United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 88th CONGRESS, FIRST SESSION

SENATE

THURSDAY, JANUARY 31, 1963

(Legislative day of Tuesday, January 15, 1963)

The Senate met at 12 o'clock meridian, on the expiration of the recess, and was called to order by the Vice President.

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

God of our Fathers, bewildered by the wild confusion of this clamorous world, at noontide we would wait in quietness, that the roiled waters of agitated discussion may become clear and our disturbed spirits tranquil pools of prayer and peace.

We confess that unmindful of how fallible we are, forgetting that a humble and a contrite heart is the only sacrificial offering Thou dost require, too often pride of our own attitudes and opinions blinds us to the inadequacy of our own judgments.

In our personal, inner lives make us worthy of these days of global destiny in which our common humanity faces powers of malignant evil seeking to debauch and enslave Thy sons and daughters and Thine shall be the kingdom and the power and the glory. Amen.

THE JOURNAL

On request of Mr. RUSSELL, and by unanimous consent, the reading of the Journal of the proceedings of Wednesday, January 30, 1963, was dispensed with.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session,

The VICE PRESIDENT laid before the Senate messages from the President of the United States submitting sundry nominations, and withdrawing the nominations of Frank Kowalski, of Connecticut, to be a member of the Subversive Activities Control Board for the term expiring April 9, 1967; Kenneth A. Cox, of Maryland, to be a member of the Federal Communications Commission for the unexpired term of 7 years from July 1, 1956, and Kenneth A. Cox, of Maryland, to be a member of the Federal Communications Commission for a term of 7 years from July 1, 1963; which nominating messages were referred to the appropriate committees.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, informed the Senate that, pursuant to the provisions of House Resolution 207, the Speaker had appointed Mr. THOMPSON, of New Jersey, and Mr. KYL, of Iowa, members of the Committee on the Disposition of Executive Papers, on the part of the House.

The message also informed the Senate that the House had agreed to a resolution (H. Res. 208) electing members of the following joint committees, on the part of House:

Joint Committee on Printing: Mr. BURLESON, of Texas, Mr. HAYS, of Ohio, and Mr. SCHENCK of Ohio.

Joint Committee on the Library: Mr. BURLESON, of Texas, Mr. JONES, of Missouri, Mr. THOMPSON, of New Jersey, Mr. SCHENCK, of Ohio, and Mr. CORBETT, of Pennsylvania.

TRANSACTION OF ROUTINE BUSINESS

Mr. RUSSELL. Mr. President, I ask unanimous consent that there be a morning hour for the introduction of bills and joint resolutions and for the transaction of routine business.

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

Mr. RUSSELL. Mr. President, I ask unanimous consent that statements in connection therewith be limited to 3 minutes.

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

APPOINTMENT BY THE VICE PRESIDENT

The VICE PRESIDENT. The Chair appoints the Senator from Ohio [Mr. YOUNG] to the United Nations Cultural and Scientific Technical Conference, to be held at Geneva, Switzerland, February 4 to 20, 1963.

EXECUTIVE COMMUNICATIONS, ETC.

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

REPORT ON REPROGRAMING AT ATLANTIC MISSILE RANGE, CAPE CANAVERAL, FLA.

A letter from the Administrator, National Aeronautics and Space Administration, Washington, D.C., reporting, pursuant to law, on reprograming at launch complex No. 12, Atlantic Missile Range, Cape Canaveral, Fla.; to the Committee on Aeronautical and Space Sciences.

REPORT ON REPROGRAMING OF PROJECT AT LEWIS RESEARCH CENTER, CLEVELAND, OHIO

A letter from the Administrator, National Aeronautics and Space Administration, Washington, D.C., reporting, pursuant to law, on the reprograming of the project at Lewis Research Center, Cleveland, Ohio; to the Committee on Aeronautical and Space Sciences.

FEDERAL AGRICULTURE SERVICES FOR GUAM

A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to establish Federal agricultural services to Guam, and for other purposes (with an accompanying paper); to the Committee on Agriculture and Forestry.

REPORT ON PROGRESS OF ARMY ROTC FLIGHT TRAINING PROGRAM

A letter from the Secretary of the Army, transmitting, pursuant to law, a report on the progress of the Army Reserve Officers' Training Corps flight training program, covering the period January 1, 1962, to December 31, 1962 (with an accompanying report); to the Committee on Armed Services.

REPORT ON NAVAL MILITARY CONSTRUCTION CONTRACTS AWARDED WITHOUT FORMAL ADVERTISING

A letter from the Assistant Secretary of the Navy (Installations and Logistics), transmitting, pursuant to law, a report on naval military construction contracts awarded without formal advertising, covering the period January 1, 1961, through June 30, 1962 (with an accompanying report); to the Committee on Armed Services.

REPORT ON BACKLOG OF PENDING APPLICATIONS AND HEARING CASES IN FEDERAL COMMUNICATIONS COMMISSION

A letter from the Chairman, Federal Communications Commission, Washington, D.C., transmitting, pursuant to law, a report on backlog of pending applications and hearing cases in that Commission, as of November 30, 1962 (with an accompanying report); to the Committee on Commerce.

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

A letter from the vice president, the Chesapeake & Potomac Telephone Co., Washington, D.C., transmitting, pursuant to law, a statement of receipts and expenditures of that

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

company for the year 1962 (with accompanying papers); to the Committee on the District of Columbia.

EXTENSION OF TIME FOR FILING REPORT BY D.C. TRANSIT SYSTEM, INC.

A letter from the vice president and comptroller, D.C. Transit System, Inc., Washington, D.C., requesting an extension of 60 days on the time for filing a report by that system; to the Committee on the District of Columbia.

AMENDMENT OF ARMS CONTROL AND DISARMAMENT ACT, TO INCREASE THE AUTHORIZATION FOR APPROPRIATIONS

A letter from the Director, U.S. Arms Control and Disarmament Agency, Washington, D.C., transmitting a draft of proposed legislation to amend the Arms Control and Disarmament Act in order to increase the authorizations for appropriations and to modify the personnel security procedures for contractor employees (with an accompanying paper); to the Committee on Foreign Relations.

REPORT ON REVIEW OF CERTAIN UNUSUAL ASPECTS OF RETIREMENT PROVISIONS FOR ENLISTED PERSONNEL, U.S. COAST GUARD

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the review of certain unusual aspects of retirement provisions for enlisted personnel, U.S. Coast Guard, Treasury Department, dated January 1963 (with an accompanying report); to the Committee on Government Operations.

RESERVATION OF CERTAIN PUBLIC LANDS AT CUDDEBACK LAKE AIR FORCE RANGE, CALIF., FOR DEFENSE PURPOSES

A letter from the Assistant Secretary of the Air Force, transmitting a draft of proposed legislation to provide for the withdrawal and reservation for the use of the Department of the Air Force of certain public lands of the United States at Cuddeback Lake Air Force Range, Calif., for defense purposes (with accompanying papers); to the Committee on Interior and Insular Affairs.

FINANCIAL STATEMENT OF LEGION OF VALOR

A letter from the corporation agent, Legion of Valor of the United States of America, Inc., Washington, D.C., transmitting, pursuant to law, the financial statement of that organization, covering the period August 1, 1961, to July 31, 1962 (with accompanying papers); to the Committee on the Judiciary.

AMENDMENT OF RAILROAD RETIREMENT ACT OF 1937, THE RAILROAD RETIREMENT TAX ACT, THE RAILROAD UNEMPLOYMENT INSURANCE ACT, AND THE TEMPORARY EXTENDED RAILROAD UNEMPLOYMENT INSURANCE BENEFITS ACT OF 1961

A letter from the Chairman, United States of America Railroad Retirement Board, Chicago, Ill., transmitting a draft of proposed legislation to amend the Railroad Retirement Act of 1937, the Railroad Retirement Tax Act, the Railroad Unemployment Insurance Act, and the Temporary Extended Railroad Unemployment Insurance Benefits Act of 1961 to increase the creditable and taxable compensation, and for other purposes (with an accompanying paper); to the Committee on Labor and Public Welfare.

REPORT ON POSITIONS FILLED IN CERTAIN GRADES OF CLASSIFICATION ACT OF 1949

A letter from the Chairman, U.S. Civil Service Commission, Washington, D.C., transmitting, pursuant to law, a report on positions filled under the Classification Act of 1949, in grades GS–16, GS–17, GS–18, covering the calendar year 1962 (with an accompanying report); to the Committee on Post Office and Civil Service.

PETITIONS AND MEMORIALS

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

By the VICE PRESIDENT:

A resolution of the Legislature of the State of New Mexico; to the Committee on Finance:

"HOUSE MEMORIAL 1

"Memorial to the Congress and President of the United States asking them to put the lumber industry of the United States on an equitable basis with foreign industry

"Whereas there is no shortage of timber for the production of lumber and related items in the United States; and

"Whereas there is a need to increase the cut from overmature forests to prevent excessive loss from decay, disease, and other causes; and

"Whereas U.S. lumber manufacturing firms pay the highest wages and provide working conditions equal to or better than similar firms in other countries; and

"Whereas lumber manufacturing firms in the United States are losing their home markets to foreign firms, especially Canada, due to advantages such as depreciated currency, low stumpage rates, noncompetitive bidding, less costly and restrictive forest practices, lower wage rates, high tariff rates on lumber shipped to Canada, low charter rates for coastal and intercoastal shipping, and cooperative government; and

"Whereas lumber imports from Canada are increasing yearly at an alarming rate and now constitute about one-sixth of the annual consumption of lumber in the United States; and

"Whereas unemployment in the lumber industry of the United States is increasing with resultant loss of wages to the workers, loss of taxes and income to taxing bodies and communities: Now, therefore, be it

"Resolved by the Legislature of the State of New Mexico, That the Congress and President of the United States are respectfully petitioned to give immediate attention to, and request action necessary, to place the lumber industry of the United States on an equitable and competitive basis with foreign manufacturers through the use of a quota system or other means, including the requirement that imported lumber be marked to show the country of origin, to the end that domestic manufacturers are not placed at a disadvantage with resultant loss of markets, reduction of employment, loss of taxes and deterioration of communities; and be it further

"Resolved, That copies of this memorial be transmitted to the President and Vice President of the United States, the Speaker of the House of Representatives, and to the New Mexico delegation to the Congress of the United States.

"Signed and sealed at the capitol, in the city of Santa Fe.

"BRUCE KING,
"Speaker, House of Representatives.
"ALBERT ROMERO,
"Chief Clerk, House of Representatives."

A joint resolution of the Legislature of the State of Colorado; to the Committee on Finance:

"SENATE JOINT MEMORIAL 2

"Joint memorial memorializing the Congress of the United States and the President of the United States to take action necessary to place the lumber industry of the United States on an equitable and competitive basis with foreign manufacturers

"Whereas there is no shortage of timber for the production of lumber and related items in the United States; and

"Whereas there is a need to increase the cut from overmature forests to prevent excessive loss from decay, disease, and other causes; and

"Whereas lumber manufacturing firms in the United States pay the highest wages and provide working conditions equal to or better than similar firms in other countries; and

"Whereas such lumber manufacturing firms are losing their home markets to foreign firms, especially Canada, due to advantages such as a depreciated currency, low stumpage rates, noncompetitive bidding, less costly and restrictive forest practices, lower wage rates, high tariff rates on lumber shipped to Canada, low charter rates for coastal and intercoastal shipping, and cooperative governments in such foreign countries; and

"Whereas lumber imports from Canada are increasing yearly at an alarming rate and now constitute about one-sixth of the annual consumption of lumber in the United States; and

"Whereas unemployment in the lumber industry of the United States is increasing with resultant loss of wages to the workers and loss of taxes and income to taxing bodies and communities: Now, therefore, be it

"Resolved by the Senate of the Forty-fourth General Assembly of the State of Colorado (the House of Representatives concurring herein), That the Congress and the President of the United States be hereby respectfully petitioned to give immediate attention to and request action necessary to place the lumber industry of the United States on an equitable and competitive basis with foreign manufacturers, through the use of a quota system or other means, including the requirements that imported lumber be marked to show the country of origin, to the end that domestic manufacturers are not placed at a disadvantage with resultant loss of markets, reduction of employment, loss of taxes, and deterioration of communities; and be it further

"Resolved, That a copy of this memorial be transmitted to the President of the United States, the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, and the Members of Congress from the State of Colorado.

"ROBERT L. KNOUS,
"President of the Senate.
"MILDRED H. CRESSWELL,
"Secretary of the Senate.
"JOHN D. VANDERHOOF,
"Speaker of the House of Representatives.
"DONALD H. HENDERSON,
"Chief Clerk of the House of Representatives."

By Mr. SALTONSTALL:

A resolution adopted by the City Council of the City of Fall River, Mass.; to the Committee on Post Office and Civil Service:

"Whereas there has been a move made to process some of Fall River's mail through the automatic post office in Providence; and

"Whereas such a move may endanger positions in the Fall River postal department which in turn could affect the economy of Fall River: Therefore be it

"Resolved, That this city council go on record requesting that the postal authorities reconsider said move and have Fall River's mail handled by postal officials and employees in Fall River's post offices.

"In city council, January 22, 1963, adopted.

"Attest:

"JAMES T. CAREY,
"City Clerk."

INVESTIGATION OF ADMINISTRATION, OPERATION, AND ENFORCEMENT OF INTERNAL SECURITY ACT (S. REPT. NO. 5)

Mr. EASTLAND, from the Committee on the Judiciary, submitted a report to accompany the resolution (S. Res. 62) to investigate the administration, operation, and enforcement of the Internal Security Act, reported by him on January 24, 1963, and referred to the Committee on Rules and Administration; which report was ordered to be printed and referred to the Committee on Rules and Administration.

BILLS INTRODUCED

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

By Mr. DIRKSEN (for himself and Mr. SIMPSON):

S. 603. A bill relating to the appointment of the Director and Associate Director of the Federal Bureau of Investigation; to the Committee on the Judiciary.

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

By Mr. DIRKSEN:

S. 604. A bill to require that Government agencies holding certain obligations offer such obligations for public sale to the extent practicable; to the Committee on Banking and Currency.

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

By Mr. CLARK (for himself and Mr. SCOTT):

S. 605. A bill to authorize the Secretary of the Interior to acquire the Graff House site for inclusion in Independence National Historical Park, and for other purposes; to the Committee on Interior and Insular Affairs.

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

By Mr. CLARK (for himself, Mr. CASE, Mr. JAVITS, Mr. SCOTT, and Mr. WILLIAMS of New Jersey):

S. 606. A bill to authorize establishment of the Tocks Island National Recreation Area in the States of Pennsylvania and New Jersey, and for other purposes; to the Committee on Interior and Insular Affairs.

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

By Mr. SPARKMAN:

S. 607. A bill to authorize the establishment of Federal mutual savings banks; to the Committee on Banking and Currency.

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

By Mr. SPARKMAN (for himself and Mr. HILL):

S. 608. A bill to make cotton available to domestic users at prices more competitive with prices foreign users pay for cotton, to authorize the Secretary to permit cotton growers to plant additional acreage for the 1963 and succeeding crops of upland cotton, and for other purposes; to the Committee on Agriculture and Forestry.

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

By Mr. CANNON:

S. 609. A bill to amend the Internal Revenue Code of 1954 to allow an additional exemption of $600 to a taxpayer for each dependent son or daughter under the age of 23 who is a full-time student above the secondary level at an educational institution; to the Committee on Finance.

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

By Mr. DIRKSEN (by request):

S. 610. A bill for the relief of Erman-Howell division, Luria Steel & Trading Corp.; to the Committee on the Judiciary.

By Mr. HUMPHREY:

S. 611. A bill for the relief of Michael Kalligeros; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 612. A bill to amend the Immigration and Nationality Act to provide that any territory over which the United States has jurisdiction under a treaty shall be regarded as a separate quota area; to the Committee on the Judiciary.

By Mr. KEATING:

S. 613. A bill for the relief of Benedetto Barretta; to the Committee on the Judiciary.

By Mr. ANDERSON (for himself and Mr. MECHEM):

S. 614. A bill to authorize the Secretary of the Interior to make water available for a permanent pool for recreation purposes at Cochiti Reservoir from the San Juan-Chama unit of the Colorado River storage project; to the Committee on Interior and Insular Affairs.

By Mr. JOHNSTON:

S. 615. A bill to amend the Federal Employees' Group Life Insurance Act of 1954, as amended, so as to provide for an additional unit of life insurance; to the Committee on Post Office and Civil Service.

By Mr. JOHNSTON (by request):

S. 616. A bill to amend section 131 of title 13, United States Code, so as to provide for taking of the economic censuses 1 year earlier starting in 1968;

S. 617. A bill to amend the Retired Federal Employees Health Benefits Act with respect to Government contribution for expenses incurred in the administration of such act;

S. 618. A bill to define the term "child" for lump-sum payment purposes under the Civil Service Retirement Act; and

S. 619. A bill to amend section 25 of title 13, United States Code, relating to the duties of enumerators of the Bureau of the Census, Department of Commerce; to the Committee on Post Office and Civil Service.

By Mr. FONG (for himself and Mr. INOUYE):

S. 620. A bill to amend the Civil Service Retirement Act so as to permit retirement of employees with 30 years of service on full annuities without regard to age; to the Committee on Post Office and Civil Service.

