body which made the laws of the people. The term is often used in the Constitution with this evident meaning. (*Hawke* v. *Smith*, No. 1, 253 U.S. 221, 227 (1920).)

How that representative body was to be composed, how selected, how apportioned was not changed by the 14th amendment.

Because of the diversity of opinion among the eight judges, there were 54 pages in the so-called opinion of the court delivered by Mr. Justice Brennan. Justice Douglas concurred with 10 pages; Justice Clark wrote a separate concurrence of 12 pages, plus 3 of tables. Justice Stewart concurred in 2 pages or so. The Chief Justice and Justice Black concurred without writing. Justice Frankfurter, with whom Mr. Justice Harlan joined in dissenting, wrote 4 pages, and then Justice Harlan wrote a separate dissent of 19 pages. No one knows exactly what the majority of six judges had in their minds. They only cried havoc, and sowed a wind that was soon to reap a whirlwind. In both State and Federal jurisdictions courts will be enmeshed in the political thicket of apportionment for years to come unless something is done to give back to the States and to the people those precious and basic rights not only to which they are entitled under the Constitution, but also which were reserved forever by those who entered into the original compact and who delegated only certain specific and enumerated powers to the Federal Establishment.

As violently as I am opposed to the enactment of the presently pending literacy standard bill, I must say, in all candor, that it is of small concern considering the more far-reaching and basic issues which confront the people of this country today. The political, economic, and social growth and development of this country was achieved without the Supreme Court of the United States acting as a superlegislature and arrogating unto itself powers and rights not granted under the Constitution and involving areas wherein it has no constitutional authority to act. This growth and development was not achieved by the executive branch of this country seizing unto itself the power to legislate through Executive orders and using the Department of Justice as an instrument to interfere with and influence the action of our courts through amicus curiae appearances in cases and controversies not involving the U.S. Government. When this debate is closed and the presently pending substitute amendment is defeated, this Senate and the Congress should turn its attention to more important considerations, and none can be more important than the taking of proper steps to curb and to restrain the judicial branch of this Government from its present heedless and headlong course and to see that the executive branch performs only those functions which it is entitled to perform by statutory authorization from this Congress.

Madam President, the Senate is again confronted with the prospect of a long debate on the alleged issue of proposed "civil rights" legislation. At least it can be said about the presently proposed bill that it is new and unique. We will not be required to go over the ground that has been plowed time and time again in past debates.

It is now proposed that by an act of Congress the constitutions and laws of the 50 States of the Union be restricted in regard to voter qualifications by an arbitrary rule of thumb fixed by the Congress of the United States in regard to so-called literacy requirements, and that the constitutions and laws of at least 21 States be nullified, abrogated, or supplemented in their presently enacted form.

Few measures have ever been proposed in the Senate that were more basically and patently unconstitutional than is this bill "to protect the right to vote in Federal elections free from arbitrary discrimination by literacy tests or other means." It would contravene the division of powers set forth in the Constitution, in article I and article III, between the legislative and judicial branches of the Federal Government.

The entire portion of section 1 of the bill represents the legislative performance of a judicial function, in that it attempts to make findings of fact and conclusions of law on matters which are clearly controversies that must, under our system, be determined under article III, which provides:

> The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority.

The whole purpose of section 1 of the proposed bill is to establish a predicate which will form no part of the organic

law of the statutes of the United States, but which must be set forth in detail to give any slight degree of credence, validity, or constitutionality to the language of the new statute that is proposed to be enacted. This attempted exercise in factfinding is a gross invasion of the judicial processes.

Section 1(a) provides:

> Congress finds that it is essential to our form of government that all qualified citizens have the opportunity to participate in the choice of elected officials.

This country has managed to survive, develop, and prosper during the 175 years of its existence without any such alleged finding being required on the part of Congress to insure the continuation and existence of our form of government. Basically, the growth and development of our country has resulted from a form of government that delegated to the Federal Establishment certain specific powers and reserved to the States and the people all other powers not so specifically delegated. The establishment of qualifications for citizens to have the opportunity to participate in the choice of elected officials not only was within the residual powers retained by the States and the people, but also was specifically written into the language of the Constitution itself as being basic to the form of government that was established. When article I, section 2, was drafted, it meant and was intended to mean when it was written into the Constitution the same thing that it means today, that—

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

When the time came to make a basic change in the original charter and the people were permitted to vote directly for Members of the Senate in addition to Members of the House, the 17th amendment to the Constitution reiterated, insofar as the election of Senators was concerned:

> The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

For this Congress to attempt to find that it is essential to our form of government to transgress not only the Constitution of the United States but also the experience of history shocks both sense and reason. The truth is that when one stands on the floor and waves what is purported to be an issue involving civil rights, sense and reason go out the window. Nothing is more important to the ultimate survival of our country and to the welfare of our people than the preservation of both the form and the fabric of our republican form of government as established by the United States Constitution, and this Congress has neither the power nor the right to make such a finding as is included in 1(a) of the proposed bill.

Section 1(b) provides:

> Congress further finds that the right to vote in Federal elections should be maintained free from discrimination and other corrupt influence.

Both the civil and criminal statutes of the United States are filled with a vast arsenal of legislative enactments designed solely and alone for the purpose of protecting that class of citizens encompassed in the language of the 15th amendment from being denied or abridged the right to vote on account of race, color, or previous condition of servitude. Tools not only are available to individuals, per se, to protect themselves from being denied or abridged the right to vote by the United States or any State, but also the Attorney General of the United States has been clothed with the power to act as both the guardian and advocate of this class and see that the right of this class of citizens 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. Nothing could be more surplusage nor more meaningless than this proposed finding for Congress to make.

Madam President, I propose to finish my argument later in the debate, but at this time I ask unanimous consent that I may yield to the distinguished Senator from Pennsylvania [Mr. CLARK] on the same terms on which I yielded to the distinguished Senator from Illinois [Mr. DIRKSEN] and after the Senator from Pennsylvania concludes, that the Senate then recess until 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. CLARK. Madam President, I thank my friend from Mississippi for his courtesy in yielding to me. As I am one of the supporters of the pending bill, I believe it desirable that I should state for the public record my reasons for believing that legislation should be enacted by the Congress and signed by the President which would require all of the States to permit any citizen of the United States to vote for candidates for Federal office, whether in a primary or in a general election, provided the citizen of the United States had completed six grades of education in the public school system or its equivalent in a recognized private school.

First, I wish to develop the need for the proposed legislation. For many years it has been well known that in certain States of the Union so-called literacy requirements of State legislation have been utilized for the purpose of denying to citizens of the United States the right to vote because of their race or color. That fact, widely known for many years, has been documented in recent reports of the Civil Rights Commission. Those reports have been available to Members of this body and have been referred to from time to time in the present debate. I quote only a very few of the more outstanding findings of the Commission made after extensive hearings and investigation. I quote from a report of the Commission:

> Substantial numbers of Negro citizens are, or recently have been, denied the right to vote on the grounds of race or color in about 100 counties in 8 Southern States.

That statement appears on page 135 of the 1961 report of the Commission.

The Commission further found:

> A common technique of discriminating against would-be voters on racial grounds involves the discriminatory application of legal qualifications for voters. Among the qualifications used in this fashion are requirements that the voter be able to read and write, that he be able to give a satisfactory interpretation of the Constitution, that he be able to calculate his age to the day, and that he be of "good character."

That statement appears on page 137 of the 1961 report.

It must be clear that registrars or other officials of the voting precincts under legislation of that sort are able, if they so desire, to discriminate against citizens of the United States on the ground of race or color. The Commission has found that what they can do under such legislation they have done extensively in 100 counties in 8 Southern States.

As another example, in one county a Federal district judge found that six Negro applicants, two of whom had master's degrees from recognized universities, five of whom had bachelor's degrees from recognized colleges or universities, and one of whom had 1 year of college training, were denied the right to vote on the ground that they could not read intelligently or write sections of the State constitution. That statement appears at page 116 of the Senate hearings.

As another example, a Negro schoolteacher was rejected when she appeared to register or to vote because in reading a long passage aloud, she pronounced the word "equity" as though it were spelled "eequity," with two "e's" instead of one.

Some of my colleagues will perhaps recall incidents on the floor of this body of Senators taking at least equal liberties with the English language and its pronunciation.

The incident to which I referred appears in the hearings on page 262.

As another example, on six occasions Negro applicants alleged that they were rejected because they did not answer questions to the registrar's satisfaction. Among such questions were the following:

> What does "create" mean? Who was the Creator? Do you know how you were born? Are all people born alike? Was I born like Queen Elizabeth? When God made you and President Eisenhower, did he make both of you the same?

It occurs to me that these questions raise, in addition to interesting problems of physiology, various problems of philosophy, which are well beyond my capacity to answer definitively, and which, I suspect, should not in a properly administered voting precinct be required to be answered to the satisfaction of a registrar as a condition to the right to register to vote.

This incident appears on page 33 of the 1961 report.

Finally, a witness from Red River Parish, La., testified that the registrar asked him certain questions concerning, "I believe, in the Constitution, about habeas corpus. I told him I thought it was speedy trial, you know, been in jail

and you want to get a hearing, he asked for speedy trial. He said, 'Well, that wasn't quite it.'"

His application to register was denied.

This appears at page 59 of the report.

Perhaps after practicing law for more than 35 years, I could come forth with a better definition of habeas corpus than that, but I submit that it would not be much better. I suggest that even under the stringent literacy test imposed, the applicant made a good enough answer to permit a fairminded registrar to register the applicant and allow him to vote.

So much for the need for this proposed legislation.

I turn now to the question as to whether the pending proposal meets that need in a wise and reasonable manner. I conclude that it does. It has been argued in the debate with great ability and conviction by the senior Senator from Florida [Mr. HOLLAND], among others, that the bill is unwise because we cannot by legislation enfranchise those who either do not wish to be enfranchised because they will not exercise the franchise, or those whom a substantial portion of the local population do not wish to see enfranchised, and are prepared to take drastic action to insure that the franchise is not granted to such people.

The able Senator from Florida quoted examples of substantial progress that has been made in Negro voting in Florida, where there is neither a poll tax nor a literacy test. He indicated that there was still a long way to go before a majority of the Negro population in Florida would vote. He attributed that condition to two factors: First, indifference; second, the existence in a few counties in the State of Florida of an unfortunate atmosphere of antagonism between the races, which, he felt, prevented Negroes from registering to vote, which condition he hoped in due course would be eliminated from those areas, as it had been in the rest of the State.

My own view is that the legal situation in Florida as described by the able Senator is entirely satisfactory and one to which I can take no present exception. My point is, however, that what is true in Florida is not true in many other States, and that the basic legal condition under which all States should operate is one in which no artificial restrictions are imposed on the rights of citizens of the United States to register and vote by reason of their race or color; and that this requirement of the Constitution of the United States is one which, in view of the facts found by the Civil Rights Commission, and well known throughout the country before they were so elaborately and ably documented, imposes a duty on the Congress of the United States and on the President to remove legal disparities which now exist in States where the 100 counties are located, and where citizens of the United States are being denied the privileges and immunities to which they are entitled.

So I conclude upon this point as I began, that the proposed legislation is wise.

I should like to say a word, finally, as to whether the legislation is constitutional. If it is needed—and I suggest that it is—and if it is wise—and I believe it is—in my judgment Congress should adopt it and send it for signature to a President who is prepared to sign it, unless it is reasonably clear that the proposed legislation is unconstitutional.