By Mr. PASTORE:

S. 621. A bill to create or charter a corporation by act of Congress; to the Committee on the Judiciary.

By Mr. BARTLETT:

S. 622. A bill to improve and encourage collective bargaining between the management of the Alaska Railroad and representatives of its employees, and to permit to the extent practicable the adoption by the Alaska Railroad of the personnel policies and practices of the railroad industry; to the Committee on Labor and Public Welfare.

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

By Mr. BARTLETT (for himself and Mr. GRUENING):

S. 623. A bill to provide for a program of agricultural land development in the State of Alaska; to the Committee on Agriculture and Forestry.

S. 624. A bill to authorize the coinage of 50-cent pieces in commemoration of the 100th anniversary of the purchase of Alaska from Russia; to the Committee on Banking and Currency.

S. 625. A bill to amend section 601 of title 38, United States Code, with respect to the definition of the term "Veterans' Administration facilities"; to the Committee on Labor and Public Welfare.

S. 626. A bill to increase the limitation on payments for construction engineering for Federal-aid primary, secondary and urban projects; to the Committee on Public Works.

(See the remarks of Mr. BARTLETT when he introduced the last two above-mentioned bills, which appear under separate headings.)

By Mr. BARTLETT (for himself, Mr. MAGNUSON, Mr. JACKSON, Mr. GRUENING, and Mr. WILLIAMS of New Jersey):

S. 627. A bill to promote State commercial fishery research and development projects, and for other purposes; to the Committee on Commerce.

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

By Mr. BIBLE (by request):

S. 628. A bill to amend the District of Columbia Redevelopment Act of 1945; to the Committee on the District of Columbia.

By Mr. MAGNUSON (by request):

S. 629. A bill to provide for the alteration, maintenance, and repair of Government buildings and property under lease or concession contracts entered into pursuant to the operation and maintenance of Government-owned airports under the jurisdiction of the Administrator of the Federal Aviation Agency, and for other purposes;

S. 630. A bill to amend the act of October 9, 1940 (54 Stat. 1030, 1039), in order to increase the periods for which agreements for the operation of certain concessions may be granted at the Washington National Airport, and for other purposes; and

S. 631. A bill to provide basic authority for the performance of certain functions and activities of the Federal Aviation Agency, and for other purposes; to the Committee on Commerce.

(See the remarks of Mr. MAGNUSON when he introduced the above bill, which appear under separate headings.)

By Mr. DOUGLAS:

S. 632. A bill for the relief of Paul James Branan;

S. 633. A bill for the relief of Michelle Su Zehr (Lim Myung Im);

S. 634. A bill for the relief of Kie-Young Shim (also known as Pete Shim); and

S. 635. A bill for the relief of Krystyna Rataj; to the Committee on the Judiciary.

By Mr. HARTKE:

S. 636. A bill for the relief of Gustava Juan Sanchez; to the Committee on the Judiciary.

By Mr. HRUSKA:

S. 637. A bill for the relief of Ljubica Dajcinovic; to the Committee on the Judiciary.

By Mr. ALLOTT (for himself and Mr. DOMINICK):

S. 638. A bill to authorize modification of the repayment contract with the Grand Valley Water Users' Association; to the Committee on Interior and Insular Affairs.

By Mr. McCARTHY:

S. 639. A bill to amend the Internal Revenue Code of 1954 to allow an additional exemption for a taxpayer, spouse, or dependent who is totally disabled;

S. 640. A bill to amend the Internal Revenue Code of 1954 to allow an additional exemption for a dependent who is blind;

S. 641. A bill to amend the Internal Revenue Code of 1954 to allow an additional exemption for a dependent who has attained age 65;

S. 642. A bill to amend the Internal Revenue Code of 1954 to increase to $2,400 the maximum deduction for the care of certain dependents, to allow such deduction to married men, and for other purposes;

S. 643. A bill to amend the Internal Revenue Code of 1954 to remove the requirement that deductible medical and dental expenses be reduced by an amount equal to 3 percent of adjusted gross income; and

S. 644. A bill to amend the Internal Revenue Code of 1954 to remove the limitation on the deductibility of amounts paid for medicine and drugs for taxpayers and their spouses who have attained age 65 and for dependent parents who have attained age 65; to the Committee on Finance.

By Mr. FULBRIGHT:

S. 645. A bill to amend section 5 of the Federal Alcohol Administration Act, as amended, to provide a definition of the term "age" as used in the labeling and advertising of whisky; to the Committee on Finance.

S. 646. A bill to prohibit the location of chanceries or other business offices of foreign governments in certain residential areas in the District of Columbia; to the Committee on the District of Columbia.

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

By Mr. FULBRIGHT (by request):

S. 647. A bill to authorize payment of a claim made by the Government of the United Kingdom of Great Britain and Northern Ireland; to the Committee on Foreign Relations.

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

By Mr. JAVITS (for himself, Mr. DIRKSEN, Mr. DOUGLAS, Mr. MORTON, Mr. COOPER, Mr. HARTKE, Mr. KUCHEL, Mr. KEATING, and Mr. BAYH):

S. 648. A bill making the birthday of Abraham Lincoln a legal holiday; to the Committee on the Judiciary.

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

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

S. 649. A bill to amend the Federal Water Pollution Control Act, as amended, to establish the Federal Water Pollution Control Administration, to increase grants for construction of municipal sewage treatment works, to provide financial assistance to municipalities and others for the separation of combined sewers, to authorize the issuance of regulations to aid in preventing, controlling, and abating pollution of interstate or navigable waters, and for other purposes; to the Committee on Public Works.

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

RESOLUTION

STUDY OF STRATEGIC AND CRITICAL STOCKPILING BY COMMITTEE ON ARMED SERVICES

Mr. SYMINGTON submitted the following resolution (S. Res. 79); which was referred to the Committee on Armed Services:

Resolved, That the Committee on Armed Services, or its Subcommittee on the National Stockpile and Naval Petroleum Reserves, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction specified by rule XXV of the Standing Rules of the Senate, to examine, investigate, and make a complete study of any and all matters pertaining to the acquisition, storage, and disposal of strategic and critical materials necessary for the common defense.

SEC. 2. For the purpose of this resolution the committee, from February 1, 1963, to May 1, 1963, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ upon a temporary basis, technical, clerical, and other assistants and consultants; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. The expenses of the committee under this resolution, which shall not exceed $6,500, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

APPOINTMENT OF DIRECTOR AND ASSOCIATE DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

Mr. DIRKSEN. Mr. President, the record of the Federal Bureau of Investigation for 1962, under the diligent and expert leadership of J. Edgar Hoover, is truly spectacular; and especially noteworthy is the fact that this effective agency of the Government is self-sustaining. Fines, savings, and recoveries exceeded the amount expended to operate the FBI during 1962.

The release issued by the FBI on December 27, 1962, is an interesting summary of some of the FBI activities during the year, and merits inclusion in the RECORD. I ask, therefore, that this summation be made a part of my remarks.

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

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
December 27, 1962.

In a year end report to Attorney General Robert F. Kennedy concerning the operations of the FBI during 1962, Director J. Edgar Hoover has disclosed that marked increases were recorded in all major categories of FBI accomplishment in the past year.

According to Mr. Hoover, final tabulations for 1962 will show:

More than 12,700 convictions in FBI cases, compared with 12,418 in 1961;

The apprehension of some 11,400 FBI fugitives, compared with 10,668 last year; and

Fines, savings, and recoveries totaling well over $200 million compared with $148,421,690 in 1961. This figure far exceeds the amount of funds spent to operate the FBI during 1962, he stated.

Among other achievements noted by the FBI Director were the location of some 19,000 stolen automobiles in investigations under the interstate transportation of stolen motor vehicles statute, and the apprehension of nearly 2,500 offenders who were being sought at the request of State and local authorities for fleeing across State lines in violation of the Fugitive Felon Act.

In citing individual crime problems confronting his Bureau, Mr. Hoover called attention to a sharp increase in violations of the Federal bank robbery and incidental crimes statute. "An average of 100 robberies, burglaries, and larcenies of banks and other financial institutions covered by this statute have been reported to the FBI each month this year," he stated. "This represents an increase of approximately 25 percent over the number committed in 1961."

The FBI Director also commented upon his Bureau's extensive activities in the field of civil rights, calling particular attention to investigations of a series of church burnings in Georgia last August and September. "Based upon indications that the purpose of these acts was to discourage Negroes from voting, the FBI instituted intensive investigation which led to the prompt solution of the September 17 burning of a church in Terrell County, Ga., and to the arrests of two persons for a church burning near Leesburg, Ga., on August 15," he stated.

Highlights of FBI accomplishments in combating organized crime and racketeering included the solution of the murder last year of Chicago union official John Kilpatrick by two Detroit hoodlums. The evidence gathered by the FBI was turned over to Illinois authorities for trial of the two men in local court. One pleaded guilty; the other stood trial and, upon conviction, was sentenced to serve up to 150 years imprisonment.

Other information gathered and disseminated by the FBI led to the smashing of an international narcotics ring during 1962 and the seizure of illicit drugs valued at well over $20 million.

"Data regarding matters such as these were among the more than 100,000 items of criminal intelligence information which we furnished to other law enforcement agencies during the past year," Mr. Hoover reported. Included were items received from FBI confidential informants which, when passed along to the authorities concerned, resulted in the arrests of more than 2,400 persons and the recovery of stolen and contraband valuables totaling nearly $32,500,000 by other agencies.

In his report to the Attorney General, Mr. Hoover emphasized the continuing threat posed by the Communist Party, USA, and other subversive organizations within the United States. "During even the most critical moments of the Cuban crisis, the party openly proved its loyalty to the International Communist cause. Its members stood unwaveringly opposed to our country's efforts to stop the Soviet Union's buildup of offensive military equipment in Cuba and to assure the removal of such weapons already there," he said.

Highlighting the FBI's accomplishments in the domestic intelligence field were the seizure of a cache of explosives equipment and the arrests of three pro-Castro Cubans on sabotage conspiracy charges last month. One of the arrested men was a newly arrived attaché of the Cuban mission to the United Nations. Two other members of the Cuban mission to the United Nations, both protected by diplomatic immunity, were also named as members of this plot.

Other domestic intelligence accomplishments during 1962 cited by the FBI Director include the arrest of Nelson C. Drummond, a Navy enlisted man, in the act of passing classified military information to the Russians; the conviction of Mark Zborowski on perjury charges arising from his denial before a Federal grand jury that he knew self-admitted Soviet Spy Jack Soble; and the dissemination of intelligence information which resulted in persona non grata declarations and related action against several official representatives of Communist-bloc nations.

Mr. Hoover also called attention to the prosecutive action instituted by the Justice Department against the Communist Party and individual party leaders. "Based upon witnesses and information located by the FBI, the Communist Party, as an organization, was convicted on December 17 and fined $120,000 for failure to register with the Attorney General under the Internal Security Act of 1950. Two of the party's top officials, Gus Hall and Benjamin J. Davis, Jr., have also been indicted and are awaiting trial for violating this Federal statute.

"In addition, Artie Brown, San Francisco area member of the International Longshore-

men's and Warehousemen's Union, was convicted under the provision of the Labor-Management Reporting and Disclosure Act which prohibits Communists or persons who have been party members within a period of 5 years from holding union office," he reported.

Expressing appreciation for the assistance which the FBI receives from other law enforcement agencies, Mr. Hoover said that 1962 witnessed a further strengthening of the bonds of mutual cooperation throughout the entire law enforcement profession. "Our Bureau has come to rely heavily upon the help which it receives from other authorities. We deem it a privilege to reciprocate whenever possible," he stated.

Among the cooperative services which the FBI renders other agencies are cost-free examinations of evidence, comparisons and identifications of fingerprints, and assistance in police training schools.

During 1962, the FBI Laboratory conducted nearly 236,000 scientific examinations of evidence at the request of authorities in all 50 States. As in the past, many of these examinations assisted local police in identifying wrongdoers. Others helped to establish the innocence of falsely accused persons.

The Identification Division, which serves as the national repository for fingerprint identifying data, received an average of more than 23,000 fingerprint cards for processing every working day throughout this 12-month period. As the year ended, its files contained nearly 165,600,000 sets of fingerprints representing an estimated 77 million persons.

During 1962, the FBI Disaster Squad, a group of fingerprint experts who are available to assist in identifying bodies of disaster victims, was dispatched to the scenes of several major tragedies, including air crashes in Montana, New York, Missouri, Ohio, and Maryland, as well as in France.

The FBI also assisted, upon request, in more than 3,600 local and regional police schools. Additionally, two sessions of the FBI National Academy were held. Including the 165 men who attended these two sessions, 4,258 officers have completed the National Academy's 12-week course of advanced training since its founding in 1935.

Mr. DIRKSEN. Mr. President, in that connection, let me point out that in the last Congress I introduced a bill requiring Senate confirmation of the appointee as Director of the FBI, after the present incumbent ceases to serve. Mr. President, I introduce for myself and the Senator from Wyoming [Mr. SIMPSON] a bill relating to the appointment of the Director and Associate Director of the Federal Bureau of Investigation; and I ask unanimous consent to have printed in the RECORD an editorial under the caption "Who Will Fill Hoover's Shoes?" which was published in the St. Louis Globe-Democrat. I ask unanimous consent that the bill be printed in the RECORD in connection with my remarks, and also referred to the appropriate committee, and that the statement I made last year in that connection also be printed in the RECORD.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the bill, editorial, and statement will be printed in the RECORD.

The bill (S. 603) relating to the appointment of the Director and Associate Director of the Federal Bureau of Investigation, introduced by Mr. DIRKSEN, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) effective as of the day following the date on which the present incumbent in the office of Director ceases to serve as such, the Director of the Federal Bureau of Investigation shall (1) be appointed by the President, by and with the advice and consent of the Senate, for a term of fifteen years, (2) shall receive compensation at the rate of $22,000 per annum, and (3) shall not be eligible for reappointment to that office.

(b) Effective as of the day following the date on which the present incumbent in the office of Associate Director ceases to serve as such, the Associate Director of the Federal Bureau of Investigation shall (1) be appointed by the President, by and with the advice and consent of the Senate, for a term of fifteen years, and (2) shall not be eligible for reappointment to that office.

The editorial and statement presented by the Senator from Illinois [Mr. DIRKSEN] are as follows:

[From the St. Louis Globe-Democrat, July 16, 1962]

WHO WILL FILL HOOVER'S SHOES?

J. Edgar Hoover, Director of the Federal Bureau of Investigation for the last 38 years, is 67 years old. He is only 3 years away from the age of compulsory retirement—unless the President gives him a waiver. The Globe-Democrat strongly believes it is in the national interest to keep Mr. Hoover in his job regardless of age, just as long as he is physically and mentally fit to hold it down.

The FBI Director is an institution in Washington. His flawless handling of one of the most sensitive positions in the Government—and his national reputation—have enabled him to stay on despite changes in administration.

This is fortunate for the country. The FBI is the Nation's first line of defense against Communist infiltration and espionage. This agency has been an effective guardian of the national security without engaging in witch hunts. But it has been effective for two reasons.

One, it has been kept above politics.

Two, its able Director, is also a vigilant anti-Communist, who knows that the members of the party, both foreign and domestic, are dedicated enemies of our way of life.

At times, in the past, Mr. Hoover seemed to be the only key Government official in Washington who had the Communist Party's number. Today, there are many who would prefer to class it as merely another political party, like the Republicans or Democrats, and entitled to the same rights and privileges.

Of course, one of these privileges would be freedom from FBI surveillance.

At some time, this important post of FBI Director will have to be filled by another man. Mr. Hoover is indispensable, but not immortal.

The Nation must insure, as well as it can, that this position of trust is not handed out to a party wheelhorse or to a weak, pliant, or untrustworthy man who would relax the FBI's vigilance.

This week, Congress woke up to the fact there is presently no protection against either of these dangers. The head of the FBI is merely another civil servant whom the Attorney General can choose at will—like a stenographer.

This is true even though the Director heads an agency which has 13,776 employees and a budget of $127,016,000 a year.

Senator EVERETT DIRKSEN, Illinois Republican, has introduced a bill which would provide some insurance that a worthy successor will fill Mr. Hoover's shoes, when he leaves. His bill would require that the Director of the FBI be appointed by the President, for a 15-year term, subject to the approval of the U.S. Senate.

Presidential appointment and Senate approval is required for other major executive appointments. The Director of the FBI, who is vested with vast power as head of the Nation's chief investigative agency, certainly falls in that class.

STATEMENT BY MR. DIRKSEN ON JULY 10, 1962

Mr. DIRKSEN. Mr. President, in my work on the Senate Judiciary Committee I discovered that, strangely enough, the Director of the Federal Bureau of Investigation is not legally required to be appointed by the President, nor is confirmation by the Senate required.

The FBI actually began as an agency of Government on July 26, 1908, under President Theodore Roosevelt, and was created because no investigative arm existed in the Department of Justice. Action to ~~create~~ the agency was taken by the then Attorney General, Charles J. Bonaparte, who issued an order creating an investigative agency within the Department. On March 4, 1909, Attorney General Wickersham gave this agency a secure place and the dignity of the title. It was called the Bureau of Investigation. From then on until 1924 it had a number of directors, including Stanley W. Finch, A. Bruce Bielaski, William J. Flynn, and later William J. Burns, the well-known international detective.

The appointment of Mr. Burns became effective on August 18, 1921, under President Harding. A shakeup occurred in the Department of Justice, whereby J. Edgar Hoover, then 26 years of age, found himself transferred from his position as Special Assistant to the Attorney General to the position of Assistant Director of the FBI. He was placed on the Federal payroll at an annual salary of $4,000.

On March 28, 1924, President Coolidge demanded and received the resignation of Attorney General Daugherty, and in his place appointed Harlan Fiske Stone. About 6 weeks later Mr. Burns resigned as Director of the FBI; and on the day after his resignation, the Attorney General named J. Edgar Hoover, then age 29, as Acting Director, on the recommendation of Herbert Hoover, who then was Secretary of Commerce.

J. Edgar Hoover advised the Attorney General that he would take the position "on condition that the Bureau must be divorced from politics and not be a catchall for political hacks—appointments must be made on merit; promotions would be made on proved ability, and the Bureau would be responsible only to the Attorney General." To this the Attorney General replied by saying "I wouldn't give it to you under any other condition."

It was under the guidance of Attorney General Stone that J. Edgar Hoover took command of the FBI, first as Acting Director, and 7 months later as Director. He became Director on December 10, 1924, and has remained so to the present day. This means that on December 10, 1962, J. Edgar Hoover will have served continuously as Director of the FBI for a period of 38 years.

The growth of the FBI has been phenomenal and necessary, in order to meet the problems which come within its constantly expanding jurisdiction. The latest figures indicate that the appropriation estimate for the FBI for the fiscal year 1962 was $127,216,000, and that it had on the rolls, as of June 30, 1962, a total of 13,776 employees.

The Director of the FBI serves under the Attorney General, is not a presidential appointee, and does not require Senate confirmation. Legislative action with respect to the Bureau was limited mainly to appropriations, salary, and retirement and pension

changes, and so forth. It occurs to me that the importance of the agency, its growth, and its value to the law-enforcing agencies at all levels of Government would make it eminently desirable that the Director of the FBI be appointed by the President of the United States and that his appointment be confirmed by the Senate. For this reason, I introduce a bill which, in effect, states that as of the day following the date on which the present incumbent of the office of Director of the FBI ceases to serve as such, his successor shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 15 years; that he shall not be eligible for reappointment; and that he shall be compensated at the rate of $22,000 a year. The same would apply to the Associate Director, except that his compensation would not be fixed by statute.

THE DEFICIT BUDGET

Mr. DIRKSEN. Mr. President, when I first saw the budget which this administration sent to the Congress a few days ago, I was reminded of some words of one of our great American Presidents who came from what we shall now have to call the Old Frontier at a time when the traditions and ideals of this Nation were still being formed. He came from a people whose hard work and sacrifice—yes, I use the word "sacrifice" because it is not a new idea in this country—have given us the plenty which we have today. It was 100 years ago, in 1863, that Abraham Lincoln said the question was whether this Nation or any nation so conceived and so dedicated could long endure.

Those words have been coming back to me with ever-increasing frequency in the past few days because the budget presented by this administration is really a test of whether this Nation or any nation with such a budget can long endure. With a budget of almost $100 billion and an estimated deficit of over $11 billion, it means that $1 out of every $9 in the budget is a debt dollar. How many of us, or, indeed, how many nations, could long endure if $1 out of every $9 which we spent was a debt dollar? And this great deficit is in the face of the reassurances given to us by this administration and by the President in his state of the Union message that "at home the recession is behind us" and "now, when the inflationary pressures of the war and postwar years no longer threaten—now, when no military crisis strains our resources."

How can a nation which has its recession behind it, at a time when no military crisis drains its resources, long endure if it plunges headlong into such a vast deficit budget?

I have already commented that I do not see how it is wise or sound at this time to cut the budget income unless budget expenses are also substantially reduced. This country has grown great and strong because people have saved out of their incomes and invested those savings productively so that the total wealth of the country has been increased. When the expenses of our forefathers exceeded their income and savings they turned to the pictures on the wall before going into debt.

Perhaps I am still too close to that homespun economic view. But I find it difficult to envision the need, at a time when we are not faced with crisis as the President said in the state of the Union message, to plunge headlong into deficit spending without first taking a look at the pictures we have on the wall to see whether they might not be used instead of adding a further mortgage on our future and on our children's future. As I thought about the possibility, I was reminded of a bill which I introduced in the Congress 22 years ago this month. It was given the number H.R. 2080 and it was referred to the Committee on Banking and Currency. In essence the bill provided that the Government should liquidate the portfolio of the Home Owners Loan Corporation as rapidly as possible consistent with affording full protection to the borrowers on their loans, by selling those loans to banks and other buyers and putting the cash from the sale in the public till.

In those days we did not have as many pictures on the wall as we do today. Now the safety deposit boxes of the Government are crammed full of obligations of every type on which the Government has loaned money. With all of those Government assets in the box, on the wall, or tucked under the mattress—I do not care what figure of speech is used—I propose that we go about an orderly program of selling some of them instead of incurring still more Government debt. To that end I have prepared, and I now introduce for appropriate reference, a bill to require the Government agencies holding obligations to offer those obligations for public sale to the extent practicable. I include within the meaning of the term "obligation" all those various types of notes and bonds on which this Government has loaned money. In order to provide the necessary coordination between the various agencies of the Government in such sales I have provided that the sale shall be consistent with the recommendations of a committee, appointed by the President, having the Secretary of the Treasury as its Chairman.

I hope that this bill will receive the earnest consideration of the administration and the Congress as a means by which we may reduce the Government need to plunge further into debt. In this connection I note that in his Economic Report, transmitted to the Congress this week, the President made reference to the work of an interagency committee which he had appointed to review the appropriate role of Federal lending and credit guarantee programs, and I hope it was that work which led to the statement of the President in his budget message that there would, or should be a decrease in the budget expenditures "for certain housing, international, and other lending programs, through substitution of private for public credit." If this is a step, it is a step in the right direction.

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

The bill (S. 604) to require that Government agencies holding certain obligations offer such obligations for public sale to the extent practicable, introduced by Mr. DIRKSEN, was received, read twice by its title, and referred to the Committee on Banking and Currency.

PROPOSED ADDITION OF SITE OF GRAFF HOUSE TO INDEPENDENCE NATIONAL HISTORICAL PARK

Mr. CLARK. Mr. President, on behalf of my colleague from Pennsylvania [Mr. SCOTT] and myself, I introduce, for appropriate reference, a bill which would authorize the Secretary of the Interior to acquire the site of the Jacob Graff House in Philadelphia for inclusion in Independence National Historical Park.

Thomas Jefferson wrote the original draft of the Declaration of Independence in June 1776, while renting—at 35 shillings a week—two furnished rooms on the second floor of the Graff House. The site is now occupied by a hotdog stand.

Remnants of the original building and its contents, including a letter by Jefferson himself, are still in existence. A committee of public-spirited Philadelphians has been formed which will raise the funds to rebuild the house. They propose to dedicate it as a Library of Documents of Freedom.

The Declaration of Independence has lost none of its pertinence to the problems of today, when all over the world men are seeking to throw off the yoke of tyranny.

I hope the Congress will move quickly to consider and approve this bill to acquire the site of the Jacob Graff House, as unique to our history as Independence Hall itself.

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

The bill (S. 605) to authorize the Secretary of the Interior to acquire the Graff House site for inclusion in Independence National Historical Park, and for other purposes, introduced by Mr. CLARK (for himself and Mr. SCOTT), was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

PROPOSED ESTABLISHMENT OF THE TOCKS ISLAND NATIONAL RECREATION AREA, PA. AND N.J.

Mr. CLARK. Mr. President, I introduce, for appropriate reference, a bill authorizing the establishment of the Tocks Island National Recreation Area in the States of Pennsylvania and New Jersey.

Sponsors of the bill include my colleagues, the junior Senator from Pennsylvania [Mr. SCOTT], both Senators from the State of New Jersey [Mr. CASE and Mr. WILLIAMS], and the senior Senator from New York [Mr. JAVITS].

This bill gives us a superlative opportunity to provide Federal recreation facilities in the heart of the most densely populated region of the United States.

It is unfortunate that, for historical and economic reasons, most Federal recreation lands are located where there are few families who can enjoy them frequently, while in metropolitan areas of the country, particularly in the East, millions go begging for the opportunity to enjoy diversified recreation close to home.

Approximately 15 percent of the American population resides in the Far West, for example, yet 72 percent of the Nation's recreational lands are in that re-

gion. In the Northeast, where more than a fourth of all Americans live, only four percent of the country's recreational facilities are available.

Fortunately, the States have tried to meet this shortage but there are no federally sponsored recreational facilities of major dimensions.

This bill attempts to partially redress this imbalance.

The recreational area would be built around a great reservoir—32 miles in length—to be built on the upper Delaware River between New Jersey and Pennsylvania. It will be only 75 miles from downtown Manhattan and 95 miles by express highway from Philadelphia. Nearly 22 million people will be within easy reach of its amenities.

Located on the eastern edge of the Pocono Mountains of Pennsylvania and just to the southwest of New York's Catskills the new national recreation area will be an invaluable addition to the resort economy of both these important vacation regions.

The National Recreation Area has been recognized as an important element in the recreational and open-space plans of metropolitan New York and New Jersey and is one of three Federal areas proposed by the Commonwealth of Pennsylvania under its recreational development program called Project 70.

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

The bill (S. 606) to authorize establishment of the Tocks Island National Recreation Area in the States of Pennsylvania and New Jersey, and for other purposes, introduced by Mr. CLARK (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

ESTABLISHMENT OF FEDERAL MUTUAL SAVINGS BANKS

Mr. SPARKMAN. Mr. President, I introduce, for appropriate reference, a bill to authorize the establishment of Federal mutual savings banks. In each of the years from 1960 on I have introduced similar legislation, cosponsored by the former senior Senator from Connecticut, the Honorable Prescott Bush.

When enacted into law, this legislation will make possible the expansion of the mutual savings bank system into areas in which they are not now located.

More and more mutual savings banks are becoming an important source of finance for the construction and sale of homes. Recent statistics indicate that almost 70 percent of the assets of this $45-billion industry is invested in real estate mortgages. Mutual savings banks presently are heavily concentrated in the New England and New York region—areas that can boast the lowest interest rates charged for mortgage money. Naturally, mutual savings banks hold heavy investments in mortgages on real property located in mutual savings bank States. However, mutual savings banking's interest in home financing is emphasized by its investment of $8 billion in mortgages secured by land in States having no mutual savings banks, particularly in the South and the West. Since studies show that the per capita rate of savings is higher in areas having mutual savings banks and since it is economically preferable to invest funds first nearest the location of the thrift institution, it may reasonably be anticipated that the supply of funds available for investment in local mortgages should rise in areas where mutual savings banks spring up. Investment in farm loans constitutes one phase of mutual savings bank operations. Many such institutions have also played a part in making financing available to small business enterprises, sometimes through the medium of personal loans to small business proprietors, at other times by purchase of securities issued by small business corporations. Continued operations in these fields locally may be expected whenever Federal mutual savings banks are established in new areas.

At present mutual savings banks can exist and carry out operations such as those described above only under State charters. They should be granted the privilege of applying for Federal charters, if they choose to do so.

Mutual savings banking enjoyed an enviable reputation for safety long before any system existed for insuring savings through an agency of the Federal Government. This record plus the adequate return paid on savings plus the services rendered by mutual savings banks has resulted in a formula designed to encourage thrift by persons in almost every economic stratum.

At present, mutual savings banks have investment powers broader than those of savings and loan associations. If the demand for funds for home financing slacks off, mutual savings banks are authorized to look elsewhere for investments that will yield adequate return to encourage continued saving on the part of depositors. Then whenever the demand for home finance funds increases, these alternative investments can be liquidated, thus providing an immediate source of funds to satisfy the home mortgage market demands, without depending upon either an inflow of savings at an increased rate or external sources of borrowing. This arrangement has the inherent advantage of encouraging the thrift habit day in and day out, whether the cycle of home mortgage fund demand is at a high point or a low point at the given moment.

Support for this type of legislation has grown over the years. Federal agencies such as the Housing and Home Finance Agency and the Veterans' Administration have favored it. The Federal Reserve Board considers it worthy of careful consideration. The commission on money and credit, composed of financial experts, recommends the idea of Federal charters for mutual savings banks. Reportedly the Committee on Financial Institutions, appointed by the President, looked favorably on the idea during its recent deliberations. A private study by the University of Chicago experts has seen advantages in authorizing the establishment of mutual savings banks in Illinois.

Savings and loan industry leaders have contributed valuable ideas that have been incorporated in the present bill being introduced today. Their interest in the subject matter is natural, because the bill provides procedures whereby mutual savings and loan associations may convert to Federal mutual savings banks and vice versa.

Like many other pieces of legislation, it is entirely possible that the Congress will decide to change some of the provisions of this bill as it wends its way through the legislative process, but the bill in its present form, in my opinion, constitutes a well-developed base from which to pursue the Federal charter idea for this particular type of financial institution. I hasten to add that the bill contains provisions designed to prevent any new Federal mutual savings bank or branch from unduly injuring any existing financial institution that accepts savings on deposit or share account. The bill also safeguards deposits in Federal mutual savings banks by giving the Federal Home Loan Bank Board certain controls to assure the good character of management and by requiring that all deposits be insured by an agency of the U.S. Government.

I trust that my colleagues will give careful attention to this legislative proposal. It is well worthy of consideration as a practical means of adding mutual savings banking to the dual system of financial institutions found among commercial banks, savings and loan associations, and credit unions.

I ask unanimous consent that there may be printed in the RECORD at this point a summary of the bill and the text of the bill.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the bill and summary will be printed in the RECORD.

The bill (S. 607) to authorize the establishment of Federal mutual savings banks, introduced by Mr. SPARKMAN, was received, read twice by its title, referred to the Committee on Banking and Currency, and ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles and sections according to the following table of contents, may be cited as the "Federal Mutual Savings Bank Act."

Table of contents

Declaration of policy

SEC. 2. (a) The Congress declares that, to carry out more effectively the responsibility for promoting maximum employment, production, and purchasing power in the national economy, it must facilitate and encourage an increased flow of real savings to finance new housing and other capital formation on a sustainable noninflationary basis. The Congress further declares that the increased savings necessary to the security and welfare of the individual as well as to the Nation should be provided within the private institutional framework of our competitive economy and within the dual banking system. These objectives will be advanced by authorizing the establishment of privately managed, federally supervised mutual savings banks. Consistent with these objectives, the Congress recognizes the continuing need for maintaining and strengthening the vitality of our State-chartered banking system under the supervision of the various State banking departments. Federal mutual savings banks, together with State-chartered mutual savings banks, will bring to individuals in all States the opportunity of having mutual banks of deposit available to them which are dedicated to encouraging the practice of thrift, thereby increasing the total flow of voluntary savings in the economy. The record of mutual savings banks over nearly a century and a half of providing safety, ready availability of deposits and reasonable returns on these deposits, indicates that new Federal mutual savings banks will stimuate additional savings in the areas in which they are located. The record further indicates that these institutions will devote the bulk of their accumulated savings to the sound, economical financing of housing and homeownership. Moreover, additional funds will become available to support local business enterprise, urban redevelopment, and governmental capital outlays. The welfare of the public will be enhanced not only because economic growth will be fostered by capital formation but also because the earnings of Federal mutual savings banks, after expenses (including taxes) and provision for necessary reserves for safety of deposits, will be distributed entirely to depositors.

The Congress further declares that efficiency requires that Federal mutual savings banks and Federal savings and loan associations be chartered and supervised by a single agency of the Government and that savings accounts in both types of institution be insured by a single Federal agency. At present, savings accounts in qualified savings and loan associations may be insured by the Federal Savings and Loan Insurance Corporation. Savings accounts in qualified mutual savings banks may be insured by the Federal Deposit Insurance Corporation, which may also insure deposits in commercial banks. This Act is intended to provide for a new Federal agency to be designated as the Federal Savings Insurance Corporation for insuring savings in mutual savings banks and savings and loan associations. Federal mutual savings banks will be required to have deposits insured by the Federal Savings Insurance Corporation. State-chartered mutual savings banks will be given the option to apply for deposit insurance either by the Federal Savings Insurance Corporation or the Federal Deposit Insurance Corporation.

(b) The establishment of Federal mutual savings banks authorized herein will assist the Government in carrying out its constitutional duty to regulate the value of money.

(c) This Act is intended to provide the Secretary of the Treasury with an additional depositary of public money as provided in title I hereof.