I turn now to the question of constitutionality. It must be apparent from the debate to date that able lawyers are in disagreement as to whether or not the proposed legislation meets the requirements of the Federal Constitution. In the CONGRESSIONAL RECORD for yesterday I have read the comments of two very able Senators who are also able lawyers, appearing in connection with the effort of the majority leader to obtain a unanimous consent agreement to limit debate on the pending business. These were comments by the senior Senator from Georgia [Mr. RUSSELL] and the junior Senator from Virginia [Mr. ROBERTSON], both of whom stated that the unconstitutionality of this provision was very clear.

With deep regret, I must differ with the legal opinion of my respected colleagues. I suggest to them and to my other good friends in the Senate who contend so ably and strenuously that the proposed legislation is unconstitutional, that most, if not all of them—and I do not charge all of them—are very much inclined to discuss the constitutionality of the proposed legislation as though the Constitution of the United States, as drafted by the Founding Fathers and approved by enough of the Original Thirteen States to bring it into effect, had never been changed.

I submit that their argument proceeds not only without giving proper weight to the first 10 amendments, but by practically ignoring the Civil War amendments, especially the 14th and 15th. We who rest our case on the adoption of the 14th and 15th amendments are of the legal view that those amendments removed any doubt whatever which might have arisen under the original Constitution as to the constitutionality of the pending measure. Certainly, able lawyers who are not Members of this body have spoken clearly in support of the constitutionality of the proposed legislation.

I do not intend to engage in an elaborate or detailed legal argument on the question of constitutionality, but I point out that the opinion of the Attorney General of the United States on a legal question is entitled to great weight in this body. It may not be binding. Even in my brief stay in this body, I have participated with other Senators in voting for legislation which an Attorney General of the United States felt was legally unwise or even unconstitutional. Nevertheless, I believe the chief legal officer of the executive arm of the Government is entitled to have his opinion treated with great weight in this body. This must be particularly true when we consider that that opinion is not only his own opinion as an individual lawyer, but is also buttressed by the views of a large group of able attorneys, most of whom are not emotionally involved in the political, sociological, or even economic aspects of the proposed legislation, but are advising their chief purely on the basis of their objective opinion as members of the bar, sworn to support and defend the Constitution of the United States.

At page 264 of the hearings, the Attorney General said:

> Let me say a word or two about the constitutional basis for the proposed legislation.

I interpolate that he is talking about the bill under consideration.

> We have gone into the matter with great care and thoroughness. * * * But the essential constitutional basis for the proposed legislation is really quite simple.
>
> On their face and as a matter of history, the 14th and 15th amendments are an affirmative grant of power to Congress to enact legislation to guarantee the rights protected by these amendments, including principally the right to vote.

I stress the phrase "including principally the right to vote." The Attorney General continues:

> I have no doubt that this bill is valid under that grant of power.

The opinion of the Attorney General of the United States and of the lawyers of the Department of Justice, which he heads, is buttressed by the opinion of Dean Erwin Griswold, of the Harvard Law School, a member of the Civil Rights Commission speaking for himself and for the Civil Rights Commission:

> In my opinion and in the opinion of the Commission, the proposed legislation meets the test of constitutionality.

That statement appears on page 117 of the hearings.

Dean Griswold, it should be noted, making clear that he was speaking for himself as a lawyer and for the Civil Rights Commission, and not as the dean of the Harvard Law School, based his argument on the 14th and 15th amendments, with which all Senators are familiar, and which I do not need to read into the RECORD. However, I should like to read into the RECORD section 1 of the 14th amendment, because it seems to me to make this question very clear. I quote section 1 of the 14th amendment:

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.

I shall not read the remainder of the section, although it is pertinent and relevant; but I stress that the people in 100 counties in 8 States are citizens of the United States, without the shadow of a doubt. As citizens of the United States, they are entitled to the privileges and immunities thereof, without a doubt; and one of the most important of those privileges and immunities is the right to vote on an equal basis with every other citizen of the United States, regardless of race or color.

My view, the view of Dean Griswold, and the view of the Attorney General, Hon. Robert F. Kennedy, as to the constitutionality of the present proposed legislation, find substantial support in

decisions of the Supreme Court of the United States. I shall cite only three.

Lassiter v. *Northampton Election Board,* 360 U.S. 45, page 53, decided in 1959, states:

> Of course, a literacy test, fair on its face, may be employed to perpetuate that discrimination which the 15th amendment was designed to uproot.

The provision of the 15th amendment which I did not read into the RECORD earlier is this:

> SECTION 1. 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.

In the Lassiter case, there was no finding of such discrimination; but the evidence before the Senate, represented not only in the hearings held by the Subcommittee on Constitutional Rights of the Committee on the Judiciary, but also in the reports of the Civil Rights Commission, makes it very clear that in 100 counties of 8 States the discrimination which the 15th amendment was designed to uproot does exist, and exists on a widespread basis.

Another case is *Ex parte Yarbrough,* 110 U.S. 651, decided in 1884, an old case frequently cited, has a pertinent quotation at page 664, which I should like to read:

> The 15th amendment of the Constitution, by its limitation on the power of the States in the exercise of their right to prescribe qualifications of voters in their own elections, and by its limitation of the power of the United States over that subject, clearly shows that the right of suffrage was considered to be of supreme importance to the National Government, and was not intended to be left within the exclusive control of the States.

Finally, Madam President, I refer to the case of *Davis Schnell,* 336 U.S. 933, affirming the decision of a lower court—the District Court for the Southern District of Alabama—decided in 1949, which had overturned a provision of the Alabama law requiring a citizen to understand and explain any article of the Constitution, because, said the Court, that law had a discriminatory purpose and was also administered in a discriminatory manner.

From these cases and from this brief consideration of the 14th and 15th amendments, buttressed by the opinions of the Attorney General and of Dean Griswold, I take it that this proposed legislation is constitutional. It is clear to me that it is so apparently constitutional that no Member of the Senate, particularly no Member of the Senate who is also an attorney, need hesitate for an instant to vote in support of this bill because of a fear of its lack of constitutionality.

Madam President, in opposition to the constitutional argument I have very briefly made, Senators who oppose this measure refer to article 1, section 4 of the Constitution, which provides:

> The times, places, and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations.

Some Senators say this provision gives the States the unqualified right to set the qualifications for voting, and to set the qualifications by literacy test statutes in the eight Southern States. Reference is also made to article I, section 2 of the Constitution and to the 17th amendment, which provides for the direct election of Senators, on the ground that these provisions of the Constitution and of the amendment permit the States to set the qualifications for electors for Members of the House of Representatives and Members of the Senate, respectively.

But, Madam President, in rebuttal to that argument, I submit that the second clause of section 2 of article 1 shows that the States' power to set such qualifications is not absolute. Furthermore, I submit that even if it were absolute, it is further qualified by the 14th amendment and the 15th amendment of the Constitution, which must be carried into effect to the same extent as are all other provisions which were adopted earlier, and which, as I have argued, render the pending legislation constitutional.

The findings of the Civil Rights Commission constitute ample proof that literacy tests have been used and are being used today to deny voting rights to citizens of the United States who, under the 14th amendment and the 15th amendment, are clearly citizens entitled to the privileges and immunities of all citizens—and, in particular, to the right to vote.

I submit further that the pending legislation does not set qualifications; it merely states that an individual who has a certain degree of education—namely, 6 years of grade school—is entitled to these privileges and immunities and to the right to vote. It does not deny anything to anyone. It does not set any qualifications of that sort. It merely states that if a person has this qualification, no one may deny him the right to vote because of his race or his color.

In conclusion, Madam President, I strongly support the pending measure, first, because I think the record demonstrates that it is needed; second, because I believe it to be wise; and, finally, because I have no doubt that it is constitutional.

Madam President, I yield the floor.

Mr. DOUGLAS. Madam President, I congratulate the Senator from Pennsylvania on his very able argument. The bar of Philadelphia has long been known as the most learned in the Nation; and the Senator from Pennsylvania [Mr. CLARK] is one of the most able members of that most able bar.

Mr. CLARK. I thank the Senator from Illinois for his statement. He and I have been teasing each other about that matter for some years now.

WITHHOLDING OF THE TAX OWED ON DIVIDENDS AND INTEREST

Mr. DOUGLAS. Madam President——

Mr. EASTLAND. Madam President, I ask unanimous consent that at this time I may yield to the Senator from Illinois, under the same terms under which I yielded to the Senator from Pennsylvania [Mr. CLARK].

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

Mr. DOUGLAS. I thank the Senator from Mississippi.

Madam President, during the last few weeks I have received more than 30,000 letters from constituents in Illinois who protest against the withholding provisions for dividends and interest which are included in a tax bill which now is before the Senate Finance Committee.

I find that from one-third to one-half of those who have written the letters seem to think such a withholding is a new tax on dividends and interest. But, of course, that is a mistake. Dividends and interest are income, just as wages and salaries are income; and income is taxable. Dividends and interest are taxable, just as wages and salaries are taxable.

The only difference is that some 20 years ago Congress included in the Revenue Code a provision which causes the basic tax on wages and salaries to be withheld by those who pay them. In other words, that resulted in withholding at the source for wages and salaries; but that has never been practiced insofar as dividends and interest are concerned. In the case of dividends and interest, the recipient is expected to declare the amount so received, in the income tax statement which he files at the end of the year.

The records show that approximately $4 billion of dividends and interest paid out each year is not reported by the recipients, and therefore escapes taxation; and it is estimated that approximately $800 million in taxes is thus avoided or evaded. The fact that this $800 million of taxes is not paid means that the burden on those who do pay taxes becomes correspondingly heavier.

I wish to emphasize that the withholding system that is proposed for dividends and interest does not impose new taxes; it is merely a better means of collecting existing taxes. The very fact that such a large proportion of those who have written letters to me and to other Members of the Senate assume that this is a new tax is an indication of the widespread evasion or avoidance of the taxes now owed on these amounts.

I want to make it very clear that in a large percentage of cases this is a perfectly innocent avoidance. Very commonly, the person who has a deposit in a building and loan association or in a savings institution allows the interest which is credited to him annually to be accumulated as a capital deposit to his account, and it does not pass into his checking account. Many people innocently do not realize that this is income, and consequently do not declare this income upon their income tax statements.

I hope very much that the basic fact that taxes are already owed on these amounts can be conveyed to the public. I am trying to do so in connection with the taxpayers of my own State.

It is estimated by the Treasury that, while not all of this $800 million would be collected by the proposed withholding

system, approximately $650 million would be.

This is the most important loophole which the administration is trying to plug in the current tax bill. If this effort should be lost, either before the bill passes the Senate or if it should be eliminated from the final tax bill, there will be very few gains in revenue which can then be distributed either in the form of lower taxes or, as the administration proposes, in the form of an investment subsidy.

I have had prepared a series of questions and answers upon this bill which try to go into the question of the magnitude of the problem and the methods of collection and recording.

We have checked these questions and answers with experts, and we believe the answers to be accurate. They do not cover the entire field. Later I hope to insert in the RECORD additional questions and answers which will cover further points, but there has been so much misunderstanding that I felt I should not delay further in putting into the RECORD some material on these basic points, so that a certain degree of popular enlightenment may be carried out.

So, Madam President, I ask unanimous consent that there may be printed in the RECORD at the conclusion of my remarks a series of questions and answers on the withholding of taxes on dividend and interest.

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

(See exhibit 1.)

Mr. COOPER. Madam President, will the Senator yield?

Mr. DOUGLAS. I yield.