TITLE I

SEC. 101. As used in title I of this Act—

(a) The term "Board" means the Federal Home Loan Bank Board;

(b) The term "conventional loan" means a loan secured by a first mortgage or deed of trust on real property or a leasehold estate other than a loan the principal of which is wholly or partially guaranteed or insured by a Federal agency;

(c) The term "doing business" shall not be considered to include any one or more of the following activities when engaged in by a savings bank nor shall this Act be construed so as to make any act or series of acts by a foreign corporation which is a savings bank constitute the doing of business in a particular State which would not have constituted the doing of business prior to the enactment of this Act:

(1) The acquisition of loans (including the negotiation thereof) secured by mortgages or deeds of trust on real property situated in a nondomiciliary State pursuant to commitment agreements or arrangements made prior to or following the origination or creation of such loans;

(2) The physical inspection and appraisal of property in a nondomiciliary State as security for mortgages or deeds of trust;

(3) The ownership, modification, renewal, extension, transfer or foreclosure of such loans, or the acceptance of substitute or additional obligors thereon;

(4) The making, collecting, and servicing of such loans through a concern engaged in a nondomiciliary State in the business of servicing real estate loans for investors;

(5) Maintaining or defending any action or suit or any administrative or arbitration proceeding arising as a result of such loans;

(6) The acquisition of title to property which is the security for such a loan in the event of default on such loan;

(7) Pending liquidation of its investment therein within a reasonable time, operating, maintaining, renting, or otherwise dealing with, selling, or disposing of, real property acquired under foreclosure sale, or by agreement in lieu thereof;

(d) The term "financial institution" means a thrift institution, a commercial bank, a trust company, or an insurance company;

(e) The terms "first mortgage" and "first deed of trust" and "first lien" each shall include any documents and any situation where the holder has the right to subject any property to the discharge of any obligation as a first claim against it, excluding claims arising out of mechanics' liens, assessments for public improvements, tax deficiencies, equitable receiverships, or bankruptcy subsequent to the execution of the secured obligation for which a priority may be provided under State or Federal law, and excluding claims arising out of assessments for public improvements levied prior to the execution of the secured obligation for which a priority may be provided under State law;

(f) The term "savings bank" means a Federal mutual savings bank chartered under this Act;

(g) The term "State" includes each State in the United States and the Commonwealth of Puerto Rico, the Virgin Islands, Guam, Samoa, and the District of Columbia;

(h) The terms "State of domicile" and "domiciliary State" mean the State in which a savings bank's principal office is located; and

(i) The term "thrift institution" means a State-chartered mutual savings bank, a guaranty savings bank, a State-chartered cooperative bank, a State-chartered homestead association, a State-chartered savings and loan association, a State-chartered building and loan association, a Federal savings and loan association, or a savings bank.

Chartering of savings banks

SEC. 102. (a) A savings bank may be organized either with or without members in the discretion of the original organizers. Upon written application by five signatories from among not less than twenty-one individuals acting in the capacity of members (who may also be entitled "corporators" or "trustees") consenting to be named in the application (or five qualified directors in the event the proposed savings bank is intended to operate without members), the Board shall issue a charter for a savings bank when the Board finds that a savings bank will serve a useful purpose in the community in which it is proposed to be established, that there is reasonable expectation of its financial success and that its operation will not unduly injure existing institutions, including commercial banks, that accept funds from savers on deposit or share accounts.

(b) Any savings bank shall include the words "Federal", "Savings", and "Bank" in its title.

(c) Any savings bank, upon being chartered or formed by conversion shall become a member of the Federal home loan bank of the district in which it is located or, if convenience shall require and the Board approves, shall become a member of the Federal home loan bank of an adjoining district. Savings banks shall qualify for such membership in the manner provided in the Federal Home Loan Bank Act with respect to other members.

(d) Each savings bank, whether a new savings bank or one formed by conversion, shall be insured by the Federal Savings Insurance Corporation and shall qualify and pay premiums as do other insured institutions.

Members

SEC. 103. (a) Each member of a savings bank having members shall be an individual of financial responsibility and good character and shall never have been adjudged a bankrupt, and shall, within such time after his election, and in such form as the Board shall prescribe, file proof of his compliance with these requirements with the Board. Without in any way limiting, by the enactment of this subsection, the general regulatory power granted the Board by this or any other Act, the Board is hereby expressly authorized to prescribe standards of conduct for members, except that any such standards shall be no more (and may be less) restrictive than those set forth for directors in section 104(d).

(b) No person shall be a member of a savings bank who is not a resident of the State in which the principal office of the savings bank is located, except that one less than one-half of all members may be residents of other States.

(c) At their organizational meeting, the members shall adopt by a majority of a quorum rules governing the conduct of their business and may amend them from time to time. Such rules shall set forth the number of members and shall prescribe that any number not less than one-quarter of those at the time in office shall constitute a quorum for the purpose of doing business. At such organization meeting, or any adjournment thereof, the members shall divide the total number of members into three classes of equal size, one class to serve for a term of four years, one class to serve for a term of seven years, and one class to serve for a term of ten years, so that at each election of members following the first meeting an equal number of members shall be elected. The requirements of this section shall be satisfied if the number of members in any class does not exceed by more than one the number of

members in any other class. Thereafter, each member shall be elected for a term of ten years, and until his successor is elected and shall have qualified. Successor and additional members shall be elected, subject to the requirements of this section, by a majority vote of the members, including those whose terms are expiring, present at a duly constituted meeting. Any member may be removed from office upon the affirmative vote of two-thirds of the whole number of members.

Directors

SEC. 104. (a) In the case of a savings bank having members, the board of directors of a savings bank shall be elected by and from the members and shall consist of not less than seven nor more than twenty-five. No person shall be a director of a savings bank who is not a resident of the State in which the principal office of the savings bank is located, except that one less than one-half of the whole board of directors may be residents of other States. The members shall, by majority vote of a quorum at their organization meeting, elect a board of directors in three classes in the following manner: one-third for a term of one year; one-third for a term of two years; and one-third for a term of three years. Thereafter directors shall be elected to serve for a term of three years. The requirements of this section shall be satisfied if the number of directors in any one class does not exceed by more than one the number of directors in any other class. The office of any director shall become vacant if he shall cease for any reason to hold office as a member.

(b) In the case of a savings bank intended to operate without members, an initial board of directors shall be formed by the applicants for a charter to consist of not less than seven nor more than twenty-five persons who meet the qualifications prescribed for directors in subsection (a) of this section and those prescribed for members in the first sentence of section 103(a) of this Act. In such a case, the applicants for a charter shall exercise the powers conferred upon the members in subsection (a) of this section.

(c) The management and control of the affairs of a savings bank shall be vested in the directors. The directors may by a majority of a quorum adopt, amend, and repeal bylaws governing the affairs of the savings bank.

(d) The following restrictions governing the conduct of savings bank directors are expressly specified, but such specification is not to be construed as in any way excusing savings bank directors from the observance of any other aspect of the general fiduciary duty owed by them to the savings bank and savings bank depositors which they serve. Such fiduciary duty may be hereafter stated, clarified, modified, expanded, restricted or restated by applicable judicial decision or statute, or by regulation promulgated pursuant to section 115 of this Act:

(1) No person acting as a director of a savings bank shall hold office as member, director, or officer of another thrift institution.

(2) The office of a director shall become vacant whenever he shall have failed to attend regular meetings of the directors for a period of six months, unless excused during such period by a resolution duly adopted by the directors.

(3) No director shall receive remuneration as director except reasonable fees for attendance at meetings of directors or for service as a member of a committee of directors, except that nothing herein contained shall be deemed to prohibit or in any way limit any right of a director who is also an officer of or attorney for the savings bank from receiving compensation for service as an officer or attorney.

(4) No director shall borrow, directly or indirectly, funds other than pursuant to section 109(12)(B) or in any manner voluntarily become an obligor for funds borrowed from the savings bank of which he is a director.

(5) No director, savings bank, or officer thereof shall require, as a condition to the granting of any loan or the extension of any other service by the savings bank, that the borrower or any other person undertake a contract of insurance or any other agreement, or understanding with respect to the furnishing of any other goods or services, with any specific company, agency, or individual.

(e) No savings bank shall deposit any of its funds except with a depositary approved by a vote of a majority of all directors of the savings bank, exclusive of any director who is an officer, partner, director, or trustee of the depositary so designated.

Commencement of operation

SEC. 105. (a) No savings bank may commence operations except upon approval by the Board, which shall not be granted prior to qualification by such savings bank as an insured bank in the Federal Savings Insurance Corporation. Any savings bank may so qualify in the same general manner as is provided for other members of said Corporation. No savings bank shall continue operations if it shall at any time cease to be so qualified.

(b) No savings bank may commence operations until there shall have been advanced in cash to the credit of such savings bank, as an expense fund, such sums as the Board may require. Any such sums so advanced shall be evidenced by transferable deferred payment certificates. Outstanding certificates may have such terms and be repaid pro rata in such installments, and shall be entitled to receive interest at such rate, as may be approved by the Board.

Reserve fund

SEC. 106. (a) Prior to authorizing the issuance of a charter for a savings bank, the Board shall require that there be advanced in cash to the credit of such savings bank not less than $50,000, which shall constitute the initial reserve fund. All sums so advanced as the initial reserve fund shall be evidenced by transferable deferred payment certificates. Outstanding certificates may have such terms and may be repaid pro rata in such installments, and shall be entitled to receive interest at such rate, as may be approved by the Board.

(b) The reserve fund of an operating savings bank shall be available only for the purpose of meeting losses.

(c) The savings bank may retain additional reasonable amounts which may be used for any corporate purpose.

Borrowing

SEC. 107. A savings bank may borrow funds subject to such regulations as the Board may prescribe.

Deposits

SEC. 108. (a) A savings bank may accept any savings deposit and may issue a passbook or other evidence of its obligation to repay any such savings deposit.

(b) A savings bank may classify its depositors according to the character, amount, duration, or regularity of their dealings with the savings bank, may agree with its depositors in advance to pay an additional rate of interest on deposits based on such classification, and may regulate such interest in such manner that each depositor shall receive the same ratable portion of interest as all others of his class.

(c) Each savings bank may—

(1) decline any sums offered for deposit; and

(2) repay any deposit at any time.

(d) Except as otherwise provided in this Act, a savings bank may pay interest on deposits from net earnings and undivided profits at such rate and at such intervals as shall be approved by its directors.

(e) A savings bank may at any time by resolution of its directors require that up to ninety days' advance notice be given to it by each depositor before the withdrawal of any deposit or portion thereof; and whenever the directors shall adopt such resolution, no deposit need be paid until the expiration of the notice period applicable thereto in accordance with such resolution. A savings bank shall notify the Board in writing on the day of adoption of such resolution by the directors. Notwithstanding adoption of such resolution by the directors, a savings bank may, in its discretion, permit withdrawal on a uniform basis of all or any part of all deposits prior to the expiration of the notice period prescribed by such resolution. Any such resolution may be rescinded at any time.

(f) Without regard to any provision of subsection (e) of this section, the Board may further limit and regulate withdrawals of deposits from any savings bank if the Board shall find that such limitation and regulation are necessary because of the existence of unusual and extraordinary circumstances. The Board shall enter such findings on its records.

(g) In order to prevent the closing of a savings bank determined by the Federal Savings Insurance Corporation to be in danger of closing, or in order to reopen a closed savings bank, the Federal Savings Insurance Corporation may take such action as may be necessary to put such savings bank in a sound and solvent condition.

Investments

SEC. 109. A savings bank may invest in the following:

(1) Obligations of the United States and those for which the faith of the United States is pledged to provide for the payment of the interest and principal and obligations of any agency of the United States;

(2) Obligations of any State and those for which the faith of any State is pledged to provide for the payment of the interest and principal;

(3) Obligations not specified in (1) or (2) above and which are issued by a city, village, town, or county in the United States or by a department, agency, district, authority, commission, or other public body of the United States, or of any one or more States, but in so doing the savings bank shall exercise the same degree of care and prudence that prudent persons generally exercise in their own affairs;

(4) Obligations of the Dominion of Canada or Provinces of the Dominion of Canada, or obligations for which the faith of the Dominion of Canada or any of such Provinces is pledged to provide for the repayment of the interest and the principal thereon, provided that the principal and interest of such obligations are payable in United States funds;

(5) Obligations issued or guaranteed by the International Bank for Reconstruction and Development;

(6) Obligations issued or guaranteed by the Inter-American Development Bank;

(7) Bonds, notes, or other evidences of indebtedness which are secured by properly registered or recorded first mortgages or deeds of trust upon real property, including leasehold estates, if the security for the loan is a first lien upon the real property or leasehold estate, and subject to the following conditions:

(A) No investment in mortgages executed by any one mortgagor shall in the aggregate exceed 2 per centum of the assets of the savings bank at the time the investment is made or $25,000, whichever is greater: *Provided,* That the Board shall have power to authorize greater amounts to be so invested;

(B) No investment in any one mortgage shall exceed 2 per centum of the assets of

the savings bank at the time the investment is made or $25,000, whichever is greater, or more than 90 per centum of the appraised value of a one- to four-family residence securing a conventional loan or more than 75 per centum of the appraised value of any other real property securing a conventional loan: *Provided,* That the Board shall have power to authorize greater amounts to be so invested;

(C) No investment shall be made in a conventional loan secured by a mortgage on a one- to four-family residence unless the mortgaged property is located either within the State in which the savings bank has its principal office or within a radius of one hundred miles of any office of the savings bank and unless the mortgage has a maturity of not longer than thirty years from the date the loan is made: *Provided,* That a savings bank may participate in any such loan evidenced by a bond or note or other evidence of indebtedness secured by a mortgage or deed of trust in accordance with the provisions of subsection (E) of this section without regard to the distance from its principal office of the mortgaged property, and even though such evidence of indebtedness, except for the provisions of this proviso, would not be one in which a savings bank is authorized to invest on its account, but one of the participants must be located in the State in which the mortgaged property is situated;

(D) No investment shall be made in a conventional loan if the aggregate unpaid principal of all conventional loans in which the savings bank has invested exceeds 80 per centum of its assets at the time: *Provided,* That in the case of a participation loan, only the savings bank's share in such loan shall be considered for the purposes of this subsection;

(E) A savings bank may (i) participate with one or more financial institutions, trust, or pension funds in any bond or note or other evidence of indebtedness secured by a mortgage or deed of trust in which such savings bank is authorized to invest on its own account: *Provided,* That the participating interest of such savings bank is not subordinated or inferior to any other participating interest; and (ii) participate in the same securities with other than financial institutions, trust, or pension funds: *Provided,* That the participating interest of such savings bank is superior to the participating interests of such other participants;

(F) No investment shall be made in a mortgage upon a leasehold unless (i) the principal amount of the mortgage loan is not in excess of 70 per centum of the appraised value of the leasehold, and (ii) provision is made for complete amortization of the loan prior to the expiration of 80 per centum of the remainder of the term by periodic payments as the Board may by general regulation prescribe; and

(G) Nothing contained in this paragraph (7) shall be deemed to prevent investment by a savings bank in any bond, note, or other evidence of indebtedness which is wholly or partially guaranteed or insured by a Federal or State agency, or for which a commitment to guarantee or insure has been issued by a Federal or State agency;

(8) Any property improvement notes issued pursuant to the provisions of any title of the National Housing Act, and other property improvement loans subject to such regulation as the Board may prescribe;

(9) Bankers' acceptances eligible for purchase by Federal Reserve banks;

(10) Corporate securities of any corporation created and existing under the laws of the United States or any State, but in so doing the savings bank shall exercise the same degree of care and prudence and prudent persons generally exercise in their own affairs, and subject to the following further conditions:

(A) No savings bank shall invest in any corporate obligation, other than pursuant to paragraph (12), that (i) will mature by its terms within one year from the date of issuance, or (ii) if issued or made in series, or repayable in installments, will have an average maturity as of the date of issuance of less than one year; and

(B) No savings bank shall invest in corporate stocks in an amount greater than 5 per centum of the assets of the savings bank or 100 per centum of its reserve fund and undivided profits, whichever is the greater;

(11) Obligations of a savings bank or of a State-chartered mutual savings bank and shares, accounts and obligations of thrift institutions subject to supervision by a Federal or State agency;

(12) Promissory notes of the following types:

(A) Any promissory note payable to the order of or endorsed to the savings bank which is (i) secured by one or more mortgages in which a savings bank may invest. The assignment of every mortgage taken as security for any such note shall be recorded or registered in the office of the proper recording officer of the government unit in which the real property described in such mortgage is located, unless such mortgage or mortgages have been so assigned by a savings bank or a thrift institution subject to supervision by a Federal or State agency; (ii) secured by any of the stocks and bonds in which a savings bank may invest; or (iii) secured by a life insurance policy to the extent of such policy's cash surrender value;

(B) Any promissory note payable to the order of the savings bank which is secured by the assignment of a deposit or share account in any thrift institution subject to supervision by a Federal or State agency, if the amount of the investment in any such note is not in excess of the amount of such deposit or share account; and

(C) Any secured or unsecured promissory note containing terms conforming to regulations to be prescribed by the Board so as reasonably to assure repayment in accordance with the terms of the note.

Branches

SEC. 110. (a) A savings bank may, with the approval of the Board, establish and operate one or more branches in the State in which its principal office is located, but only if and to the extent that any financial institution accepting funds from savers on deposit or share accounts is authorized to establish and operate branches.

(b) Before approving the establishment and operation of a branch office by a savings bank, the Board shall make with respect thereto the findings required prior to the granting of a charter to a savings bank.

(c) Notwithstanding any provision of this Act, a savings bank resulting from conversion, consolidation, or merger may retain and operate any one or more offices in operation on the date of such conversion, consolidation, or merger, and, in addition, may retain any and all unexercised branch rights or privileges enjoyed prior to such date, but only if such office is situated, or such branch right or privilege was exercisable, within the State in which the principal office is located.

Conversion

SEC. 111. (a) With the approval of the Board, and subject to all other provisions of this Act applicable to the chartering of a newly organized savings bank, unless specifically excepted herein, any thrift institution (other than a savings bank, a stock savings and loan association or a stock building and loan association) may convert itself into a savings bank upon affirmative vote of not less than a majority of the votes cast by those entitled to vote upon the affairs of such thrift institution at a meeting duly called and held for that purpose, and shall thereupon possess the powers of and be subject to the duties imposed upon savings banks under the provisions of this Act: *Provided,* That any such conversion shall not be in contravention of the laws under which the converting thrift institution is organized.

(b) The minimum requirements of twenty-one members for a savings bank intended to operate with members and seven directors prescribed by sections 102(a) and 104(a) shall not apply in the case of a thrift institution making application to convert to a savings bank: *Provided,* That the number of members shall not be less than the number of directors (if the savings bank is intended to operate with members): *And provided further,* That members (if any) and directors are named and approved by not less than a majority of votes cast by those entitled to vote upon the affairs of such thrift institution at the same meeting as is called for voting upon conversion of such thrift institution to a savings bank as provided in subsection (a) of this section. Approval of conversion of a thrift institution to a savings bank in accordance with this section shall automatically terminate the voting powers of those having voting powers prior to such conversion and shall vest in those members (if any) and directors named and approved in accordance with this subsection any and all powers granted by this Act to members and directors respectively.

(c) Before approving any such conversion, the Board shall find that the thrift institution seeking conversion has the ability to discharge the duties and conform to the restrictions upon savings banks and shall conform to the requirements of this Act within a reasonable time. However, such institution may retain and service all accounts and assets lawfully held by it on the date of its conversion.

(d) Any savings bank upon affirmative vote of a majority of its members may convert itself into any type of thrift institution (except a savings bank, a stock savings and loan association or a stock building and loan association) organized pursuant to Federal law or the laws of the State in which its principal office is located, but any such conversion of a savings bank shall be subject to requisite approval of any regulatory authority having jurisdiction over the creation of the thrift institution into which the savings bank seeks to convert.

(e) Any conversion pursuant to this Act shall require prior written consent by the Federal Savings Insurance Corporation. Such approval shall not be unreasonably withheld.

(f) Any savings bank converting to a Federal savings and loan association, or to a State-chartered mutual savings and loan association, cooperative bank, homestead association, or building and loan association shall have savings in share accounts, investment certificates, and deposits automatically insured by the Federal Savings Insurance Corporation to the extent provided in title IV of the National Housing Act.

Merger and consolidation

SEC. 112. (a) Any two or more savings banks having their principal offices in the same State, or subject to the provisions of section 18(c) of the Federal Deposit Insurance Act, if applicable, any one or more savings banks and one or more State-chartered mutual savings banks having their principal offices in the same State, may (A) with the approval of the Board where the surviving or consolidated institution is a savings bank or with the approval of the appropriate State authority where the surviving or consolidated institution is a State-chartered mutual savings bank, (B) upon the affirmative vote of not less than two-thirds of the members of each such savings bank, or if it has no members, then upon the affirmative

vote of not less than two-thirds of the directors of each such savings bank, and (C), where applicable, upon compliance with the procedure prescribed by the State, enter into an agreement of merger or consolidation. Thereafter the merger or consolidation shall be effective in accordance with the terms of such agreement.

(b) Before approving a merger or consolidation the Board shall give consideration to the purposes of this Act and the prospects of the surviving or consolidated savings bank for financial success and its ability to discharge the duties and conform to the restrictions imposed upon a savings bank.

(c) Upon such consolidation or merger, the corporate existence of each of the constituent institutions shall be merged into and continued in the surviving or consolidated institution, which shall be deemed to be the same corporation as each of the constituent institutions.

(d) All rights, franchises, and property interests of the merged or consolidating savings bank or banks or State-chartered mutual savings bank or banks shall be transferred to and vested in the surviving or consolidated institution by virtue of the merger or consolidation without the requirement under this Act of any deed or other instrument of transfer; and the surviving or consolidated institution shall be entitled to exercise all rights and privileges of the merged or consolidating savings bank or banks, or the State-chartered mutual savings bank or banks, in accordance with the terms of the merger or consolidation agreement.

(e) The surviving of consolidated institution shall be responsible for all debts and obligations of the merged or consolidating savings bank or banks or State-chartered mutual savings bank or banks, in accordance with the terms of the merger or consolidation agreement.

General powers

SEC. 113. (a) For the purpose of carrying out its functions under this Act, a savings bank—

(1) shall have indefinite succession;

(2) may adopt and use a seal;

(3) may sue and be sued;

(4) may adopt, amend, and repeal rules and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised;

(5) may make and carry out such contracts and agreements, provide such benefits to its personnel, and take such other action as it may deem necessary or desirable in the conduct of its business;

(6) may service mortgages for others;

(7) may appoint and fix the compensation of such officers, attorneys, and employees as may be desirable for the conduct of its business, define their authority and duties, require bonds of such of them as the directors may designate and fix the penalties and pay the premiums on such bonds;

(8) may acquire by purchase or lease such real property or interest therein as the directors may deem necessary or desirable for the conduct of its business and for rental and sell, lease, or otherwise dispose of such real property or interest therein; but the amount so invested shall not exceed one-half of the aggregate of its surplus, undivided profits and reserves: *Provided*, That the Board may authorize a greater amount to be invested;

(9) shall have authority, notwithstanding any provision of this or any other Act or regulation, to exercise all the powers possessed on the effective date of this Act or, with the approval of the Board, thereafter by any mutual savings bank chartered by the State in which the savings bank is located;

(10) may act as agent for others in any transaction incidental to the operation of its business; and

(11) when designated for that purpose by the Secretary of the Treasury, shall be a depositary of public money, except receipts from customs, under such regulations as may be prescribed by said Secretary; and may also be employed as a fiscal agent of the Government; and shall perform all such reasonable duties as depositary of public money and as fiscal agent of the Government as may be required of it.

(b) In addition to the powers expressly enumerated or defined in this Act, a savings bank shall have power to do all things reasonably incident to the exercise of such powers.

Examination

SEC. 114. The Board shall conduct an examination at least once in each calendar year into the affairs and management of each savings bank for the purpose of determining whether such savings bank is being operated in conformity with the provisions of this Act, any rules and regulations promulgated hereunder, and sound banking practice, but the Board, in the exercise of its discretion, may cause such examinations to be made more frequently if considered necessary. The expenses of the Board examination herein provided for shall be assessed by the Board upon savings banks in a manner calculated to pay the actual cost of examination. The assessments may be made more frequently than annually at the discretion of the Board. Savings banks examined more frequently than twice in one calendar year shall be assessed the expenses of the additional examinations.

Regulatory authority

SEC. 115. The Board shall have power to make and publish, as provided by the Administrative Procedure Act, general regulations applicable to all savings banks implementing this Act and not in conflict with it. The Board shall have power to supervise savings banks and require conformity to law and regulations.

Taxation

SEC. 116. (a) No State or any political subdivision thereof shall impose or permit to be imposed any tax on savings banks or their franchise, deposits, assets, reserve funds, loans, or income greater than the least onerous imposed or permitted by such State or political subdivision on any other local financial institution.

(b) No State other than the State of domicile shall impose or permit to be imposed any tax on franchises, deposits, assets, reserve funds, loans, or income of institutions chartered hereunder whose transactions within such State do not constitute doing business, except that nothing contained in this Act shall exempt foreclosed properties from ad valorem taxes or taxes based on the income on receipts from foreclosed properties.

Authority to appoint conservators and receivers

SEC. 117. Rules and regulations, administrative procedure, conservatorship and receivership: (a) In the enforcement of any provision of this section or rules and regulations made hereunder, or any other law or regulation, and in the administration of conservatorships and receiverships, the Board is authorized to act in its own name and through its own attorneys. The Board shall have power to sue and be sued, complain and defend in any court of competent jurisdiction in the United States or the Commonwealth of Puerto Rico. It shall by formal resolution state any alleged violation of law or regulation and give written notice to the savings bank concerned of the facts alleged to be such violation, except that a conservator or a receiver shall be exclusively appointed as provided in this section. Any savings bank shall have thirty days within which to correct the alleged violation of law or regulation and to perform any legal duty. If the savings bank concerned does not comply with the law or regulation within such period, then the Board shall give it twenty days' written notice of the charges against it and of a time and place at which the Board will conduct a hearing as to such alleged violation of duty. Such hearing shall be in the Federal judicial district of the savings bank unless it consents to another place and shall be conducted by a hearing examiner as is provided by the Administrative Procedure Act. The Board or any member thereof or its designated representative shall have power to administer oaths and affirmations and shall have power to issue subpenas and subpenas duces tecum, and shall issue such at the request of any interested party, and the Board or any interested party may apply to the United States district court of the district where such hearing is designated for the enforcement of such subpena or subpena duces tecum and such courts shall have the power to order and require compliance therewith. A record shall be made of such hearing and any interested party shall be entitled to a copy of such record to be furnished by the Board at its reasonable cost. After such hearing and adjudication by the Board, appeals shall lie as is provided by the Administrative Procedure Act, and the review by the court shall be upon the weight of the evidence. Upon the giving of notice of alleged violation of law or regulation as herein provided, either the Board or the savings bank affected may, within thirty days after the service of said notice, apply to the United States district court for the district where the savings bank is located for a declaratory judgment and an injunction or other relief with respect to such controversy, and said court shall have jurisdiction to adjudicate the same as in other cases and to enforce its orders. The Board may apply to the United States district court of the district where the savings bank affected has its home office for the enforcement of any order of the Board and such court shall have power to enforce any such order which has become final. The Board shall be subject to suit by any savings bank with respect to any matter under this section or regulations made thereunder, or any other law or regulation, in the United States district court for the district where the home office of such savings bank is located, and may be served by serving a copy of process on any of its agents and mailing a copy of such process by registered mail, to the Federal Home Loan Bank Board, Washington, District of Columbia.

Upon the giving of notice by resolution, as herein provided, the Board may, if it finds the same to be necessary for the protection of all concerned, enter an order to cease and desist from the violation or violations alleged, and the same shall specify the effective date thereof which may be immediate or may be at a later date, and such order shall remain in effect until the end of the administrative hearing and such cease-and-desist order may be enforced by the United States district court. No charge shall be made by the Board and no action shall be taken by it with respect to any act which is more than two years old or which has been known to the Board for more than one year when the proceeding is begun. When a formal charge is made by resolution and notice as herein provided, it shall be promptly prosecuted and dismissed at any time when there has been no adjudication by the Board within one year from the date of the filing of such charge.

(b) The grounds for conservatorship or receivership of a savings bank shall be (i) violation of an order or injunction, as authorized by this section, which has become final in that the time to appeal has expired without appeal or a final order entered from which there can be no appeal, or (ii) impairment of capital in that the liabilities, including liabilities to depositors on savings

accounts, exceed the value of the assets if liquidated over a reasonable term. In the event the Board charges that such ground or grounds exist, it shall petition the United States district court for the district in which the principal office of such saving bank is located, and such court shall have jurisdiction to appoint a conservator or receiver. With the consent of the savings bank, expressed by resolution of its board of directors or its members, the court is authorized to appoint a conservator or receiver, without notice and without hearing. The court may appoint a conservator after reasonable notice and a hearing. If the court appoints a temporary conservator, or a conservator, it shall appoint an officer, employee, or agent of the Board, and such person shall serve without additional compensation. If liquidation appears to be necessary, the Federal Savings Insurance Corporation shall be appointed as receiver, and it shall have the power to purchase at its own sale or sales, subject to approval by the court. If a temporary conservator is appointed, he shall have the powers of the members, directors, and officers, and is authorized to operate the savings bank as in the normal course of business, subject to any limits prescribed by the court. If a conservator is appointed, he shall have all of the powers of a temporary conservator and, in addition, is authorized to reorganize the savings bank, organize a new savings bank to take over its assets, merge it with another savings bank, or to sell its assets, in bulk or otherwise, provided insurance of accounts is continued and protected by such action. A receiver shall have all the powers of a conservator and the power to liquidate. After any appointment, as herein authorized, the savings bank shall be operated or liquidated, as the case may be, pursuant to the law and regulations, under examination and supervision by the Board, and subject to any limits prescribed by the court.

(c) The remedies prescribed by this section shall be exclusive. Any orders or injunctions authorized by this section shall expire within three years unless extended for cause. Savings banks in custody under this section shall make and publish reports, as is required of other savings banks, and the Board shall report to the Congress in detail with respect to each savings bank seized under this section, and, in general as to the enforcement of law and regulations under this section. The members, directors, officers, and attorneys of the savings bank in office at the time of the initiation of any proceeding under this section are expressly authorized to contest any proceeding as authorized by this section and shall be reimbursed for reasonable expenses and attorneys' fees by the savings bank or from its assets. The Board in any proceeding before it or its delegates shall allow and order paid any such reasonable expenses and attorneys' fees. Any court having any proceeding before it as provided in this section shall allow and order paid reasonable expenses and attorneys' fees for members, directors, officers, and attorneys.

(d) Without regard to any other provisions of law, upon petition of the Board, the United States district court of the district of the savings bank shall have jurisdiction to appoint a temporary conservator. Such petition shall allege facts which constitute an emergency in the affairs of the savings bank which necessitate prompt action to prevent irreparable injury. It shall be supported by an oath of some person acting for the Board that the facts stated are true or, where alleged upon information and belief, the same are believed to be true. If the court finds facts to exist which result in such emergency, the court shall have power to appoint ex parte and without notice. In the event of the appointment of a temporary conservator, the Board shall proceed promptly to correct any alleged wrongdoing or to seek the appointment of a conservator or a receiver and said court shall require prompt action in such cases. The temporary conservator shall be removed when any alleged wrongdoing and the danger have been removed or as soon as the case for a conservator or receiver is adjudicated.

TITLE II

Federal Savings Insurance Corporation

SEC. 201. (a) The words "and loan" are hereby deleted from the term "Federal Savings and Loan Insurance Corporation" wherever it appears in sections 401(c), 402(a), and 402(g) of the National Housing Act.

(b) There is hereby established a board of trustees for the Federal Savings Insurance Corporation, in which shall be vested all powers of managing the Federal Savings Insurance Corporation. The members of the Federal Home Loan Bank Board shall ex officio constitute the membership of the board of trustees. The board may delegate such of its powers as it deems advisable to such personnel of the Federal Savings Insurance Corporation as it may designate. The chairman of the board of trustees shall be vested with the same type of powers he possesses as Chairman of the Federal Home Loan Bank Board.

(c) Section 403(a) of the National Housing Act is hereby amended by substituting a comma for the word "and" immediately preceding the words "cooperative banks" and by inserting the words "and Federal- and State-chartered mutual savings banks" after the words "cooperative banks."

(d) Each mutual savings bank having deposits insured by the Federal Savings Insurance Corporation shall pay to the Corporation a premium for insurance calculated in accordance with pertinent provisions of title IV of the National Housing Act.

(e) Section 407 of the National Housing Act is hereby amended by inserting the words "or a Federal mutual savings bank" after the word "association" in the first sentence of said section.

Transfer of funds from Federal Deposit Insurance Corporation

SEC. 202. (a) Whenever a State-chartered mutual savings bank having deposits insured by the Federal Deposit Insurance Corporation shall qualify to be insured by the Federal Savings Insurance Corporation or shall become a Federal mutual savings bank by conversion, merger or consolidation, the Federal Deposit Insurance Corporation shall calculate the amount in its capital account attributable to such mutual savings bank. For the purpose of such calculation, the amount so attributable shall be deemed to be the total assessments payable to the Federal Deposit Insurance Corporation by such mutual savings bank from the date its deposits became insured by the Federal Deposit Insurance Corporation through the end of the immediately preceding calendar year less: (i) a sum computed for the same period equal to the total amount of credits toward assessments from net assessment income received by such mutual savings bank, (ii) a pro rata share of operating costs and expenses of the Federal Deposit Insurance Corporation, additions to reserve to provide for insurance losses (making due allowance for adjustments to reserve resulting in a reduction of such reserve), and insurance losses sustained plus losses from any preceding years in excess of reserves, such pro rata share to be calculated by applying a fraction of which the numerator shall be the average deposits of the mutual savings bank from the date its deposits became insured by the Federal Deposit Insurance Corporation to the end of the calendar year preceding the date upon which the calculation is being made, and the denominator shall be the average of total deposits over the same period, and (iii) proper reserves for pending claims involving insurance of deposits of such mutual savings bank, as determined by the Federal Deposit Insurance Corporation.

(b) On the date such mutual savings bank qualifies as an insured bank in the Federal Savings Insurance Corporation, the Federal Deposit Insurance Corporation shall transfer to the Federal Savings Insurance Corporation the amount calculated in accordance with provisions of subsection (a).

(c) The Federal Savings Insurance Corporation shall place all amounts so received in the primary reserve fund.