Mr. COOPER. I am glad the Senator has made this statement. Like other Members of Congress, I have received thousands of letters on the withholding section of the tax bill. In the last week or 10 days we have answered 2,500 letters. After a time, I realized that many persons, particularly older persons, believe an additional 20 percent tax on dividends and interest would be imposed by the bill.

Some of these persons have sent me letters which they had received from institutions, which could convey the impression that a 20-percent additional tax was being levied upon them. I tried to answer those questions in the letters and give the facts, but I am very glad the Senator from Illinois has spoken on the floor and has made this statement. I think it is very bad that some institutions are leaving the impression that a new tax is being imposed upon people, particularly older persons.

Mr. DOUGLAS. I thank the Senator from Kentucky. As usual, the widows and orphans are being dragged into a discussion of this matter. I wish to point out that all children under the age of 18 by merely filing a statement of their age would be exempt from the withholding provision. Also, anyone over the age of 18 who reasonably believes that he or she would not have any tax to pay can, under the bill, file a withholding exemption certificate with the paying institution, and there will be no withholding whatsoever upon that income.

The Treasury estimates, also, that of the over 22 million individuals who receive dividends and interest, only about 2 million will be overwithheld against. That is only about 1 out of every 10. And of those, only 1 million will be overwithheld against to the extent of more than $10 annually.

It is interesting to note, and I am informed of this by the Treasury, that there are 37 million wage earners and salaried workers who are overwithheld against each year. In other words, 37 million are now overwithheld against in the case of wages and salaried workers—but only about 2 million would be overwithheld against in the case of those receiving dividends and interest.

I have not heard any weeping on the floor or in the mails about these 37 million wage and salary workers who are overwithheld against. It should be further noted that the refunds in the case of wage and salaried workers come only once a year, generally five quarters after the beginning of the taxable year upon which there has been overwithholding. The refunds in the case of recipients of dividends and interest will be quarterly, or four times as rapidly. Therefore, there will be very little loss of interest during that time.

To me it is really extraordinary that people who will not only accept but defend the system of withholding on wages and salaries should nevertheless balk on the withholding tax being applied to dividends and interest. Should not they, in common fairness, be given equal treatment?

As a matter of fact, we are giving easier terms to the recipients of dividends and interest than the revenue law accords to the recipients of wages and salaries. If we eliminate from the tax bill the provision for withholding against dividends and interest, then, in all fairness, we should eliminate the withholding provision on salaries and wages from the tax code. I shall be sorely tempted to make such a motion. I do not think, in logic or consistency, unequal or superior treatment should be given to dollars received as a result of ownership than is accorded to dollars received from immediate effort.

I think it is about time that some sanity was introduced into a discussion of this measure, and I hope very much the building and loan associations and some of the savings institutions realize just what the issue is and desist from stirring up this mail campaign. I also hope that they will get their facts straight in the information which they give to their depositors.

Mr. COOPER. Madam President, will the Senator yield once more?

Mr. DOUGLAS. I yield.

Mr. COOPER. One of the charges made to me in the hundreds and thousands of letters I have received is that if dividends and interest should be withheld over and above the amount of tax liability, there will be no procedure by which the overpayment may be collected from the Federal Treasury. Will the Senator respond to that statement?

Mr. DOUGLAS. I am very glad that the Senator from Kentucky has mentioned that point. What will happen is that the recipient of dividends or of interest, who believes he has been overwithheld against, can file a statement quarterly and receive a refund without elaborate checking on the part of the Federal Government. There will be spot checks instituted to determine whether recipients are lying, but there will be a minimum of auditing of claims. The claims, if made, will be honored without elaborate bookkeeping.

After the first quarter the Treasury Department will actually send to the recipient a form upon which the refund claim can be made for the second, third, and fourth quarters of the year.

The Treasury Department is willing to take such statements on faith because if an untrue statement is made it will represent fraud, and fraud is punishable. There will be a minimum of checking.

I think if these facts were widely known that a great deal of the opposition would disappear. Our tax system is based on the assumption of the honesty of taxpayers. There is only enough checking to try to keep people from straying too far. Sometimes this imposes too severe a temptation for people to withstand. This is why withholding has been so beneficial in the case of whose who earn wages and salaries. It would be equally beneficial in the case of those who receive dividends or interest.

There is a further advantage. When there are annual or even quarterly payments, if one waits until the end of the quarter or the end of the year to pay taxes, one may have spent his money. Therefore, the people who work for wages and salaries find it more convenient to have the tax money withheld from each week's pay than to face the payment of the tax at the end of a quarter or at the end of a year.

Although recipients of interest or dividends, on the average, have higher incomes than those who receive wages and salaries, this will also be a convenient method for those who receive dividends or interest. It will enable them to pay taxes on the income as the income is received, and the tax will not accumulate until the end of the year.

We have received estimates that the cost to the paying institution after the initial year will not exceed 30 cents per $100 of tax withheld, or three-tenths of 1 percent.

I am very happy that one or two banks and savings institutions—notably the Franklin Bank of Mineola, Long Island, and a bank on the North Side of Chicago—have taken positions in favor of the withholding of taxes on dividends and interest. I wish the number were larger, but we are grateful to those who have testified.

I congratulate also the association of the bar of the city of New York, which had the courage to come to this city and testify to the same effect.

The savings and loan institutions and the savings banks, in my judgment, already have spent enough on the campaign against the withholding tax to

pay all of the administrative costs which they will experience under the act for 3 or 4 years, and they have distributed, unfortunately, a lot of material which is not accurate.

Madam President, I yield the floor, and I thank the Senator from Mississippi.

EXHIBIT 1

QUESTIONS AND ANSWERS ON THE WITHHOLDING OF TAXES ON DIVIDENDS AND INTEREST

1. How many individuals do not report dividends and interest?

	Million
Number of individual tax returns which should include dividends or interest	17.7
Number of individual tax returns which should report dividends or interest but which do not	6.0

NOTE.—There are no figures available by which to classify these returns as to income groups.

2. Question. What about the widows and orphans and the old people?

Answer. Under the bill, all children under 18 would be exempt from withholding.

Anyone over 18 who reasonably believes that he would not be subject to tax can file a withholding exemption certificate with the paying institution.

In addition, the Treasury estimates that only 2 million individuals of the 22.5 million individuals who receive interest and dividends will be overwithheld against. Of these, only 1 million of them will be overwithheld against to the extent of more than $10 annually.

Of the 1 million in general those with annual incomes of less than $10,000 ($5,000 if single) can claim quarterly refunds up to the amount of their "refund allowance" which takes into account personal exemptions, retirement income, and deductions.

As a result, opposition to this measure on grounds that it would hurt the "widows and orphans" is virtually without substance.

3. Question. Won't the withholding tax take 20 percent of a person's savings account and return it to the Government?

Answer. No. It will take only 20 percent of the interest on the savings account. This, of course, is already taxable but not paid in the case of millions of people.

For example. If a person has $100 in his savings account and receives $4 interest during the year, the withholding will be 20 percent of the $4 or 80 cents, not 20 percent of the savings account or $20.

4. Why would not automatic data processing be an effective substitute for withholding?

Contention. The Internal Revenue Service is adopting an automatic data processing system and this, coupled with account numbers and information returns, should be used to collect the unreported tax on dividends and interest.

Answer. This contention fails to state that an ADP-information return system would probably be more burdensome on the payers of dividends and interest, would be unworkable in some areas, and would, for a higher cost, recoup only one-third as much of the unreported tax as withholding.

Use of ADP-information returns would necessitate requiring information returns with respect to almost all dividend and interest payments. At present, only savings account interest payments of $600 or more must be reported and no reporting is required in the case of bond interest. Because of the millions of interest payments, the information return requirement would be very burdensome on the payers. Some people have told the Treasury that it would be more burdensome than withholding for many paying institutions.

When an individual purchases a bond between interest payment dates, he is only required to include in income that portion of the interest paid at the end of the period which is allocable to the time he held the bond. The seller is required to report the other portion which was paid him as accrued interest by the purchaser. However, since the paying institution does not know whether a bearer bond has been transferred, it would file an information return showing the full interest payment going to the purchaser. This would mean that a matching of the information return with the purchaser's return would indicate a discrepancy where none exists. As a result, the purchaser may be subject to an unnecessary audit. On the other hand, there would be no information filed as to the accrued interest taxable to the seller. In this area, ADP and information returns would be an unworkable method for enforcing the tax on interest.

Even with an expanded information return system and a complete matching of these returns with the returns of the dividend and interest recipients, not one cent of tax would have been collected. There would have to be audit and enforcement followup in each case where a discrepancy is indicated. These procedures are not economically feasible for the millions of relatively small dividend and interest payments involved. The Commissioner of Internal Revenue estimates that no more than $200 million of the over $800 million annual revenue loss could be recouped through these enforcement procedures. This would be at a cost of $27 million.

For only $19 million, withholding can recoup $650 million each year. In addition, with withholding, the ADP-audit procedures would be left free to recapture most of the remaining $150 million of the yearly revenue loss, since this loss involves dividends and interest received by higher income groups where these procedures can be more economically applied.

One additional consideration is that ADP will not be fully operational until 1966. Therefore, without withholding in the interim, the Government will not even be able to collect the limited $200 million of revenues that ADP and audit would help collect.

5. Some say withholding on interest and dividends isn't necessary.

Contention. Some charge that there is no real need to enact the burdensome procedure for withholding income tax from dividend and interest payments.

Answer. Withholding of tax from interest and dividend payments is a greatly needed reform in our tax structure; one that is necessary for both budgetary and equity reasons.

The most convincing argument for withholding on interest and dividends is told by the figures themselves. On the plus side is the fact that about $18.8 billion of dividends and interest is reported on income tax returns each year. On the other side, however, is the fact that around $4 billion of dividends and interest which should be reported each year is not, either because of inadvertence or an unwillingness to pay one's fair share of tax. This results in an annual revenue loss to the Government of over $800 million. Withholding of income tax from interest and dividend payments will recoup almost $650 million of this large yearly loss.

These revenue figures are based on Treasury estimates from data compiled from 1959 returns (the latest data available). They are in substantial accord with the estimates of the prior Republican administration For example, Mr. David A. Lindsay, former General Counsel of the Treasury, in an address before the Tax Institute Symposium on September 29, 1960, estimated that $4 billion of interest and dividends were not reported on tax returns of individuals. To quote him:

"Recent studies have indicated a gap in the amount of dividends paid to individuals and the amount of the dividends reported on individual tax returns of approximately $1 billion, or failure to report about 10 percent of the total amount of dividends received.

"It was also estimated that about $3 billion of interest, which is about one-half of the interest received by individuals, was not reported."

Withholding is important for another reason. It is unfair to those taxpayers who faithfully and accurately pay their full share of taxes to also require them, through higher taxes, to make up the over $800 million of taxes which others fail to pay on their interest and dividends. To have an effective self-assessment system, people must believe that their neighbors are also bearing their share of the taxes. When this belief is questioned, the whole self-assessment system is threatened. Withholding on interest and dividends will be a big step toward making sure that one group does not bear the tax responsibilities of another. In this way it will bolster our self-assessment system.

Withholding is nothing new or novel. It has operated efficiently for many years in helping to collect the taxes due on salaries and wages. There is no reason to believe it is not equally suitable in the area of dividends and interest.

Many people argue that a withholding system is not necessary. They say that the underreporting problem can be solved by taxpayer education. Unfortunately, history shows this is not true. The Treasury and Internal Revenue Service in recent years initiated an extensive educational program to remind taxpayers to report their dividend and interest income. The payers of dividends and interest wholeheartedly cooperated in this program by distributing tens of millions of notices reminding people to report this income. The Government organized a mass publicity campaign, using newspapers, radio, television, and other media. Despite this program, there was no indication of substantial improvement in taxpayer reporting.

6. Some say withholding on interest and dividends will discourage thrift.

(a) Charge that people will withdraw savings:

Contention. If people are subjected to withholding on their dividends and interest, they will sell their stock or withdraw their savings to avoid withholding. This, of course, will discourage thrift.

Answer. It is hard to believe that an individual will forgo any earnings on his savings to avoid having tax withheld from these earnings. For the taxpayer who has been reporting his tax, withholding will merely afford him an efficient method for paying that tax. He would hardly have a motive for withdrawing his savings. For other taxpayers, withholding will result in their paying a tax for the first time. But even for these people, interest or dividends after tax is certainly better than no interest or dividends at all. There is no motive for them to withdraw their savings.

Since withholding would be required with respect to nearly all types of investments available to the average individual, there will generally be no opportunity for him to shift investments to avoid withholding. This is an important safeguard in that it insures that withholding will be a neutral factor when an individual decides where to invest his funds and will not result in giving one type of investment a competitive advantage over another.

(b) Charge that withholding will reduce invested funds:

Contention. Many depositors never withdraw their interest with the result that it increases their savings. The same is true in the case of dividends declared by mutual funds. Withholding will automatically reduce by 20 percent the earnings reinvested by the depositor or shareholder, thereby reducing his savings.

Answer. This is an effect that naturally flows from any withholding system. It

would seem, however, that much of the noncompliance occurs in those cases where people automatically reinvest their dividend and interest income and therefore do not receive any cash payments. Many of these people apparently forget or do not bother to check how much interest or dividends have been credited during the year. Therefore, it would seem that withholding is especially important in this area.

7. Answer to objection that there will be massive overwithholding; and that exemption and refund procedures are inadequate and burdensome.

(a) Charge of massive overwithholding:

Contention. The withholding system will result in massive overwithholding.

Answer. It is estimated that 22.5 million individuals receive interest and dividends. Only 2 million of these individuals will be subject to overwithholding and only 1 million of them to the extent of more than $10 annually. Of the latter 1 million, those with annual income of less than $10,000 ($5,000, if single) can claim quarterly refunds of the overwithheld tax up to the amount of their "refund allowance". This refund allowance in effect gives an individual credit for his personal exemptions, retirement income credit, and standard deduction, to the extent there is no other income against which to apply them.

According to Treasury estimates, $3 billion will be withheld on dividends and interest received by individuals, of which only $170 million would be overwithholding. This is a mere 5 percent of overwithholding, as compared to 14 percent in the case of wages. In terms of number of individuals subject to overwithholding, 73 percent of wage earners are overwithheld while only 13 percent of dividend and interest recipients would be overwithheld.

In fact, overwithholding is almost completely avoided by the exemption system. Nontaxable individuals would be eligible to file exemption certificates and, thereby, completely exempt their dividends and most forms of interest from withholding. In addition, 6 million schoolchildren would be automatically exempt from withholding on their school savings accounts.

(b) Charge that individuals will forget to claim their refunds resulting in a windfall to the Government:

Contention. Even though the bill provides for quarterly refunds, many people will forget to claim them with a resulting windfall to the Government.

Answer. Under proposed administrative procedures, an individual would need to initiate only the first quarterly refund claim for the year. The Internal Revenue Service would recompute his "refund allowance" for the second and third quarters and would mail him a partially completed claim for refund on which he would need only enter the amount of dividends and interest he received during the quarter. At the end of the year, the Internal Revenue Service will send each individual who has claimed quarterly refunds a summary statement. For the fourth quarter the refund would be claimed on the individual's regular tax return which he could file immediately after the end of the year. Although no quarterly claim could be filed for an amount under $10, the individual could cumulate amounts withheld during more than one quarter for purposes of meeting the $10 limit.

8. Charge that withholding of funds from low income persons may cause severe hardship.

Contention. Withholding of 20 percent of dividend and interest payments to low income (but taxable) individuals might cause severe hardship to these individuals who need that money on which to live.

Answer. Most of these individuals would be eligible for quarterly refunds of the overwithheld tax. The individual does not have to wait until the end of the quarter to file his claim for refund but may do so any time during the quarter. For example, an individual who receives all his interest and dividends during the first week of a quarter may file his quarterly refund claim at the end of that first week. Therefore, in many cases, individuals will be without the withheld funds for only a very short period of time. Even if an individual must withdraw funds from his savings to make up for withholding, the net effect is the loss of interest on those funds for up to 3–4 months at the very most. In the case of an individual who receives $500 of interest during a quarter, the loss would amount to only $1 (assuming a 4-percent rate of interest).

9. The charge that lack of withholding receipts will result in fraud.

Contention. There is no requirement that payers of dividends and interest must furnish the recipients withholding receipts (similar to the W–2 receipts in the case of wage withholding). As a result, there will be a great deal of fraud, with the result that extensive audits of records will be necessary.

Answer. There is no area of tax law in which deliberate fraud is not possible. It is known that people claim dependents who do not exist, list charitable contributions they never gave, and claim medical expenses they did not have. Some of this, of course, goes undetected. But deliberate tax fraud is relatively rare. Specifically, deliberate claims for unjustified refunds and credits could never even approach in either dollar volume or numbers of individuals involved the tax evasion currently possible in the absence of a withholding system.

10. Argument that small interest payments should be excluded from withholding.

(a) Generally not subject to tax:

Contention. Small interest payments should be excluded from withholding since they are usually not subject to tax anyway.

Answer. The size of an individual's savings account does not necessarily have any relation to his tax status. For example, an individual could be earning a substantial salary and yet, because of his expenses or other forms of savings, have a relatively small savings account. Since the withholding system has as its major purpose the collection of tax, there is no logical reason to exclude arbitrarily from withholding small amounts which, nevertheless, may very well be fully subject to tax.

In addition, an exclusion from withholding for small interest payments would provide a means by which people could avoid withholding on all of their bank account interest. This could be done merely by opening relatively small accounts in different banks or by opening several small accounts in the names of different members of the family.

Moreover, an exclusion from withholding for interest payments below a specified amount would materially reduce the effectiveness of the "gross-up" system. For example, in some cases an individual may have two savings accounts, one subject to withholding and one not. This could occur, for example, when an individual has a large account for his family's ordinary savings (earning interest above the minimum limit) and a small account (earning interest below the minimum limit) containing savings for a particular purpose, such as a vacation. In such a case, part of the interest received by the individual would be subject to withholding and part would not. This could cause considerable taxpayer uncertainty in applying the "gross-up" system, since part of the interest would be included and part not.

(b) Unclaimed refunds will be large:

Contention. Withholding will result in a large windfall to the Government in the form of unclaimed refunds. As an example, it has been indicated that there are some 32 million bank accounts involving withholding of less than 40 cents, and that many of the depositors in these accounts will not undertake to file either an exemption certificate or a claim for refund with the result that these withheld funds will be a windfall to the Government.

Answer. These figures are very misleading. The 32 million accounts evidently include accounts paying no interest because they are dormant accounts or accounts where no interest is paid as a matter of bank policy. Therefore, this figure in itself is open to question.

However, even assuming they are correct, it is by no means true that all the withheld funds will be forfeited to the Government. First, many of these small accounts will be automatically exempt through the exemption for all school savings accounts without regard to the filing of exemption certificates. It is estimated that savings accounts of 6 million children will fall in this category.

Second, most dividend and interest recipients, even though receiving small payments, will have other income (such as wages) and, as a result, will owe tax for the year. These individuals are required to file income tax returns on which they will be able to take credit against their tax liability for the dividend and interest withholding. The returns will clearly show that these individuals must report their interest and dividend income and also that they may take a credit or obtain a refund for any withheld tax. There should be no reason for them to forget to take the credit or claim the refund.

Third, even though they owe no tax for the year, many of these recipients will be required to file tax returns because they have more than $600 ($1,200 if over 65) of income. The returns will clearly indicate they are entitled to a refund.

Fourth, many of these individuals will avail themselves of the exemption certificates procedure.

Therefore, after taking into account all those different situations, it seems clear that only a very small number of people will in fact forfeit their withheld tax.

11. The charge that withholding will do nothing to enforce tax on high income people.

Contention. Since the withholding rate is only 20 percent, it will have no impact on the collection of taxes on dividends and interest received by individuals in the higher income tax brackets.

Answer. It is necessary to set a rate of withholding approximating the first tax bracket in order to avoid undue overwithholding on the great majority of recipients. However, with withholding taking care of the tax liability of the great majority of dividend and interest recipients, the Internal Revenue Service will be able to concentrate its ADP facilities and enforcement personnel on enforcing the tax on higher income individuals. It is in this area that the new ADP system will prove very effective in helping to enforce the tax on dividends and interest.

12. The mechanics of withholding.

The withholding procedures to be followed by payers of dividends and interest will be relatively simple. Basically, a payer will perform three steps in performing withholding:

(1) The payer will total up the amount of dividends or interest that is to be paid to persons who have not filed exemption certificates and will deduct 20 percent of this total amount. This 20 percent is the amount of taxes to be withheld.

(2) Each recipient will then be paid 80 percent of the dividend or interest due him. Persons who have filed exemption certificates will be paid their full dividends or interest.

(3) At the end of the month following the close of the quarter in which the dividends

or interest were paid, the payer will remit to the Government the 20 percent withheld reduced by any taxes withheld on dividends and interest received by the payer during that quarter. The remittance to the Government will be in a lump sum with no breakdown according to individual recipients.

The following are examples of how these withholding procedures would operate when a bank credits interest to its depositors, and when a corporation pays dividends:

Example 1 (interest paid to depositors):

Bank A credits interest to its depositors twice a year, January 1 and July 1, at a rate of 4 percent annually (2 percent on each payment date). The total interest due depositors on July 1, 1963, is $110,000, broken down as follows:

(a) School savings accounts	$2,000
(b) Accounts of persons who have filed exemption certificates	8,000
(c) All other accounts	100,000

Since school savings accounts and accounts of persons who have filed exemption certificates are exempt from withholding, Bank A will credit interest to these accounts in the amount of 2 percent.

The bank will then deduct 20 percent (or $20,000) from the $100,000 of interest due on all other accounts and credit the remaining $80,000 to these accounts. This means that the bank would credit interest in the amount of 1.6 percent, rather than 2 percent, to each such account. It would not be necessary for the bank to make two computations for each account since it is not required to show the gross interest before withholding.

If the bank reports its taxes on a calendar year basis, it may retain the $20,000 withheld on July 1 until October 31. In determining how much it must remit to the Government on October 31, the bank may take a credit for any taxes withheld on dividends and interest it received. Thus, if $15,000 was withheld on interest and dividends it received during the quarter beginning July 1, it will only be required to remit $5,000 to the Government on October 31.

Example 2 (dividends):

Corporation B declares a dividend of 50 cents a share, payable on April 1, 1963. The total amount of dividends to be paid is $52,000, broken down as follows:

(a) Dividends on shares owned by individuals who have filed exemption certificates	$2,000
(b) Dividends on all other shares	50,000

Corporation B will then pay the full dividend of 50 cents a share (totaling $2,000) to those individuals who have filed exemption certificates. It will deduct 20 percent (or $10,000) of the dividends payable on all the other shares and pay out dividends at the rate of 40 cents a share. It will not be necessary for the corporation to make two computations with respect to each shareholder since there is no requirement that the gross dividend must be shown.