(d) On the date of such transfer, the mutual savings bank involved shall cease to be an insured bank insofar as the Federal Deposit Insurance Corporation is concerned: *Provided*, That the obligations to and rights of the Federal Deposit Insurance Corporation, depositors of the insured bank, the insured bank itself, and other persons arising out of any claim made prior to that date shall remain unimpaired. All claims not made prior to the date of such transfer but which would have been properly payable by the Federal Deposit Insurance Corporation if made prior to that date, shall be assumed by the Federal Savings Insurance Corporation.

Miscellaneous

SEC. 203. (a) Section 101 of the Government Corporation Control Act, as amended, is hereby further amended by substituting the words "Federal Savings Insurance Corporation" for the words "Federal Savings and Loan Insurance Corporation."

(b) As used in title II of this Act, the term "mutual savings bank" shall be deemed to include a Federal mutual savings bank as well as a State-chartered mutual savings bank, wherever appropriate.

TITLE III

Annual report

SEC. 301. The Board shall submit to the President for transmission to the Congress an annual report of its operation under this Act.

Separability

SEC. 302. If any provision of this Act or the application of such provision to any person or circumstance shall be held invalid, the remainder of this Act and the application of such provision to any other person or circumstance shall not be affected thereby.

Right to amend

SEC. 303. The right to alter, amend, or repeal this Act is hereby expressly reserved.

The summary presented by Mr. SPARKMAN is as follows:

SUMMARY OF FEDERAL MUTUAL SAVINGS BANK ACT

The declaration of policy asserts that to increase the savings necessary for capital formation within the dual banking private enterprise system, Federal charters should be authorized for mutual savings banks. Thereby the vitality of State-chartered mutual savings banking will be maintained and strengthened. Home financing and business enterprise in the area where Federal mutual savings banks are located will be encouraged through new sources of long-term credit. Efficiency requires insurance of savings in federally chartered thrift institutions by a single Federal agency.

Title I provides that 5 to 21 members (who may be designated corporators or trustees) may apply to the Federal Home Loan Bank Board for a charter. The Federal Home Loan Bank Board will issue a charter upon finding that the savings bank will serve a useful community purpose, have a reasonable expectation of financial success, and will not unduly injure existing savings in-

stitutions. Federal mutual savings banks must belong to the Federal Home Loan Bank System and have savings insured by the Federal Savings Insurance Corporation. Members of a Federal mutual savings bank elect the board of directors, or a board of directors may be elected by applicants for a charter in a savings bank without members. Directors manage the savings bank. Statutory restrictions control any self-dealing by directors with the savings bank.

Savings bank borrowing is controlled by the Federal Home Loan Bank Board. A savings bank may issue passbooks or other evidence of savings, and provide for bonus accounts.

Investments authorized include among others Federal obligations, municipal obligations, real estate mortgages under specified restrictions, and corporate securities under the prudent-man rule. A savings bank may also make consumer loans. It may establish branches to the extent that financial institutions accepting funds from savers on deposit or share accounts enjoy such privilege.

State-chartered mutual savings banks and State or federally chartered savings and loan associations may convert to Federal mutual savings banks and vice versa. Federal- or State-chartered mutual savings banks may merge or consolidate with one another. Among other general powers, a Federal mutual savings bank may exercise in its State of location all powers of a State-chartered mutual savings bank in such State. Savings banks must be examined at least annually. The Federal Home Loan Bank Board has general regulatory authority. Provisions against discriminatory State taxation are set forth. Conservators and receivers may be appointed as provided in the bill.

Title II creates the Federal Savings Insurance Corporation out of the Federal Savings and Loan Insurance Corporation and constitutes the Federal Home Loan Bank Board its board of trustees. Insurance premiums are the same as for the Federal Savings and Loan Insurance Corporation. A State-chartered savings bank insured by the Federal Deposit Insurance Corporation shall take with it a pro rata share of Federal Deposit Insurance Corporation insurance reserves if it should become a Federal mutual savings bank and thereafter ceases to be insured by the Federal Deposit Insurance Corporation.

Title III requires an annual report by the supervisory board to the President for transmission to the Congress.

ALLOTMENT OF COTTON ACREAGE

Mr. SPARKMAN. Mr. President, on behalf of my colleague, the senior Senator from Alabama [Mr. HILL], and myself, I introduce, for appropriate reference, a bill relating to allotments of cotton acreage and dealing with the cotton problem generally.

This bill was recommended by the Advisory Committee on Cotton of the Department of Agriculture; and it was also recommended by the members of the cottongrowers group which met in Atlanta on January 7, 1963, from the States of Alabama, Georgia, Mississippi, North Carolina, South Carolina, Texas, and Virginia. There is quite a list of endorsers of the proposal.

Mr. President, I ask unanimous consent that the statement issued by the Advisory Committee on Cotton as well as the statement issued by the members of the cottongrowers group in Atlanta, January 7, 1963, along with the bill, may be printed in the RECORD.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the bill and statements will be printed in the RECORD.

The bill (S. 608) to make cotton available to domestic users at prices more competitive with prices foreign users pay for cotton, to authorize the Secretary to permit cottongrowers to plant additional acreage for the 1963 and succeeding crops of upland cotton, and for other purposes, introduced by Mr. SPARKMAN (for himself and Mr. HILL), was received, read twice by its title, referred to the Committee on Agriculture and Forestry, and ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Agricultural Adjustment Act of 1938, as amended, is amended as follows:

(1) The following new sections are added to the Act:

"SEC. 348. Notwithstanding any other provision of law, the Commodity Credit Corporation is authorized to make payments through the issuance of payment-in-kind certificates on upland cotton produced in the United States to such persons other than the producers of such cotton at such rate and subject to such terms and conditions, including the redemption of certificates for cash if suitable stocks of Commodity Credit Corporation cotton are not available, as the Secretary determines will eliminate inequities sustained by domestic users of cotton as a result of differences in domestic and foreign costs of cotton, taking into account differences in transportation costs and other relevant factors.

"SEC. 349. The acreage allotment established under the provisions of section 344 of this Act for each farm for the 1963 crop and each succeeding crop may be supplemented by the Secretary by an acreage (referred to hereinafter as the 'maximum export market acreage for the farm') equal to such percentage, but not more than 30 per centum, of such acreage allotment as he determines. The 'export market acreage' on any farm shall be the number of acres, not exceeding the maximum export market acreage for the farm, by which the acreage planted to cotton on the farm exceeds the farm acreage allotment. For purposes of sections 345 and 374 of this Act, and the provisions of any law requiring compliance with a farm acreage allotment as a condition of eligibility for price support or payments under any farm program, the farm acreage allotment for farms with export market acreage shall be the sum of the farm acreage allotment and the maximum export market acreage. Export market acreage shall be in addition to the county, State, and national acreage allotments and shall not be taken into account in establishing future State, county, and farm acreage allotments. Beginning with the 1964 crop of cotton, notwithstanding the provisions of sections 342 and 344(a), the production on export market acreage, as estimated by the Secretary, shall be deducted from the national marketing quota determined under section 342 for the purposes of determining the national acreage allotment: *Provided,* That such adjusted national marketing quota shall not be less than the number of bales required to provide a national acreage allotment of sixteen million acres. The provisions of this section shall not apply to extra long staple cotton.

"SEC. 350. (a) The producers on any farm on which there is export market acreage shall, under regulations issued by the Secretary, be exempt from liability for the payment of the export marketing fee provided for in subsection (b) if such producers furnish a bond or other security satisfactory to the Secretary, conditioned upon the exportation without benefit of any Government export subsidy, of a quantity of cotton equal to the estimated production of the export market acreage within such period of time as the Secretary may prescribe. Such producers shall be liable for the payment of the export marketing fee as to any cotton with respect to which there is failure to comply with the conditions of such bond or other security.

"(b) Subject to the provisions of subsection (a), the producers on a farm on which there is export market acreage shall be jointly and severally liable for the payment to the Secretary of an export marketing fee on the production of the export market acreage. The export marketing fee for any crop of cotton shall be an amount per pound of cotton which the Secretary determines, not later than the beginning of the marketing year for such crop of cotton, will approximate the amount by which the price of cotton marketed by producers during such marketing year in the United States will exceed the price at which such cotton can be marketed competitively for export during such marketing year. The producer furnishing a bond or other security pursuant to subsection (a) shall be liable for the export marketing fee on a quantity of cotton equal to (1) the number of pounds by which the quantity covered by such bond or other security is less than the actual production of such export market acreage and (2) the number of pounds so covered but not exported in compliance with the conditions of such bond or other security. The producer on a farm on which there is export market acreage who does not furnish a bond or other security pursuant to subsection (a) shall be liable for the export marketing fee at the converted rate on all cotton produced on the farm. Such fee at the converted rate, unless prepaid, shall be due and payable at the end of the marketing year for the crop on all cotton not marketed from the farm during such marketing year and shall be due and payable on all cotton marketed from the farm during such marketing year at the time of marketing. The converted rate of the export marketing fee shall be determined by multiplying the export market acreage on the farm by the export marketing fee and dividing the result by the acreage planted to cotton on the farm. The export marketing fee at the converted rate shall be collected by the person to whom the cotton is first marketed by the producer, who may deduct such fee from the proceeds due the producer. The person liable for payment or collection of the export marketing fee shall be liable also for interest thereon at the rate of 6 per centum per annum from the date such fee becomes due until the date of payment of such fee. For the purposes of this subsection (1) the pledging of cotton by a producer to the Commodity Credit Corporation shall be deemed to be a marketing of such cotton, and (2) as may be provided by regulations of the Secretary, the delivering, pledging or mortgaging of cotton by a producer to any person shall be deemed a marketing of such cotton. The Secretary may provide by regulation for prepayment of the export marketing fee provided for in this subsection on the basis of the estimated cotton production on the farm, subject to adjustment on the basis of the actual production of cotton on the farm: *Provided,* That the Secretary may require prepayment of such fee if the export market acreage is so small as to make collection of such fee at the converted rate impracticable. The Secretary may provide by regulation for the establishment of the actual production of cotton on any farm with export market acreage, including the establishment of such production by appraisal upon failure of the producer to furnish satisfactory proof of such production. Export marketing fees paid to the Secretary shall be remitted by the Secretary to the Commodity Credit Corporation and used by the Corporation to defray costs

of promoting export sales of cotton under section 203 of the Agricultural Act of 1956, as amended."

* * * * *

"SEC. 369. Notwithstanding any other provisions of this Act, the provisions of this part relating to farm marketing quotas shall apply to determinations of export market acreage for cotton for a farm. Notices showing the maximum export market acreage for cotton for the 1963 crop established for the farm shall be mailed to the farm operator as soon as practicable after the enactment of this section. Notice of the determination of the actual export market acreage for cotton on the farm after adjustment, if any, shall be mailed to the farm operator as soon as practicable after the determination thereof. Notice of the maximum export market acreage for a farm for the 1964 or subsequent crops of cotton shall be included in the notices of farm acreage allotments and marketing quotas for such crops."

(2) Section 372 of the Act is amended by adding at the end thereof the following new subsection:

"(e) Subsections (b) through (d) shall apply to the export marketing fee provided for under section 350 of this Act, except that (1) export marketing fees remitted to the Secretary as provided in subsection (b) shall be paid to Commodity Credit Corporation and (2) if the Secretary finds that a claimant is entitled under subsection (c) to receive a refund of the export marketing fee, he shall notify Commodity Credit Corporation, which shall make such refund."

(3) Section 376 of the Act is amended by adding at the end thereof the following: "This section also shall be applicable to the export marketing fees provided for under section 350 of this title."

(4) Section 385 of the Act is amended by adding at the end thereof the following: "This section also shall be applicable to payments provided for under section 348 of this title."

The statements presented by Mr. SPARKMAN are as follows:

STATEMENT BY THE ADVISORY COMMITTEE ON COTTON, JANUARY 14, 1963

(Issued through the facilities of the U.S. Department of Agriculture)

ADVISORY COMMITTEE RECOMMENDS NEW COTTON LEGISLATION

Following an all-day meeting, the Advisory Committee on Cotton recommended to the Secretary of Agriculture the following cotton program:

1. Authorize the Secretary of Agriculture to make payments in kind from Government stocks of cotton (or in cash, if cotton is not available) to such persons, other than producers of cotton, at such rate and subject to such terms and conditions as the Secretary determines will eliminate the inequities sustained by U.S. users of cotton by reason of the present two-price system.

2. Authorize the planting of cotton above the basic acreage allotment for the export market and at world price. If the producer pays an export fee equal to the difference between the world price and the domestic support price, this export cotton can move under the regular price support and marketing system.

3. The export acreage not to be in excess of 30 percent of the basic allotment, and for the 1963 crop to be 20 percent of the basic allotment. After 3 years of operation the overplanting privilege shall not be put into effect unless the carryover is being adequately reduced each year toward a reasonable level. As expansion in domestic consumption and/or exports justifies increased acreage, this acreage shall be equitably apportioned between national base allotment and the overplanting option.

4. The support price for the 1963 crop to be approximately the 1962 level of 32.47 cents per pound, basis Middling 1-inch cotton, provided budgetary considerations do not preclude the making of full significant competitive impacts in both the domestic and export markets.

It was understood that approval of these broad outlines does not preclude disagreement with details drawn under such general provisions, or with the determination made by the Secretary under such provisions.

STATEMENT OF COTTONGROWERS GROUP

We the members of a cottongrowers group meeting in Atlanta on January 7, 1963, from the States of Alabama, Georgia, Mississippi, North Carolina, South Carolina, Texas, and Virginia, do hereby submit the following principles to be used in developing cotton legislation for 1963 and subsequent years to the Secretary of Agriculture and the chairman of the Agricultural Committees of the House and Senate for their careful and valued consideration:

1. Endorsement of a trade incentive payment to the cotton manufacturer with payment of this, established as far as possible from the cotton farmer.

2. A base allotment of 16 million acres with the support price not less than in 1962.

3. A provision to permit each producer to overplant his base allotment up to a percentage not to exceed 20 percent with payment of marketing fees of at least 8½ cents per pound be paid to the U.S. Department of Agriculture on the cotton produced on this overplanted acreage.

4. Overplanted acreage shall not count toward farm acreage history.

5. After the first year of operation, the overplanting privilege shall not be put into effect unless the carryover is being adequately reduced each year toward a normal carryover.

6. As domestic consumption and exports increase, the basic allotment holder shall receive the proportionate part of any increased acreage.

MEMBERS

Alabama: Alexander Nunn, Loachapoka; Watt A. Ellis, Jr., Centre; Ed Mauldin, Town Creek; Bill Nichols, Sylacauga; R. C. Bamberg, Uniontown.

Georgia: J. W. Sewell, Plains; Tom Murray, Alabama, Florida, & Georgia Cotton Ginners Association, Decatur; Philip L. Brauner, Cotton Producers Association, Atlanta; Olen Burton, Vienna; Ray Noble, Vienna; Ernest W. Strickland, Claxton; Jimmy Carter, Plains; Ross Bowen, Lyons; David L. Newton, Norman Park; P. R. Smith, Winder; C. W. Connell, Williamson; O. S. Garrison, Homer; Harvey Jordan, Leary; Jim L. Gillis, Jr., Soperton; Sidney Lowery, Rome; A. J. Singletary, Blakely; Tom Carr, Sandersville; Joe Rheney, Tennille; Phil Campbell, Watkinsville.

Mississippi: Russell Summers, Nesbit.

North Carolina: Hervey Evans, Jr., Laurinburg; W. S. Williams, Jr., North Carolina Cotton Promotion Association, Middlesex; W. J. Long, Jr., Cotton Producers Association; G. D. Arndt, Raleigh; A. J. Haynes, Raleigh; Fritz Heidelberg, North Carolina Cotton Promotion Association, Raleigh; R. W. Howey, Monroe.

South Carolina: J. E. Mayes, Cotton Producers Association; Henry T. Everett, Cotton Producers Association, Summerton; James C. Williams, Norway; C. Alex Harvin, Jr., Summerton; Charles N. Plowden, Summerton; W. D. Herlong, National Cotton Council, Johnston; Robert Lee Scarbrough, Cotton Producers Association, Eastover; Stiles M. Harper, Harper & Bowers, Estill.

Texas: John T. Stiles, Old Cotton Belt Association, Taylor; J. Wittliff, Old Cotton Belt Association, Couplane.

Virginia: Dick Dugger, Jr., Brodnax.

AN ADDITIONAL EXEMPTION FOR FULL-TIME STUDENTS ABOVE SECONDARY LEVEL AT EDUCATIONAL INSTITUTIONS

Mr. CANNON. Mr. President, I introduce, for appropriate reference, a bill to amend the Internal Revenue Code of 1954 to allow an additional exemption to a taxpayer for each son or daughter under the age of 23 years who is a full-time student above the secondary level at an educational institution.

This bill is intended to make possible the achievement of some of the goals about which I spoke during the past session of the Congress. During the closing days of the 87th Congress, this same bill was discussed on the floor of the Senate as a proposed amendment to the Internal Revenue Act of 1962. During that time, there was evidenced a considerable amount of support for this type of legislation.

I am hopeful, therefore, that active consideration can be given the bill by the Senate committee and that it can again be reported for our approval.