If the corporation reports its taxes on a calendar year basis, it may retain the $10,000 withheld on April 1 until July 31. In determining how much it must remit to the Government on July 31, the corporation may take a credit for any taxes withheld on its dividend and interest income. Thus, if $2,000 was withheld on dividends and interest it received during the quarter beginning April 1, the corporation will only be required to remit $8,000 to the Government on July 1.

Gross-up procedure for individuals:

Although there is no provision for withholding receipts (similar to the W–2 receipts under wage withholding), a person will easily be able to determine the total amount of his dividends and interest and the amount of withheld tax. This will be done through a simple gross-up schedule which will be a part of the income tax returns and refund claims. For example, assume that an individual receives a dividend of $80. He will then perform the following simple calculations:

(1) Amount of dividend received	$80
(2) One-fourth of this amount (withheld tax)	20
(3) Total amount of dividend ((1) plus (2))	100

From this schedule, the individual would know that $100 is the total amount of his dividend to be included in his income for tax purposes and that $20 of tax was withheld for which he is allowed a credit against his tax liability and a refund of any excess.

ADJOURNMENT

Mr. EASTLAND. Madam President, I move, pursuant to the previous order, that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 6 o'clock and 25 minutes p.m.) the Senate adjourned, under the previous order, until tomorrow, Thursday, May 3, 1962, at 12 o'clock meridian.

NOMINATION

Executive nomination received by the Senate May 2, 1962:

U.S. ATTORNEY

Louis C. LaCour, of Louisiana, to be U.S. attorney for the eastern district of Louisiana for the term of 4 years, vice M. Hepburn Many, resigned.

EXTENSIONS OF REMARKS

The National Lottery of Israel

EXTENSION OF REMARKS
OF
HON. PAUL A. FINO
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, May 2, 1962

Mr. FINO. Mr. Speaker, I should like to acquaint the Members of this House with the national lottery of Israel.

In 1961, the gross receipts of the national lottery of Israel amounted to about $20 million, an increase of $6 million over the previous year. The net income to the Government, earmarked solely for the construction of schools and hospitals, exceeded $6 million.

Mr. Speaker, the fight to establish a national lottery in Israel was not easily won. It took a few years after the declaration of the State of Israel before the Government and public circles consented to the organization of a lottery in that country. It has now been in existence about 10 years and proven very successful.

Mr. Speaker, why cannot we, like Israel and other nations, overwhelm the hypocrites, bluenoses and moralists? If we can only wipe out hypocrisy in the United States we could, with a national lottery, pump into our Government Treasury over $10 billion a year in new revenue which could be used for tax cuts and reduction of our national debt.

Friendship Day Camp

EXTENSION OF REMARKS
OF
HON. JAMES ROOSEVELT
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, May 2, 1962

Mr. ROOSEVELT. Mr. Speaker, for the past 10 years Los Angeles has been justifiably proud of Friendship Day Camp, a nonprofit interracial day camp serving children between the ages of 6 and 15 in the Greater Los Angeles area.

It is camp policy to be representative of all Los Angeles' racial, religious, and cultural groups. This applies to counselors as well as to the children. While enjoying the experience of outdoor camping, the youngsters share songs, dances, stories, and games of various cultures, thereby developing a sense of pride in their own backgrounds as well as learning the true meaning of democracy through the appreciation of the rich variety in America's racial and cultural diversity.

Friendship is operated on a nonprofit basis, and with an extremely limited budget. Although a small sum is charged for tuition, any child whose parents cannot pay the full tuition is nevertheless eligible to attend even if circumstances permit payment of as little as 25 cents a week.

I am happy to join those civic-minded citizens and groups of the community who have praised and endorsed Friendship Day Camp for its contribution to the preservation of our American way of life.

Alexander Gsoell, Winner of National Maritime Poster Contest

EXTENSION OF REMARKS
OF
HON. DONALD D. CLANCY
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Wednesday, May 2, 1962

Mr. CLANCY. Mr. Speaker, tomorrow, May 3, 1962, will be a proud day in the life of 17-year-old Austrian-born Alexander Gsoell, of 6743 Hearne Road, Cincinnati, Ohio, as he stands on the steps of the Nation's Capitol to receive a $500 check and the congratulations of the

Honorable Clarence D. Martin, Under Secretary of Commerce for Transportation, as this year's first prize winner in the annual National Maritime Poster Contest for high school students.

Following the unveiling of his winning poster on the steps of the Capitol the immigrant youth, who came to the United States from Vienna only 18 months ago, will participate with Deputy Postmaster General Brawley and Under Secretary Martin in placing the first poster on a mailtruck. The same poster will appear on all 40,000 mailtrucks throughout the Nation during the month of May. The poster will be displayed in post offices and other public buildings and on the Nation's mailtrucks in every city, town, and hamlet across the country, to focus public attention on the importance of the American merchant marine to the peacetime trade and commerce of the Nation, and as the "Fourth Arm of Defense." Alexander Gsoell's prize-winning poster depicts a crate of cargo being hoisted aboard ship, proclaiming that "American Ships Strengthen America."

The National Maritime Poster Contest, sponsored annually by America's maritime industry, in cooperation with the U.S. Government, drew 7,700 high school student entries from 44 States and Guam this year.

I wish to speak for the people of my congressional district in congratulating Alexander Gsoell on this happy occasion, and for his outstanding achievement. I know my feelings of pride are shared by his family, his art teacher, and the other faculty members and students of Central High School in Cincinnati.

Victims of a Cruel Hoax

EXTENSION OF REMARKS
OF
HON. JACOB H. GILBERT
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, May 2, 1962

Mr. GILBERT. Mr. Speaker, the one-way ticket to the North being offered to Negroes by some racist groups in southern communities constitutes one of the most dastardly actions against the Negroes of our country.

The Negro who submits to this enforced relocation is the victim of a lifetime of discrimination; he has been denied job opportunities, decent housing, and educational opportunities for himself and his children. The final insult, the final hoax perpetrated upon him, the last inhumane punishment that can be inflicted upon him is to tear him away from his home soil, his home community, his relatives, his friends. He surely cannot be blamed for accepting the one-way ticket; he is desperate and afraid; a hope has been held out to him and he grasps for it.

Those in the South who paint a bright future for the Negroes they are enticing into their one-way buses are guilty of the greatest deceit and cruelty; their action is a grave offense against the human race. We of New York City and other northern cities to which these unfortunates might be sent, realize that they will find the same difficulties which white persons without funds or industrial skills would encounter, for our cities are overburdened with housing shortages, heavy welfare rolls, and unemployment.

Here is another convincing argument against discrimination. We must use the power and prestige of our Federal Government to bring about effective and necessary changes in those States in which citizens of the United States are being denied the equality guaranteed them under the Constitution. These rights must be available to all in the South as well as the North.

Martin de Porres

EXTENSION OF REMARKS
OF
HON. JOHN F. SHELLEY
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, May 2, 1962

Mr. SHELLEY. Mr. Speaker, there is rejoicing all over the world upon the canonization of Martin de Porres, who has been the patron of the interracial movement in all places where segregation and discrimination have made such movements necessary. As a mulatto, Martin de Porres belonged equally to the white and to the Negro race, and forms for us a symbol of interracial sympathy and cooperation. His life history is a story of unselfish devotion to the welfare and happiness of all whom he could help. In his ministrations, he made no distinction between Spaniard, Indian, mulatto, and Negro. The poor and neglected, the sick and afflicted, could be sure of the affectionate care of this Dominican lay brother; and his native city of Lima loved him, living, and sincerely mourned him when he died, in 1639.

In giving official recognition to the sanctity of Martin de Porres, Pope John is adding a new name to the roster of saints in the Order of Preachers, commonly known as the Dominican Order, who contributed greatly to the development of civilization and culture in the Spanish and Portuguese territories of the new world.

It was late in the history of the new world, but early in the history of California as one of the United States, that the Dominicans began their contribution to the development of the State, with Bishop Joseph S. Alemany, O.P., as bishop of Monterey in 1850, and then as first archbishop of San Francisco in 1853. Bishop Alemany, as soon as he was established in Monterey, brought in the Dominican Fathers, and also the Sisters of St. Dominic, who founded in 1850 St. Catherine's Convent, the first foundation of religious women in California. This convent was the institution out of which grew, in 1891, Dominican College. California and San Francisco rejoice with these men and women of the following of St. Dominic, that this high and well-deserved honor has come to one whose life so thoroughly exemplified the high ideals of their order.

Deductible Business Expenses

EXTENSION OF REMARKS
OF
HON. JOHN H. DENT
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, May 2, 1962

Mr. DENT. Mr. Speaker, the following material concerns a situation in the State of Pennsylvania that has been called to my attention because of its nationwide scope.

You will note that the information is in the form of a letter to Commissioner Caplin of the Internal Revenue Service requesting that a tax court finding in the case of the Coca-Cola Co. of Indianapolis allow deductible expense accounts as business costs.

In this correspondence I am requesting that the local decision be made in all like cases on a national basis. The seriousness of this situation was first called to my attention by the remarks of the Honorable RAY J. MADDEN of Indiana, in February of this year.

Since this move has just started in Pennsylvania, I have reviewed Mr. MADDEN'S remarks recently, and came to the conclusion that it would be best if those interested in this endeavor would know beforehand that their contributions to such a fund will not be deductible as legitimate business expense.

There are many of us who believe that there is a lack of sincerity in the promotion efforts of this group and that many innocent persons are led to believe that their contributions are tax exempt, and after the money has been spent they find that such is not the case.

Other Members of Congress interested in this particular subject would do well to contact Commissioner Caplin as per the explanation contained in my letter of this date to the Internal Revenue Service.

The letter follows:

The Honorable MORTIMER M. CAPLIN,
Commissioner of Internal Revenue,
12th and Constitution Avenue N.W.,
Washington, D.C.

DEAR COMMISSIONER CAPLIN: It has come to my attention that an organization with the soubriquet of "Pennsylvania for the Right To Work, Inc.," has been formed in my native State to spearhead a propaganda campaign seeking to lobby punitive antilabor legislation through the State legislature.

To finance this campaign, both the Pennsylvania committee and the national parent body are soliciting contributions from Pennsylvania business and industrial firms.

The objective of this group, according to its public announcement, is to achieve enactment of a law, which would deny labor and management their present freedom of contract and accepted legal right to negotiate a union security provision as part of a labor-management agreement.

The purpose of the 'egislation which Pennsylvania for the Right To Work, Inc., seeks to have enacted is to destroy the collec-

tive bargaining process that is the keystone of Federal labor-management policies and to weaken and make ineffective the voice of organized labor at the collective bargaining table. This law would substitute individual bargaining for collective bargaining, placing the worker at the mercy of the employer. The proposal is called by its sponsors a "right-to-work" law, which is a misnomer, for it guarantees no one a job.

The Pennsylvania group has been organized under the aegis of an organization known as the National Right To Work Committee, of Washington, D.C. In other States, such as Oklahoma and Kansas, affiliates of the National Right To Work Committee bear similar titles. In the case of Oklahoma the organization is known as Oklahomans for the Rights To Work, Inc." In Kansas it is called Kansans for the Right To Work, Inc. The titles bear out the close working line between the National and State groups.

As I have stated, both the National and State groups obtain their operating funds for influencing legislation by soliciting members of the business community. It is my understanding that in past elections some part of these funds have been spent seeking to elect candidates for public office who, these organizations hope, will be friendly to enactment of the antilabor legislation they espouse. I would like to point out that spokesmen for the Pennsylvania "right-to-work" group have stated publicly they will take similar action in the present election year.

Solicitations for funds to support these political activities are filling the mail of businessmen in Pennsylvania, as well as in other States.

In this connection, the National Better Business Bureau, Inc., of New York City, recently distributed to its membership a report on the activities of the National Right To Work Committee, including this fund solicitation.

This report stated that the National Right To Work Committee had retained the firm of Wilson E. Hamilton and Associates, Washington, D.C., at a fee of $3,000 per month, plus a commission of 33⅓ percent of the net income on all membership dues and contributions obtained through their fundraising efforts. For the year 1960, the Better Business Bureau stated the National Right To Work Committee reported it "paid commissions and fees to Wilson E. Hamilton and Associates totaling $74,503.30, or 17.8 percent of dues received amounting to $418,732.50."

My colleague from Indiana, Representative RAY J. MADDEN, made available to the House of Representatives on February 7 the report of the Better Business Bureau which further stated that:

"The committee also advised the National Better Business Bureau that the total fundraising expense for 1960 including fees, commissions, mailings, office space, clerical and secretarial help amounted to 42.2 percent of income, and that the comparable figure for the first 6 months of 1961 was 31.6 percent."

The remaining 57.2 percent of these contributions by businessmen and industrial concerns were expended to influence the enactment of the antilabor "right-to-work" laws.

The Better Business Bureau reported that on the tax status of these contributions, the National Right To Work Committee advises members and contributors "that contributions to this organization may be classed as a business expense, but we can give no assurance that this will not be challenged by the Internal Revenue."

This would appear to be a tacit invitation to business contributors to list their right-to-work contributions as a Federal income tax deduction. Some allied committees openly state that contributions are deductible as a business expense.

In this connection, it is my understanding that in a recent Indiana case involving the Coca-Cola Co. of Indianapolis, the Indiana District of the Internal Revenue Service ruled that contributions to a right-to-work committee were political expenditures and not deductible as a business expense.

Inasmuch as widespread right-to-work fund solicitation is taking place in Pennsylvania, I should like to inquire of the Internal Revenue Service whether the Indiana ruling applies likewise to such contributions made by business and industrial firms to right-to-work committees in Pennsylvania?

I feel that the businessmen of Pennsylvania should know where they stand in order that they may decide whether to claim Federal income deductions on funds contributed to a movement which creates friction in our industrial life.

I should also like to ask whether a ruling has been made by the Internal Revenue Service on the tax status of such contributions on a national basis and, if not, whether such a ruling, as in the Indiana case, should not be made for general application to all?

Very truly yours,

JOHN H. DENT,
Member of Congress.

Leather and Rubber Footwear Exports

EXTENSION OF REMARKS
OF
HON. EDMUND S. MUSKIE
OF MAINE
IN THE SENATE OF THE UNITED STATES
Wednesday, May 2, 1962

Mr. MUSKIE. Mr. President, for some time, the shoe industry has been concerned about the rapid expansion of leather and rubber footwear imports. This industry, which is vital to the economy of the State of Maine, is threatened with market disruption by a rising volume of shoe imports from efficient but low-wage industries in various parts of the world.

The following statement relating to shoe facts illustrates the problem:

THE FACTS ABOUT SHOE IMPORTS

First. Leather shoe imports have increased 234.5 percent since 1957, from 11 million in 1957 to 36.8 million pairs in 1961. In the first 2 months of 1962, leather footwear imports were 82 percent above the comparable period of last year. Rubber footwear imports dropped last year, but this year the rate is 45 percent higher than last year.

Second. At the present rate, footwear imports will reach 76.6 million pairs by 1965, which would be 11.7 percent of U.S. output. If imports of sneaker types were added to leather imports, then total imports would represent 20.4 percent of estimated U.S. output of leather and sneaker types combined.

Third. While imports have been increasing, our exports have dropped from 4.4 million pairs in 1957 to 3 million pairs in 1961.

Fourth. For every 10 million pairs of leather footwear produced, there are jobs for 4,100 workers in shoe manufacturing, and another estimated 1,400 jobs in the supplying trades, or 5,500 jobs in all. Since 1956 alone 15,000 jobs have been lost in the leather shoe and supplying industries. By the end of 1965, another 22,000 jobs will have been sacrificed in the leather shoe and supplying industries. This is at current tariff levels.

Fifth. The trade expansion bill, H.R. 9900, if passed as written, could result in tariffs on imported shoes being lowered to one-half, or in some cases, even to zero during the next 5 years.

Sixth. The United States pays the highest wages to shoeworkers of any country in the world. The U.S. shoeworker receives from 2 to 5 times the wages of foreign shoeworkers.

Seventh. With the new equipment and machinery in foreign shoe factories —financed in large part with U.S. help and easier tax laws—foreign shoe output per worker approximates our own production rates.

Eighth. Imported shoes land in this country at far lower prices than for like items produced here. This is simply cheap foreign labor competing against higher price U.S. labor.

Ninth. U.S. tariffs are among the lowest in the world. For shoes, U.S. duties average 12.6 percent on all shoes imported from all countries. Foreign tariffs plus taxes loaded on exported U.S. shoes range up to as high as 53 percent of landed cost. This is certainly a poor example of how foreign nations have lived up to our reciprocal trade agreements.

Mr. President, in spite of this grave problem to the shoe industry, it has taken a lightened approach to our basic trade policy and to the President's recommendations.

Recently, I had an opportunity to discuss the problems of trade with the shoe executives of Maine. Because of the problems of the shoe industry and because of the relationship of their problems, to that confronting other industries in our country, I ask unanimous consent that my remarks to the Association of Shoe Executives of Maine, on April 28, 1962, be printed in the RECORD.

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

ADDRESS BY SENATOR EDMUND S. MUSKIE TO SHOE EXECUTIVES OF MAINE AT THE CALUMET CLUB, AUGUSTA, MAINE, APRIL 28, 1962

I remember—too many years ago for my own comfort—when the subject of international trade was a dry-as-dust part of my studies. The questions of "comparative advantage," "balance of trade," and "international payments" were remote from my personal concerns, and not particularly exciting.

Today I find the jargon of trade talk as dry as ever; but the subject of trade is a vital preoccupation for me and for my constituents. Next to the subject of taxes, it is the question which is absorbing the most attention on Capitol Hill, these days.

I come before you with mixed feelings to talk on trade. In the words of the folk song "Goober Peas": "The subject's interesting but the rhymes are mighty tough."

I think most of you know my general philosophy on the subject of trade policy. The President's bill has been introduced and hearings have been concluded by the House Committee on Ways and Means. Now the committee is closeted in executive session to work its will on the President's recommendations. My own opportunity to cast my

vote and to exert my will directly on the bill is three steps away: House Committee action, House passage, and Senate Finance Committee action. I do plan to appear before the Finance Committee to offer some suggestions which, in my opinion, will improve the bill and will provide a more realistic form of assistance to domestic industries threatened by import competition, particularly where that competition comes from highly industrialized, low-rate areas.

As a Senator from the State of Maine, I am very much concerned over the economic growth of our country. Maine has been plagued by unemployment for many years and I realize that we must encourage general economic growth if we are to overcome many of our economic difficulties.

I recognize that expanding international trade represents one important facet of the President's efforts to stimulate a dynamic domestic economy. However, although I agree with this objective, I think there are substantial problems involved in the trade bill, H.R. 9900, which must be resolved. Expanding trade can be harmful as well as beneficial unless the policies affecting it are realistically devised.

In approaching the specific legislation pending in Congress, it is well to keep one's perspective. It is altogether too easy to be drawn off into one of the two extremes in the trade debate. On the one side we have the "free traders" who follow the ideal of absolute and untrammeled international competition like knights in search of the Holy Grail. At the other extreme are the committed protectionists who see in every import statistic the threat of imminent collapse for the American economy. In the trade debate, neither contributes substantially to the kind of balanced trade policy which will encourage sound economic growth.

What are the objectives offered by the President? What are the conditions under which we are being asked to formulate a new trade policy?

The President is convinced that increased trade is vital to "the unity of the West, the course of the cold war, and the economic growth of our Nation for a generation to come."

The factors which have triggered the new debate over trade are the expiration of the Reciprocal Trade Act and the development of the European Common Market.

The expiration of the Reciprocal Trade Act confronted the President with a choice of three alternatives:

First. He could let the act expire and wait for the nonelection year of 1963 to press for trade legislation;

Second. He could call for a simple extension of the act; or

Third. He could request a new law revising our present trade policy.

He has chosen the latter course.

Coincidental with this circumstance has been the spectacular development of the Common Market.

Since the close of World War II, the United States has supported the principle of European integration, because of its conviction that the creation of a broad, competitive market in Western Europe would be advantageous to the United States and that it would build up the economic strength of Europe, thus making for a strong free world.

In 1958, six European countries—France, West Germany, Belgium, Luxembourg, the Netherlands, and Italy—formed the European Economic Community for the purpose of integrating their economies. The Treaty of Rome, which created it, represents the most ambitious step yet taken toward economic integration. The most important aspect of the Community, from the point of view of U.S. foreign trade, is the Common Market.

Under the treaty, the six member countries agreed to eliminate all tariffs and quotas among themselves starting January 1, 1959. It was contemplated that 12 to 15 years would be required for the progressive attainment of free trade within the area. The target date for the complete elimination of internal tariffs is now 1966 instead of 1969–1972, as originally contemplated. Import quotas among the member countries on industrial products are to be eliminated by the end of 1961 and on other goods by 1970.

Because of the acceleration of internal tariff reduction and of the early institution of the common external tariff, the impact of the European Common Market of U.S. exports will be felt earlier than had been contemplated. Since the common external tariff will be determined by the average of rates prevailing in each of the six countries in 1957, the tariffs that eventually will be applicable to U.S. products will be higher in some countries and lower in others. Generally speaking, the tariffs of France and Italy will be lower, while those of the Benelux countries and Germany will be higher.

If the Common Market is carried through to completion, as there is every reason to believe it will be, the net effect will be the formation of a large free trade area of great potential economic growth. The United Kingdom has applied for membership in the European Economic Community, and when she does join, the resulting market area of Western Europe will be the largest in the world, larger even than the United States.

There is no way of knowing what will happen with regard to commodities on which tariffs are to be determined by negotiation. Neither is there any way of knowing what will happen to external quotas. Here, too, only time can tell whether the net effect of the European Common Market will be to liberalize trade or to intensify protection.

In the short run, certain U.S. exports will decline as the new discriminatory tariffs become effective. In the long run, however, it is reasonable to suppose that some products which the United States does not export in large quantities may be in greater demand because of the changed structure of European industry. Indeed U.S. exports to the Common Market countries probably will increase as time passes.

The Common Market will make it possible for Europe to compete in world markets more effectively than heretofore. The lowered costs and prices which usually accompany an expanding economy will increase the capacity of Europe to earn dollars and, consequently, to increase its capacity to import more than it does now from the dollar area. Under the circumstances, it is essential that U.S. industry increase its efficiency and improve its exporting and marketing methods.

About 25 percent of all U.S. exports to Western Europe consist of raw materials, such as ores, textile fibers, nonmineral oils, and raw chemicals. Not many products in this category will be affected by the new Common Market tariffs, since duties on most of them will remain low. In fact, the industrial growth of Europe probably will cause U.S. exports in these categories to increase.