I am also sending to the desk a copy of my remarks at the time of the debate last year. I ask unanimous consent that they be printed in the RECORD.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the remarks will be printed in the RECORD.

The bill (S. 609) to amend the Internal Revenue Code of 1954 to allow an additional exemption of $600 to a taxpayer for each dependent son or daughter under the age of 23 who is a full-time student above the secondary level at an educational institution, introduced by Mr. CANNON, was received, read twice by its title, and referred to the Committee on Finance.

The remarks presented by Mr. CANNON are as follows:

REMARKS BY SENATOR CANNON

As of October 1961 there were approximately 2,900,000 students under the age of 23 attending universities in this country. In a study by the University of Michigan, it was determined that the average annual cost per student was $1,550. Of this amount the student had earned and saved $360; $130 was provided by scholarships; $950 came from parents; and $110 from other sources. The study also showed that 4 in 10 found financing to be extremely difficult, while 2 in 10 found that the financial assistance which they were able to attain was inadequate.

I believe that all children desire an opportunity to compete as adults on an equal basis with their fellows. I believe that every parent desires to give his child that opportunity. Yet, many of our youth are being denied the right to compete due to a lack of advanced training. A study financed by the Ford Foundation and conducted by Elmo Roper & Associates revealed that 60 percent of this Nation's parents had no savings and of those who did only an average of $150 was set aside for college expenses. My amendment would assist in meeting the expenses and thus provide an added avenue and an added incentive for the Nation's youth in the pursuit of higher education. Many additional figures would be presented to show that there is rather desperate financial justification for this amendment.

Perhaps more important, however, in terms of this Nation's continued progress and security is the benefit which would accrue by

making possible the full academic development of our Nation's youth.

I sincerely hope that the Senate will adopt this means of assisting in the more complete development of our most important national resource.

I. GENERAL INFORMATION

1. May 3, 1961, S. 1773 introduced.

2. May 4, 1961, Finance Committee requested reports from Department of Treasury and Bureau of Budget. No reports ever received.

3. April 13, 1962, requested that Finance Committee add S. 1773 as amendment to H.R. 10650.

II. ESTIMATED REVENUE LOSS

1. Department of Treasury, $400 million.

2. Office of Education, $250 to $400 million.

III. INFORMATION FROM OFFICE OF EDUCATION

1. Average annual student costs, 1960–61:
Public institutions, $1,300.
Private institutions, $2,100.

2. Source:

	Percent
Families	41.0
Long-term savings (by student)	20.0
Student earning	26.0
Scholarships	5.0
Veterans' benefits	6.0
Loans	1.5
Other	2.5

IV. INFORMATION FROM NATIONAL EDUCATION ASSOCIATION

1. Student enrollment, October 1961:

Age:	
16–17	213,000
18–19	1,470,000
20–21	892,000
21, 22, 23	507,000

2. University of Michigan study, 1957:
(a) Students annual costs, $1,550.
(b) Source:

Parents	$950
Student earnings	360
Scholarships	130
Other	110

(c) Other data:
Four in ten found financing difficult.
Two in ten found financing inadequate.

3. Elmo Roper study, 1959:
Sixty percent of parents with children ages 5 to 17 had no savings.
The 40 percent who did had average savings of $150.

V. BUREAU OF CENSUS

Median income of families in age range 35 to 54, $6,500.

Most college students would come from families in this age and income range.

ALASKA RAILROAD COLLECTIVE BARGAINING BILL

Mr. BARTLETT. Mr. President, I introduce, for appropriate reference, a bill similar to one I sponsored last Congress. It would authorize the Alaska Railroad and employees of the railroad to continue their practice of collective bargaining. I have requested the Alaska Railroad to prepare for me a statement comparing job security under the Veterans' Preference Act of 1944 as amended and job security under Alaska Railroad labor agreements permitted by this bill. I ask that this statement be printed in the RECORD at this point. I hope, Mr. President, this additional statement will point out to all concerned the merits of this legislation and the fact that veterans may be adversely affected in many respects if this legislation is not enacted.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the statement will be printed in the RECORD.

The bill (S. 622) to improve and encourage collective bargaining between the management of the Alaska Railroad and representatives of its employees, and to permit to the extent practicable the adoption by the Alaska Railroad of the personnel policies and practices of the railroad industry, introduced by Mr. BARTLETT, was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

The statement presented by Mr. BARTLETT is as follows:

JOB SECURITY UNDER VETERANS' PREFERENCE AND UNDER ALASKA RAILROAD LABOR AGREEMENTS

The Veterans' Preference Act of 1944, as amended, gives Federal employees who are veterans certain preferential rights over nonveterans. These rights cover:

1. Appointment to the Federal service.

2. Reduction in force due to lack of work or funds.

3. Personnel actions adverse to employees:

(a) Discharge;

(b) Reduction in force due to lack of work or funds for 30 days or less;

(c) Suspensions for more than 30 days;

(d) Reduction in rank or ccmpensation; and

(e) Disbarment from future Federal employment.

This memorandum is concerned with the job security provided by civil service regulations under the Veterans' Preference Act as it relates to the personnel actions listed above. It is concerned only with veterans' preference as applied in the excepted service, since Alaska Railroad employees are in the excepted service. No reference will be made to appointment procedures for veterans since this gives the railroad no problem and there has been no suggestion that the requirement of these procedures be waived.

Appraisals of the Veterans' Preference Act are ordinarily made through a comparison of the preferential rights which the act gives to veterans as compared with nonveterans when neither are represented by trade unions authorized to negotiate on their behalf. To the best of our knowledge no careful comparison has ever been made of veterans' rights under the law as compared with their rights under a trade-union agreement. All Alaska Railroad rank and file employees have been represented by unions for many years and their rights are spelled out in negotiated agreements signed by management and union representatives and approved by the Secretary of the Interior.

In the case of the Alaska Railroad it is, therefore, pertinent to inquire whether the job security granted by the Veterans' Preference Act is or is not superior to the job security afforded by the signed agreements in effect on the Alaska Railroad. We propose to make such a comparison in this memorandum, to outline the procedures and the rights established by the Veterans' Preference Act with respect to reduction-in-force actions and adverse actions, to similarly outline the procedures and rights established for such personnel actions by Alaska Railroad labor agreements, and to judge which of these two sets of rights and procedures provides the greater degree of job protection for veteran employees. While such a judgment will be made, it is possible that its inclusion within this memorandum will be unnecessary. From the outline of the facts herein presented the reader should be able to make such a judgment for himself.

The description and analysis that follows is divided into two sections. The first deals with reduction in force and the second with adverse actions. Each of these two kinds of personnel actions is then treated in accordance with the following outline:

1. Introductory comment on veterans' preference.

2. Introductory comment on the Alaska Railroad labor agreements.

3. A tabular comparison of the rights and procedures under both systems.

4. A comparison of the relative advantages and disadvantages of the veterans' preference system and the labor agreements system.

5. Conclusions.

REDUCTION IN FORCE

Veterans' Preference Act—Introductory comment

The reduction-in-force provisions of the Veterans' Preference Act (sec. 12 of the act and pt. 20 of the Civil Service Manual) apply both to veterans and nonveterans while giving to veterans a degree of preference. They apply to situations in which an employee is released from a competitive level, that is, from a family of interchangeable jobs, because of lack of work or funds or because of governmental reorganization. They establish the order in which employees may be laid off in a reduction in force and the order in which they shall be returned to service if vacancies develop and if rights to return to service exist.

Under the veterans' preference regulations there exists no right to bump or displace in the excepted service. An employee laid off on account of reduction in force from a competitive level thus has no rights to remain in service in some other competitive level.

There is one peculiarity about reduction in force under veterans' preference which must be included in a discussion of reduction in force. The procedures described above do not apply to layoffs of 30 days or less. In the case of a veteran such a furlough constitutes an adverse action and is handled under adverse action procedures described later in this memorandum. Retention roster standing need not be used in determining which individual is furloughed for 30 days or less. Employees thus furloughed return to service at the end of the period designated in the furlough notice. In the case of a nonveteran no notice is required when the furlough period is 30 days or less.

Railroad labor agreements—introductory comment

The procedures established by Alaska Railroad labor agreements governing reduction in force are much less complicated than those established under the Veterans' Preference Act. They are handled strictly on a seniority basis. After a probationary period of 60 days each employee is entitled to have his name on the appropriate seniority roster covering his occupation or class of service and he is given a seniority date, which is his first day of entry into the service of the Railroad in the occupation in which he holds seniority. These seniority dates do not change and seniority relationships, once established, continue unless modified by mutual agreement (or unless the employee is separated).

When a layoff is necessary from the employees on a given seniority roster, the last man hired is the first man laid off. He has rights to return to service in seniority order as long as he keeps his name and address on file with the Railroad, keeps available for service, and returns to service when he is called back.

Most layoffs start, however, with the abolition of a job or jobs and it would be only coincidence if the job abolished happened to be held by the man with the least seniority on a given roster. When this happens on The Alaska Railroad, the man to be laid off is selected through a bumping process. The senior employee may bump an employee junior to him on a given roster providing the

senior man is qualified for the job on which he elects to bump. The rule ordinarily reads "Qualifications being sufficient, seniority shall govern." Sometimes a chain of bumping is necessary before the junior employee who must be laid off is reached.

There is a corresponding right to exercise seniority in the filling of vacancies. Vacancies are bulletined and the senior qualified bidder is selected for the vacant position.

The system described above is, of course, traditional on private railroads. Because of its relative simplicity there are very few employees who have any problems in understanding their rights under this kind of seniority system.

A tabular comparison of job security for veterans under the Veterans' Preference Act and under Alaska Railroad labor agreements—Reduction in force

Veterans' Preference Act	Alaska Railroad Labor Agreements
Which veterans have rights?	
All except veterans with less than 1 year of service on the Alaska Railroad and except those rated "unsatisfactory."	All except those who have not completed 60 days' probation.
Rosters	
Separate retention rosters for each occupation (competitive level) within which jobs are interchangeable. This means a large number of rosters, some listing only one or two employees.	Separate rosters for each occupation or group of occupations as determined by union jurisdiction. Rosters are relatively fewer in number because not limited to interchangeable jobs.
Order of listing on rosters	
Names listed in three groups depending on whether permanent or temporary and upon length of service with Alaska Railroad. Groups divided into veterans and nonveterans. Order of listing by groups and by veterans or nonveterans is in accordance with total continuous Federal service in any agency and in any occupation. Employees with high efficiency ratings are given credit for additional service.	Names listed on rosters in accordance with date of hire in roster occupation by Alaska Railroad. Military service after an employee has been hired counts in seniority just as though the employee had never left railroad service.
Order of layoff	
First, all employees with less than 1 year of service in any order management selects. Veterans with less than 1 year of service have no preference. Employees on retention rosters with lowest service date are next laid off in following order: Group III, nonveterans. Group III, veterans. Group II, nonveterans. Group II, veterans. Group I, nonveterans. Group I, veterans.	Employees are laid off in reverse order of seniority. If senior employee's job is abolished, he may bump junior employee if senior employee is qualified.
Notice	
Thirty days' notice required but this may be general notice without specifying individuals to be laid off. Five days' specific notice to individuals. Furloughed employee may be placed on leave without his consent or in nonpay status during notice period.	Some agreements require 5 days' notice.
Bumping rights	
None.	An employee whose job is abolished or is displaced has bumping rights over junior employee on a given seniority roster providing employee exercising bumping rights is qualified for the job.
Rights to bid on vacancies	
None.	Employees may bid on bulletined vacancies covered by a given seniority roster. In selection of employee from among those bidding seniority governs if qualifications are sufficient.
Rights to return to service from furlough	
Veterans with less than 12 months' service on Alaska Railroad have no right to return to service. Veterans furloughed from group I, II, or III positions for 1 year or less are returned to service in the competitive level from which furloughed in reverse order of retention-roster standing. If this cannot be done employee must be separated. Separated employees have no rights to return to service.	All furloughed employees listed on a given seniority roster have rights to return to service in order of seniority when vacancies occur, providing they keep themselves available for service. These rights extend beyond 1 year.
Appeals and hearings	
Veteran has a right to appeal to the Civil Service Commission from the decision of management but has no right to a hearing prior to the decision of management. He has a right to a civil service hearing at the first level of appeal to the Civil Service Commission. He must choose between an appeal to his agency or to the Commission and cannot pursue both types of appeal at once.	An employee has a right to a hearing if he feels his rights have not been afforded him in a reduction-in-force action. He may appeal the management decision, if against him, up to and including the general manager.

Veterans' preference and Alaska Railroad labor agreements compared—Reduction in force

The above outline of Alaska Railroad employee rights for reduction in force under the Veterans' Preference Act and under the labor agreements in effect on the Railroad suggests a comparison of the following three types of rights:

1. Veterans' rights under the act and civil service regulations which are not afforded them by Alaska Railroad labor agreements.
2. Veterans' rights under the Alaska Railroad labor agreements which are not afforded to veterans under the Veterans' Preference Act.
3. A comparison of rights under veterans' preference and under the labor agreements of aspects of personnel actions where both procedures afford rights but these rights are not the same.

Veterans' rights afforded by the Veterans' Preference Act but not by Alaska Railroad labor agreements

There are two such kinds of rights:

(1) The right to 30 days' notice, and (2) the right of a veteran to preference over a nonveteran within his retention roster group.

With respect to the 30 days' notice, it should be pointed out that a general notice may be given which does not specify the individuals to be laid off, so that the effective notice to the individual is only five days. Furthermore, management can require the employee to use up his leave during the notice period, so that the 30 days does not mean a guarantee of work during the notice period. An employee can, in fact, be placed on leave without pay during his entire notice period. The notice period is thus of much less value to the employee than appears on the surface.

The preference of a veteran over a nonveteran in reduction in force does not, of course, exist under the labor agreements but does exist under the Veterans' Preference Act. But this preference is far from absolute. A great many veterans will find that their preference is more theoretical than real. This is true for the following reasons:

1. No veteran with less than 12 months' service has any preference over nonveterans.
2. A group III veteran has no preference over a group I or II nonveteran and a group II veteran has no preference over a group I nonveteran. In other words the long service and permanent nonveteran actually has preference over a temporary or short service veteran under the regulations stemming from the Veterans' Preference Act.
3. A veteran cannot be secure in his rights under the Veterans' Preference Act because, under the latter, all continuous service in any occupation and any agency counts on the retention roster which determines the order of layoff. Thus, a veteran who has 10 years of retention roster seniority by reason of service on the Alaska Railroad, but without any other Federal service, will be laid off with preference going to the veteran who has 1 year on the Alaska Railroad and 10 years with another Federal agency (in any occupation). Suppose the first veteran has 10 years seniority as a brakeman and the second veteran has only 1 year of service as a brakeman but 10 years of Federal service as a machinist's helper. The 1-year brakeman has a higher retention roster standing than the 10-year brakeman.

Under the Alaska Railroad labor agreements seniority is only acquired on the Alaska Railroad and in the occupation (or occupational group) in which the employee has been working. A seniority date once established is fixed unless the employee is separated or seniority relations are changed by mutual agreement with the union representing him. The latter event almost never happens unless seniority rosters are consolidated.

Under the Veterans' Preference Act, the order of preference is never fixed. A veteran may find that he has lost his retention roster standing in relation to another veteran because the latter has more total Federal service or because the latter obtains a better efficiency rating. New hires and efficiency ratings keep changing the order of preference. This, of course, cannot happen under Alaska Railroad labor agreements.

Veterans' rights under Alaska Railroad labor agreements which are not afforded to veterans under the Veterans' Preference Act

There are four kinds of such rights: (1) Seniority rights of short-service veterans who have no rights under veterans' preference, (2) bumping rights, (3) rights to bid on vacancies, and (4) rights to return to service for veterans who would be separated under veterans' preference (but not under the labor agreements) and therefore have no rights to return to service.

It has been emphasized previously that veterans with less than 12 months of service have no rights under the Veterans' Preference Act. Such veterans can be separated without regard to retention roster seniority and nonveterans can, therefore, be retained while veterans are laid off. Under the labor agreements, on the other hand, an Alaska Railroad employee has full rights under reduction-in-force rules as soon as he has completed his 60-day probationary period.

No additional comments are necessary as to bumping and bidding rights. These rights are among the most valuable to employees of the rights which the labor agreements establish. Under the Veterans' Preference Act such rights do not exist for Alaska Railroad veterans.

Under the Veterans' Preference Act, an Alaska Railroad veteran will be either furloughed for a period not to exceed 1 year or he will be separated. If separated he has no right to return to service, beginning with the date of his separation. Under Alaska Railroad labor agreements an employee selected for layoff cannot be separated so that his rights to return to service cannot be taken away from him, except as he fails to keep his address on file or fails to return to duty when recalled.

Rights under veterans' preference and under Alaska Railroad labor agreements where both afford rights but these rights are not the same

There are three kinds of such rights: (1) Rights to be listed on a roster in a required order for reduction-in-force purposes, (2) rights to return to service, and (3) rights to appeals and hearing.

The veterans' preference regulations provide for the establishment of a retention roster and the Alaska Railroad agreements provide for seniority rosters. They are of significance in terms of the kind of rights they afford but this aspect of the comparison is treated elsewhere in this statement. These two kinds of rosters, considered without regard to the rights they establish, suggest the following comparisons.