About 5 percent of U.S. exports to Western Europe consist of fuels, principally coal and petroleum products, most of which will remain subject to low tariffs. The prospects for U.S. fuel exports depend more on the degree of quota protection on coal, and on how much oil is developed in Europe and other countries, than on tariffs.

About 30 percent of U.S. exports to Europe consist of food and tobacco, tariffs on which vary widely. Tariffs on these goods are not as significant, however, as quotas, subsidies, and administered pricing. The European Economic Community's new agricultural policy will extend national preferences to producers throughout the Common Market area. It also will stimulate competition among European farmers and encourage more efficient production of foodstuffs within the area. There is no way of telling, now, whether these effects will be counterbalanced by increased total demand for food and tobacco. Their objective is, obviously, to stimulate their own agricultural production and to reduce their reliance upon agricultural imports.

The remaining 40 percent of all U.S. exports to Western Europe consist of manufactured goods, principally machinery, transportation equipment, and manufactured chemicals. Most of these products will encounter external tariffs and discrimination within the Common Market, while internal Common Market tariffs approach zero. At the same time, European producers are likely to enjoy cost advantages brought about by increased efficiency and larger scale production. In consequence, many American producers will find European competition increasingly difficult to meet.

For many manufacturers this increased competition will extend to markets outside Europe. Western Europe must export manufactured goods in order to import needed raw materials. At the present time, the six Economic Community countries, together export more than the United States.

However, this does not necessarily mean that American manufacturers will not be able to compete in world markets, or even that they will be unable to export to the Common Market countries. It is characteristic of the U.S. economy to emphasize research, to improve products, and to reduce costs. It is quite likely that, through research, American companies will find new ways to produce certain goods more efficiently and better than they can be produced anywhere else in the world.

As the European economy grows and becomes more highly specialized, it will become capable of producing a wider range of goods cheaply, but its imports are likely to grow as well as its exports. The leaders of the European Economic Community have expressed the intention of pursuing a liberal trade policy, and it seems clear that their interests lie in expanding, rather than in contracting, trade.

This, then, briefly, is the problem and the opportunity posed by the Common Market. How do we take advantage of the opportunity created by this great new market, and, at the same time, meet the problem of competition, at home and abroad, which the Common Market countries will give our products?

In the long run U.S. exports that will best be able to stand up against the new competition, are those unique in performance and design, in the light of cost. There can be no doubt that technical progress in the United States will be rapid throughout the decade.

The avowed purpose of the President's trade program is to minimize the discriminations resulting from the formation of the European Common Market by reducing our trade barriers on a bargaining basis.

Such bargaining cannot be one way. As the President said in his state of the Union message: "Concessions, in this bargaining, must, of course, be reciprocal, not unilateral. The Common Market will not fulfill its own high promise unless its outside tariff walls are low."

Assuming the desirability of expanded trade, and this is an assumption I accept, how do we develop a rational trade policy?

First, we must recognize that not all industries are going to view expanded trade in the same light. For example, Maine is sometimes regarded as a "protectionist" State. And yet, the pulp and paper industry, which is vital to our economy, was the first major

industry to endorse the President's trade proposal. And the cotton textile industry has announced its support.

There are, I think, four categories of manufacturers in relation to trade:

First. Those industries which are not affected directly by trade;

Second. Those who benefit from free trade policies because of their export opportunities;

Third. Those who benefit from free trade because of their raw material import requirements; and

Fourth. Those industries which find it difficult to compete in the world market.

It is this latter group, those industries who do not enjoy a comparative advantage, which is of greatest concern to us in a new trade policy.

I believe our trade policy should be shaped in such a way as to serve the legitimate requirements of each of these groups. I think it can be.

Most of the industries at the low end of the comparative advantage scale in the United States are those that require a high proportion of labor relative to capital. In the United States, where capital is plentiful and labor is relatively scarce, such industries find it difficult to compete against products from countries where labor is plentiful and capital is scarce. The shoe industry is a case in point.

Under a system of complete free trade these industries, or at least certain segments of them, would not be able to compete. To adjust our production in favor of imports, unlike adjustment to increased exports, is often painful. This is the situation in which most of our producers who complain of import competition find themselves.

Obviously, it is not a real answer to the problem to say, as some of the more extremists do, that these companies should simply get out of business. One of the most troublesome facts of all is that the lines of production that are hardest hit by import competition are included in what we in the United States call "small business." And these small businesses are often found in small towns, such as in Maine, where the survival of such businesses is vital to the local economy.

With bigness all but swallowing us up and with little businesses each year finding competition against bigness more difficult, it doesn't seem to make much sense to force an additional burden upon them in the form of increased competition from abroad. It seems too much like kicking a man who is down and almost out.

Yet it is essential that the United States increase foreign trade, both exports and imports. And to achieve this goal, the President must have the power to negotiate favorable trade agreements. This is the fundamental point in any trade legislation.

Lest some misinterpret what I have just said, I want to point out that I said we need favorable trade agreements.

And yet, we must recognize that any trade program, no matter how favorable to the Nation as a whole, is bound to involve adjustments for some industries. As I have already shown, one of the painful facts in the situation is that the injured firms and labor that are most seriously affected by import competition usually are small businesses. Under the present law, all that the President can do is either to perpetuate them or to throw them to the wolves, so to speak.

A third choice has been offered in H.R. 9900, the administration trade bill. This choice would allow the President to provide "adjustment assistance" in those industries and areas suffering from import injury.

The adjustment-assistance approach, involving earlier retirement for older workers, retraining programs for younger workers, special unemployment compensation, family moving allowances, technical assistance to the owners of capital, small business loans, and so forth, is a new and relatively untested approach to the problem of trade adjustment.

It should be noted that such an approach has no assurance of substantial success in providing relief. In Maine, and in many parts of New England, we have been carrying out an intensive industrial development program to help replace lost jobs in the textile industry, and other similarly affected industries. It is a long, slow, and hard process. The area redevelopment program is similarly aimed at restoring lost jobs. It offers some useful tools, but it is too soon to predict how successful it will be.

There is another possible line of attack on the problem, to which I have given much thought.

Last year, I introduced S. 1735, the Orderly Marketing Act. This proposed legislation would give the President the power to enter into trade agreements with exporting countries restricting the importation of commodities to a certain percentage of our domestic market where such commodities are produced at a substantially lower labor cost than applies in the United States. My bill has the twin advantage of defining injury far more explicitly than in existing trade legislation and of adopting the principle of permitting exporting countries to share in our expanding domestic market even in cases where our domestic industries are threatened with injury. I believe that trade legislation must take into account the peculiar problems of those industries which require high labor input in highly industrialized, low-wage countries. In interstate commerce, we have used the minimum wage law to insure fair competition, as well as to protect workers from substandard working conditions.

In international trade, we cannot impose a minimum wage requirement, but we can adjust trade in commodities produced by foreign industries with substandard wages so as to minimize the impact of such competition.

To take this position is not to embrace the cause of protectionism. It is, I believe, a realistic approach to our trade problem.

I have been very much encouraged by the attitude taken by the shoe industry on this issue. This industry, as well as others in the State of Maine, is confronted by rapidly expanding imports from low-wage countries. The industry has substantial reason to be concerned over import threats. In spite of this, it has taken a very balanced and reasonable approach to the trade problem.

For when we come down to the heart of the problem, we have to recognize once more that what we, and the rest of the free world, are after is economic growth and stability. This will not be achieved by raising impossible barriers to trade, and neither will it be gained by throwing our doors open, willy-nilly, to imports.

In the final analysis, our trade policy should be guided by the following principles:

First. That with respect to the highly industrialized, economically advanced countries, the President must have powers to bargain effectively for the reduction of trade barriers against U.S. goods;

Second. That with respect to the highly industrialized, but low-wage countries such as Japan, the President must have the powers to negotiate agreements which will allow such countries to share our markets provided that the sharing is done in an orderly way which will not seriously disrupt these markets for our own domestic industries;

Third. That Congress must have adequate review powers over the President's actions in negotiating trade agreements;

Fourth. That downward adjustments in tariffs must be made gradually so as to give domestic industries an opportunity to adjust to changed conditions; and

Fifth. That "adjustment assistance" to domestic industries and areas injured by imports be coordinated with other Government aid programs such as the Area Redevelopment Administration.

I do not think this is an impossible task for us to set for ourselves. It has always been the genius of our democracy to meet our needs in a practical fashion. There is no reason to stop the practice when it comes to the matter of setting trade policy.

We know our goals; we have the facts; now Congress should work with the legislation offered by the administration and mold it into an effective instrument for the creation of jobs, income, and opportunity for all Americans.

Continuing Crisis

EXTENSION OF REMARKS

OF

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 2, 1962

Mr. DENT. Mr. Speaker, our bituminous coal industry faces a grave problem which I want to call to the attention of the Congress and the country. That problem is residual oil. Unless we act quickly, it will seriously cripple the coal industry, further reduce employment in the Nation's mines, and create havoc in a large industrial sector of our economy should a national emergency arise.

Again and again, during the last few years, despite the demonstrable fact that foreign-produced residual oil was harming the domestic coal industry, the administration—both administrations—have seen fit to increase its import quota. The last of these increases was granted only 3 months ago, in March 1962. The quota then was raised by 10 percent, bringing the daily total to 507,000 barrels. That raise was more than unnecesary, it was unsound and uncalled for. It gave foreign residual oil an industrial hunting license, an open invitation to grab more markets from coal in sections of the country which it had not previously penetrated.

For some years, residual oil looked for and found customers in New England and other sections of the eastern seaboard. It conquered important coal markets; but it was contained to the coastal area. Now, as the result of unrealistic quota policies, it has broken through its boundaries and is flooding westward.

This is precisely what the international oil companies, which must dispose of vast quantities of residual oil, wanted. They knew they had saturated their existing outlets, and they needed more dumping ground for the residue of their refining process. Because they are willing and able to keep its price below that of coal, no matter at what price coal sells, they found markets in the past, and they will find markets in the future. They will find them to the detriment not only of the coal industry and its 200,000

workers, but to the detriment of our national industrial capability in times of emergency.

Let me explain my meaning. The international oil companies' bargain-basement bait has already resulted in many industrial consumers installing equipment which can use only residual oil. They cannot switch back to coal, except at large expense involved in buying coal equipment. These consumers are dependent on residual oil, utterly dependent. They have become the prisoners of a supplier who may suddenly, overnight, be unable to deliver his goods. For, let us remember, residual oil comes to these shores from foreign lands in foreign-flag vessels. It is not hard to imagine what will happen to the supply—and the customer—if an international crisis, or a political upheaval in the country of the fuel's origin, should interrupt shipments. A large and important sector of America's industry might have to lie idle, at least for a time, at a moment when this country would desperately need the goods it produces. Surely, such a possibility must not be allowed to arise.

Even now, the uncertainty created by large-scale importation of residual oil has created havoc with coal industry planning. How can individual coal companies plan their production when they cannot tell today what changes will be made in residual oil quotas next year? When, in fact, they can only look on helplessly as increase after increase opens the floodgates of that foreign cut-rate fuel?

The bitter irony here is this: Residual oil is gushing into large industrial areas of this country, its advance nourished and protected by a steadily rising quota, and conquering markets from a domestic fuel—coal—which is well able to supply those markets. Our coal reserves are enormous. There are some 800 billion tons of bituminous coal waiting to be tapped. I understand that means we have enough coal for 2,000 years at the 1961 production rate. Thus, the backers and boosters of residual oil are not supplying a real, urgent need. This country could well afford to live without their product. The question is, Can it afford to live with it?

I said that residual oil had saturated New England coal markets. Well, now there are reports that it is driving coal out of business in other areas, including Albany, N.Y., where a coal company is losing several accounts to that foreign fuel. Residual oil has already shut down mines, many mines; it aims to shut down even more, if we allow it to. A mine shutdown does more than put people out of work temporarily and depress economic conditions in the area for a little while. In many cases, the mine shutdown and the worker out of a job remain a permanent scar on the economy of this Nation.

The coal mining industry cannot open and close and once again open its physical facilities that easily. Often a mine once abandoned has to be abandoned forever, or can be reopened only at huge expenditures of time and money. In a national emergency, such a breathing spell may not be permitted us. And in peacetime, the closing of mines means a retrenchment in the industry's production capacity, a movement which we may not be able to reverse, come the day when we once again have a desperate need for coal.

I do not think we can sit idly by while disaster threatens one of our vital industries. I think we must act, and act now.

The present quota policy has proved a failure. It has hurt, not helped, coal. An overall import policy for oil is needed. A law specifying the amount of crude and residual oil which is to be permitted into this country is needed. I think that such a law should include a provision stating that the amount of oil imported can be only a certain percentage of the total domestic production of petroleum.

We simply cannot allow oil, in whatever state of refinement, of whatever type, to come into this country in unlimited quantities. This is not a plea against foreign trade, or a plea for less foreign trade. Let the goods of the world flow freely between nations, but not to the point of destruction.

Let us not deliberately be partners in the potential destruction of a major American industry, particularly one which supplies not only the private but also the public sector of our economy. Let us not throw away the tools out of which, in the event of an armed conflict, we might have to forge the very weapons of victory.

James P. Clark

EXTENSION OF REMARKS
OF
HON. HERMAN TOLL
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, May 2, 1962

Mr. TOLL. Mr. Speaker, on April 16, 1962, an outstanding leader in the Democratic Party passed away in his sleep. James P. Clark was a nationally known and influential factor in the party. He participated in many campaigns and served in a number of leadership capacities. His strong interest in city, State, and national party affairs made him one of the best known and popular officials. He played an important role in many national conventions and was devoted to party affairs during his entire adult life.

James P. Clark served for many years as the chairman of the Philadelphia Democratic City Committee in the 1940's. He then served as eastern regional chairman for the Pennsylvania Democratic State Committee. He served as chairman of the Philadelphia Democratic Finance Committee under Congressman WILLIAM J. GREEN, JR., the city chairman, for nearly a decade. His great success in constructing the annual party dinners and the Jefferson-Jackson Day celebration dinners was unmatched throughout the country. He contributed much to the success of the Democratic Party in Philadelphia.

James P. Clark was also a success in business and in the sports field. He was head of the huge Highway Express Lines, Inc., a firm which transported nearly all films to theaters in the Eastern United States. He was owner of the champion Philadelphia Eagles football team. He was also president of Motor Transport Labor Relations, Inc., which negotiated contracts and handled grievances for about 300 trucking firms in the Philadelphia area.

Philadelphia has lost a great citizen, a leading sportsman, a successful businessman and an intimate friend of many people active in politics.

Controls Beget More Controls—Congressman Bob Dole Speaks Out on the Farm Program in Letter to Editor

EXTENSION OF REMARKS
OF
HON. ROBERT F. ELLSWORTH
OF KANSAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, May 2, 1962

Mr. ELLSWORTH. Mr. Speaker, our distinguished colleague, the gentleman from Kansas [Mr. DOLE], who is an able member of the Committee on Agriculture, recently wrote a letter on the legislative situation of the farm program and agricultural economics to Mr. Whitley Austin, editor of the Salina (Kans.) Journal. The Salina Journal issue of Tuesday, April 24, 1962, carried Congressman BOB DOLE's letter in full. It is a thoughtful, penetrating, and cogent letter, and I am pleased to be able to share it with my colleagues as well as with all who read the RECORD.

The letter follows:

CONTROLS BEGET MORE CONTROLS

Because agriculture touches so intimately upon the lives of all of the people of western Kansas, there is understandably broad interest in the farm programs which are currently being developed in Washington and in the economic outlook for agriculture in the sixties.

It seems to me that farmers of Kansas and the Nation will prosper in the years ahead if two basic conditions are met:

1. If the disturbing increases in farm operating costs are halted.

2. If harsh, stifling production controls are not extended to an everwidening range of commodities, which could eventually include livestock.

These are the two principal threats not only to the future income of small- and middle-sized farm operators but even to their chances of remaining in agriculture in the sixties. Both are very real threats today.

Some 840,000 people left the farms of America last year (1961), many of them victims of the cost-price squeeze. While the population trend from the farms to the cities may be expected to continue in the years ahead, it would be greatly accelerated if massive Federal crop and land retirement programs are undertaken. The impact upon rural communities would be staggering if some of the land retirement programs which have been proposed before the House Agriculture Committee this year are placed in operation.

The owner or the tenant of a family farm can remain in business only under conditions which permit him to achieve at least a reasonably satisfactory standard of living. He can remain in business only if he is given at least a reasonable opportunity to use his productive capacity. Overly harsh controls will bankrupt him just as certainly as will ruinous prices.

COSTS GO UP

The reasons for many of the income problems facing farmers today can be found in a few simple statistics. For example, while cash receipts from farm marketings increased from $34 billion in 1960 to $34.7 billion in 1961, farm production expense rose from $26.4 billion in 1960 to $26.9 billion in 1961. In other words, most of the increased income was wiped out by higher costs.

More alarming is the fact that production costs have continued to move higher in recent months. They reached an all-time record peak in January 1962, and then set another new high in February. The inflationary forces at work in the national economy today—heavier Government spending, growing deficit financing and mounting labor costs—will almost certainly combine to push farmers' costs to new peaks in 1962. There is nothing in the Nation's present economic and fiscal policies to suggest that even further advances in the cost of farming are not in store for at least several more years. The evidence clearly points toward such increases.

Thus, it seems to me, that the Government could do more to improve farm income by adopting policies which would curb increased agricultural production costs than it can hope to accomplish through controls over farm production. The parity ratio—the Department of Agriculture calculation which measures prices received by farmers against those they pay—averaged only 79 during 1961, the lowest in more than 20 years.

It is unlikely that the parity ratio will show any significant rise in 1962 and it could drift even lower.

This imbalance between what the farmer pays and what he receives is one of two major threats to the future of the Nation's family farms.

Now what of the other great threat—the threat of more and more controls over the production of an expanding list of farm commodities?

CUTS PROPOSED

There is before the House Agriculture Committee, of which I am a member, administration-supported legislation which would provide these new controls over farm production:

1. An additional cut of 10 percent in wheat acreage for 1963 and subsequent years, over and above the 10 percent cut producers are taking this year.

2. Mandatory production controls for the first time over grain sorghums and other feed grains which would mean, in effect, a form of livestock control over the producer who feeds all of his grain on the farm.

3. Production controls on milk for the first time and a step which would, in effect tell the dairyman how many cows he may milk.

And with this for the first time, there were proposed heavy fines and even prison sentences for farmers who failed to keep such books and records as the Secretary of Agriculture orders or who disobeys regulations he might issue.

Controls such as these would inevitably beget more controls. Eventually, every one of the 256 agricultural commodities produced in the United States would be brought under Government regulation, as Secretary Freeman asked for last year but which Congress refused to do. The sweeping, all-embracing controls envisioned by the top agricultural planners of this administration would shake the foundations of our rural economy and bring about certain liquidation of the family farm as we know it.

CONGRESS BALKS

It now seems unlikely that the administration will receive from Congress the vast authority over agriculture which it seeks. The House Agriculture Committee has eliminated from the bill nearly all of the harsh penalty sections. Milk production controls are out. Some other improvements have been made in the bill but the mandatory controls over feed grains are still in the measure.

Unless further important changes are made, it is a tossup as to whether the committee will even report out a general farm bill this year. The demands for a better bill than the one presently before the committee come from Members of both political parties in Congress.

It is possible that the wheat section will finally emerge as a separate bill.

I know many wheatgrowers would prefer this as they fear, and I believe with reason, that if wheat legislation is tied into a controversial package including dairy and feed grain programs the entire bill may be defeated. Congressmen should and will vote on the overall merits of the bill, not on just a single section of it.

In my opinion, the wheat section is the best portion of the bill, though it is loosely drawn in many respects and does not offer the farmer in positive terms any assurance his income would be maintained over the next 1, 2, or 3 years.

I have suggested the following amendments in an effort to improve the wheat section of the bill:

1. Providing that no farmer, despite any provision in the programs, be required to idle more than one-half his cropland.

2. Providing that certificates could be carried forward and used in a subsequent crop year. This would take care of cases where a crop is short for any reason and would permit the producer to increase his planting in the subsequent year. This would help insure maintenance of his income.

3. Providing for interchange of wheat or feed grain acreage to permit planting of all wheat or all feed grains on combined base acreage as a matter of right at the option of the farmer.

4. Providing complete revision of the penalty section so that farmers would not be subject to fines and jail sentences for failing to keep proper books and records, etc.

I plan to propose additional amendments when the bill is again considered by the full committee. If unsuccessful before the committee, I will offer amendments on the House floor.

I would like particularly to have stricken from the wheat section two amendments adopted by the committee. One of these would provide a declining scale of land retirement payments of not more than 50 percent in 1963, not more than 40 percent in 1964, and not more than 30 percent in 1965 for wheat acres taken out of production. This would not provide sufficient income protection. The farmer would know what the maximum payment might be in each year but not what the minimum payment might be. Secretary could set it at any level under the ceiling.

SENATE

THURSDAY, MAY 3, 1962

The Senate met at 12 o'clock meridian, and was called to order by the Vice President.

Rev. Lockett Ford Ballard, rector, Trinity Episcopal Church, Newport, R.I., offered the following prayer:

Look, we beseech Thee, O Lord, upon the people of this land who are called after Thy holy name; and grant that they may ever walk worthy of their calling to serve Thee. Grant unto us all that, laying aside our divisions, we may be united in heart and mind to bear the burdens which are laid upon us. Help us to respond to the needs of our country according to our several powers; put far from us selfish indifference to the needs of others; and give us grace to fulfill our daily duties with constant diligence. Keep us from all uncharitableness in word or deed, and enable us by patient continuance in well-doing to glorify Thy name throughout this land and world; through Jesus Christ, our Lord. Amen.

THE JOURNAL

On request of Mr. PELL, and by unanimous consent, the reading of the Journal of the proceedings of Wednesday, May 2, 1962, was dispensed with.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, announced that the House had passed a bill (H.R. 8031) to amend the Communications Act of 1934 in order to give the Federal Communications Commission certain regulatory authority over television receiving apparatus, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 8031) to amend the Communications Act of 1934 in order to give the Federal Communications Commission certain regulatory authority over television receiving apparatus, was read twice by its title and referred to the Committee on Commerce.

LIMITATION OF DEBATE DURING MORNING HOUR

On request of Mr. PELL, and by unanimous consent, statements during the morning hour were ordered limited to 3 minutes.

ORDER FOR ADJOURNMENT UNTIL NOON TOMORROW

On request of Mr. PELL, and by unanimous consent, it was ordered that at the conclusion of its session today, the Senate adjourn until tomorrow at 12 o'clock noon.