The seniority roster is far simpler and easier to understand than the retention roster. This is, or should be, self-evident. The seniority roster is fixed whereas the retention roster is relatively unstable. This follows because the retention roster standing can change depending on efficiency ratings and upon the hire of new employees with other continuous Federal service. These latter, after 1 year of service, are given credit for prior continuous Federal service in any occupation so that a veteran with long service on the Alaska Railroad only has inferior rights over a veteran with still longer continuous Federal service. It necessarily follows that, on a retention roster, the kind of Federal service does not count. If the retention roster covers machinists, service as a clerk, or laborer or a personnel officer counts just as much for retention roster purposes as service as a machinst. As noted previously, a veteran with 10 years' service on the Alaska Railroad as a brakeman has inferior rights to the veteran with only 1 year's brakeman service on the railroad but with 10 years of service in any occupation elsewhere in the Federal service.

The large number of retention rosters as compared with the smaller number of senority rosters tends to make seniority roster-type job protection superior. The large number of retention rosters means that each has fewer employees listed on it than is the case with most seniority rosters. The clerks seniority roster on the Alaska Railroad represents an excellent example of this point. This roster contains employees in a very large number of occupations, most of which are not interchangeable as jobs although the employee himself may have skills in several of them. Under the retention-roster system the clerks seniority roster would have to be broken down into a great many rosters, each of which contains only those jobs which are interchangeable. Some may contain only one or two names.

Thus, the senior veteran on the clerks seniority roster has preference over a much larger number of employees than if he were on one of the many retention rosters into which veterans' preference would require that jobs on the clerks seniority roster be broken down. Furthermore, a veteran who is furloughed under the agreement seniority system will probably have several different jobs on which he may bump. A veteran furloughed from a retention roster (and the veteran is much more likely to be reached in furlough where there are many rosters instead of one) has no alternative except to be furloughed or separated. He has no rights to bump, except under the labor agreement.

There are some occupations as section laborers where a retention roster will contain many names because there are many jobs which are interchangeable. Here, however, and unlike the labor agreement seniority system, the fact that veterans with less than a year of service have no rights in reduction in force, means that a cushion of veterans, who can be laid off in any order management selects, reduces the value of veterans' preference. Management has no such choice under the seniority system of the labor agreements.

It cannot be emphasized too often that a layoff usually begins with the abolition of a job rather than with the selection of junior men from a given roster to be laid off. Thus, the right to bump becomes all important and will be more important to most veterans than the somewhat watered-down preference which the Veterans' Preference Act actually gives him.

Enough has already been said of the right to return to service under the two systems to indicate the greater advantage to the veteran employee under the provisions of the labor agreements. Most of the veterans laid off under the veterans' preference system will not have a right to return to service. All the veterans laid off under the labor agreement system have rights to return to service when vacancies occur.

A comparison of the relative merits of hearings and appeals procedures under the Veterans' Preference Act and under the Alaska Railroad labor agreements can be more adequately made in the case of adverse actions than in the case of reduction in force. The latter are business-type actions in which it is unlikely that employees under either system will raise the question as to whether the reductions should have been made. Instead, the emphasis is on whether the reduction in force was carried out correctly in accordance with the rules.

Adverse actions are, for the most part, of a disciplinary character in which an employee is apt to raise the question as to whether the action should have been taken at all as well as the question as to whether the action was procedurally correct.

A consideration as to whether the hearing and appeals system of the labor agreements affords more or less protection to an employee than the system afforded by veterans' preference will, therefore, be deferred to the section of this statement dealing with adverse actions.

Conclusion as to reduction in force

Most Alaska Railroad employees, including veterans, even though they have not made a detailed analysis of veterans' preference, regard the seniority rights of the agreements, applicable to reduction in force actions, as superior to veterans' preference. The few who do not seem to have an exaggerated view of the value of veterans' preference rights which is not supported by the detailed facts of the nature of the law and of the regulations under it.

ADVERSE ACTIONS

Veterans' Preference Act—Introductory comment

Under the Veterans' Preference Act (sec. 14 of the Act and pt. 22 of the Civil Service Manual), adverse action procedures cover:

1. Discharge.
2. Suspension for more than 30 days.
3. Furlough without pay (limited by the Civil Service Commission to layoffs due to lack of work of funds for periods of 30 days or less).
4. Reduction in rank or compensation.

Unlike reductions in force, veterans' preference regulations dealing with adverse actions apply only to veterans. They cover personnel actions, most of them of a disciplinary nature, which may be taken against veterans providing the procedures laid down by the Commission in its regulations are properly followed.

These procedures, which are basically the same for all types of adverse actions, are as follows:

1. The employee must be notified in writing 30 days in advance of the proposed action, with a specific and detailed explanation of the reasons therefor.
2. The employee must be given an opportunity to reply in writing or in person or both.
3. The reply must be considered in reaching a decision and this decision must be made in writing. The decision must include a finding with respect to each of the reasons which have previously been stated in writing as the reasons for the action.
4. The employee must be notified of his rights to appeal to the agency or to the Civil Service Commission and must make an initial decision between these two channels of appeal.
5. Time limits are set for the various stages of this procedure.

The right of a veteran employee of the Alaska Railroad to the procedures outlined above, in the case of discharge, suspension for more than 30 days, furlough for 30 days or less, or reduction in rank of compensation, is the sum and substance of his rights under provisions of the Veterans' Preference Act relating to adverse actions. Management is not prevented from taking these actions against veteran employees, but the adverse actions must be procedurally correct to be effective. On appeal to the Civil Service Commission, management's decision can be overruled if the procedures have been violated or if it can be shown that management did not have good cause for the adverse action taken.

Alaska Railroad labor agreements—introductory comment

The rights of employees of the Alaska Railroad, in the case of the kind of adverse

actions enumerated in the Veterans' Preference Act, are the same for both veterans and nonveterans. The nature of these rights varies, however, with the kind of adverse action taken.

In the case of discharge and suspension for discipline, the most fundamental right afforded by the agreements is the right to a hearing. The employee against whom charges are made must be given 48 hours' notice of hearing. The hearing notice must enumerate the charges against him. He is entitled to be represented by a person of his choice and his representative need not be an employee of the railroad. He can produce witnesses on his own behalf and may, through his representative, cross-examine management witnesses. The employee is entitled to a management decision in writing within time limits stated in the agreement. If he is not satisfied he may appeal to higher officials of the railroad up to and including the General Manager. Interior Department regulations (rather than the labor agreement) afford a further right of appeal to the Secretary of the Interior.

If the discharge or suspension involves interpretation of agreement rules or of certain operating rules, the employee can appeal to an adjustment board procedure which means that his case will be tried before a neutral third party which his union has helped to select.

These procedures constitute the kind of traditional rights of employees in discipline cases that are typical of all private railroad labor agreements.

Alaska Railroad agreements make no distinction between layoffs on account of reduction in force with respect to time periods. The employees' rights under the agreements have already been described under reduction in force. An employee, listed on a given seniority roster, is entitled to be laid off in inverse seniority order, to keep his employment relation during the layoff period, and to be returned to service in seniority order when vacancies occur, provided, of course, that he has kept himself available for service. A furloughed employee is never regarded as a separated employee unless he fails to keep his address on file or does not return to service when called. If he satisfies these conditions he may keep his employment relation with the railroad indefinitely.

Reduction in rank or compensation is not treated by the Alaska Railroad labor agreements as an adverse action unless it is done for disciplinary reasons. In such an instance the employee may bring a grievance in writing against management. He is then entitled to a hearing, representation, presentation of witnesses, a decision in writing, and appeal similar to the procedures in effect for discipline cases.

In the case of grievances arising out of the interpretation of agreement rules, the Alaska Railroad employee is entitled to a third party hearing and decision under the railroad's adjustment board procedure.

Other types of reduction in rank or compensation are not regarded as adverse actions unless the employee has not been afforded his rights under the rules. Here his protection is the seniority system, which gives him the right to bid on vacancies in accordance with his seniority and to displace a junior employee on his seniority roster if he himself is displaced or his job is abolished. He must, of course, be competent to perform the job on which he bids or bumps.

For this kind of adverse action employee rights depend, not on a procedure of notification, but on labor agreement rules which guarantee his seniority rights and provide him with hearing and appeal and adjustment board procedures if he considers that his rights have been violated.

A tabular comparison of rights in adverse action cases under the Veterans' Preference Act and under Alaska Railroad labor agreements

Veterans' Preference Act	Alaska Railroad Agreements
Which veterans have rights?	
Veterans temporarily employed less than 1 year have no rights under adverse action procedures of Veterans' Preference Act.	All veterans have rights, in the case of adverse actions, who have completed 60-day probationary period.
Discharge	
Veteran employee has right to 30-day notice of discharge except that in many instances he can be suspended without pay during 29 of the 30 days. Notice must contain a detail of charges and veteran employee must be given opportunity to make written or oral reply. Management decision must be in writing. Employees may appeal to Civil Service Commission or to Railroad appeals system but must make choice between the two. Veteran employee has right to hearing at first level of appeal to Civil Service Commission but has no right to a hearing before management's initial decision is made.	Employee has right to 48 hours' notice of hearing at which he can be represented by a third party, can present witnesses on his behalf and cross-examine management witnesses. If decision, after hearing, is adverse, employee can appeal up to and including the General Manager. If interpretation of agreement rules or violation of certain management rules is involved, employee can secure third party determination through adjustment board procedure.
Suspension for discipline	
Veteran has no rights under Veterans' Preference Act if suspended for 30 days or less. If suspended for more than 30 days, has rights to notice, reply, decision in writing and appeal, as outlined above for cases of proposed discharge. While the regulations seem to permit a suspension after 24 hours' during the notice period, it seems unlikely that the Commission would hold that an individual who is sure to return to service (since the penalty is suspension only and not discharge) could be suspended on 24 hours' notice on the grounds that his retention in the service would be "detrimental to the interests of the Government," etc.	Has rights to hearing, written decision, and appeal as described above for "Discharge."
Furloughs of 30 days or less	
Veterans have right to 30-day notice, reply, written decision and appeal to Commission as described above under "Discharge." Veterans' preference does not apply in selecting individual to be given this short-duration furlough, and management may select individual without regard to retention roster standing. If furlough is due to unforeseeable circumstances, no advance notice or opportunity to reply is required.	The labor agreements make no distinctions in regard to length of furlough so that rules for reduction in force apply. Employees are furloughed in reverse seniority order from a given seniority roster and are returned to service when vacancies occur in order of seniority. Employee may prosecute case as grievance, with hearing appeal, and third party Adjustment Board decision if he alleges his seniority rights have been violated under an erroneous interpretation of the rules.
Reduction in rank or compensation	
Veteran employee has right to 30-day notice, reply, written decision and appeal as described above under "Discharge."	Most adverse actions on Alaska Railroad would come about through the exercise of bumping and displacement rights. Employee displaced must be given 3-days' notice of displacement in most agreements. An employee reduced in rank or compensation may present case as grievance and have right to hearing, written decision and appeal. If interpretation of rules is involved, has right to Adjustment Board decision.

Veterans' Preference Act and Alaska Railroad agreements compared

An appraisal of the comparative value of the rights established in adverse action situations under veterans' preference and under Alaska Railroad labor agreements is more difficult than is the case with reduction in force.

This comment does not apply to veterans with less than 12 months' service on the Alaska Railroad. Here the Veterans' Preference Act affords no rights while veterans, who have completed the 60-day probationary period, have very substantial rights under the labor agreements.

A similar conclusion follows for veterans with 1 year or more of service who may be faced with the possibility of disciplinary suspensions for 30 days or less. Such veterans have no rights under the Veterans' Preference Act since this kind of suspension is not an adverse action under the law. Under the labor agreements, on the other hand, such employees who have completed their probationary periods have the very substantial right of formal hearing, written decision, appeal and, in some cases, a third party decision under adjustment board procedure.

In the case of discharge and suspensions for more than 30 days, the answer depends on the value attached to a 30-day notice (which is rendered less valuable in those instances in which the employee can be placed in a nonpay status after 24 hours) and appeal to the Civil Service Commission, when compared with the formal hearing, appeal and adjustment board system provided by the labor agreements.

Under the veterans' preference system the veteran has no right to a formal hearing prior

to the original management decision in his case. Many Alaska Railroad employees would regard this as a serious defect in the veterans' preference system. True, a hearing is provided at the level of the first stage of appeal under the veterans' preference system. But Civil Service Commission staff seem to rely more on their investigation abilities than on the results of hearing. Further, the hearing required by the labor agreements brings issues more sharply into focus because tthe parties confront each other through representatives and through witnesses. This is usually not the case with Civil Service Commission hearings.

The appeals procedure of the agreements is likely to be handled much more expeditiously than is the case with Civil Service Commission appeals. The latter, particularly if taken above the level of the first appeal, have always taken a great deal of time.

There is an advantage to the labor agreement procedures in that they emphasize a decision on the merits to a far greater extent than a decision based on procedural niceties only. Civil Service Commission officials are far removed from the scene of action. Their number is limited and they have less opportunity to become familiar with the traditions and circumstances of a particular Government agency. But this seems to be more than counterbalanced by a tendency to decide cases on the basis of procedural defects rather than through a consideration of their merits. This attitude, of course, avoids the more difficult decision based on a consideration of the merits of a case. On the other hand, Alaska Railroad employees have access to third party decisions through adjustment board procedures.

The railroad can, of course, take advantage of this situation and pay such careful attention to required procedures that "fatal procedural defect" is not likely to be found. If this is done, it is a fairly safe prediction that the railroad will lose few cases that have been appealed by veteran employees. The adverse action will be taken and the veteran will find that his only advantage will be a delay in management's making the adverse action effective because of the notice period.

In the case of furlough for 30 days or less the advantages of the provisions of the labor agreement seem quite obvious. Veteran employees must balance the fact that management can select, under the act, any employee for this kind of furlough (a nonveteran over a veteran, for example against the seniority protections of labor agreement rules applying to reduction in force. The Alaska Railroad agreement system gives job security to senior employees. The veterans' preference system does not and gives no preference for this kind of furlough to veterans. The only advantage to a veteran who exchanged the labor agreements for veterans' preference in the case of furlough for 30 days or less, would be a delay in the furlough's taking effect because of the notice period.

A comparison in the case of reduction in rank or compensation cannot be fully made until the Civil Service Commission clarifies the applicability of adverse action regulations to the Alaska Railroad. If the use of veterans' preference procedure, in place of agreement rules, for actions to reduce rank or compensation should mean the loss of bidding and bumping rights, then far more job protection has been lost than has been gained. Such a substitution would, in all probability, mean just this. There are no rights to bid or bump under veterans' preference in the excepted service. To establish these rights by agreement would certainly increase the job security of veterans. But it would do so only by giving veterans more rights than the Veterans' Act requires and by greatly reducing the job security of nonveterans. This is because a veteran could bump a nonveteran without an adverse action. But the bumping of a veteran by a nonveteran would, in most cases, result in an adverse action with the necessity of notice, reply, decision, and appeal. The administrative complexities of this process would be so great that this alone would probably prevent the granting of bumping rights not required by law. A displacement system based on seniority can only work if it can be accomplished in reasonably short periods of time and if the possibility of each adverse action can be foreseen 30 days in advance. It is highly doubtful that either condition could be realized if bumping were added to the rights which the Veterans' Preference Act gives.

Conclusion as to adverse actions

Weighing the probabilities seems to give the major advantages to the veteran who is subject to the labor agreements rather than to the Veterans' Preference Act. This is clearly true for the veteran with less than 12 months of service who has no veterans' preference rights against adverse actions. It is likewise true for veterans faced with disciplinary suspensions of 30 days or less, since they have no rights under the veterans' law. It is also true of furloughs for 30 days or less. Here the veteran would have no preference over a nonveteran and he would lose the protection which the seniority system gives him.

It seems true that most employees on the railroad who have grown up in the tradition of trade unionism would be reluctant to abandon their rights to hearing which the labor agreements give. There would also seem to be no doubt that they would prefer the agreement procedures over veterans' preference with respect to any adverse action if adherence to the latter meant the abandonment of seniority bidding and displacement.

ALASKA, HAWAII SEEK END TO VETERANS' HARDSHIP

Mr. BARTLETT. I am pleased, Mr. President, to reintroduce a measure which I first introduced February 6, 1961.

This measure would remove a hardship inadvertently placed on Alaska and Hawaii veterans.

When I first introduced this bill in the 87th Congress it had the support and sponsorship of the four Alaska and Hawaii Senators, without regard to party affiliation.

The merits of this proposed legislation have not lessened since then; nor has the support of the Alaska and Hawaii Senators.

The purposes of this proposed legislation are endorsed by the Senators from Hawaii. My colleague, the junior Senator of Alaska [Mr. GRUENING] joins with me today in cosponsoring the proposal. There can be no doubt, Mr. President, of the importance which our two States attach to this measure.

This measure would permit the use of private contract hospitals for the care of veterans with non-service-connected disabilities in the States of Alaska and Hawaii.

Senators may not be aware that at present there are no veterans hospitals at all in either of these two States. There is not a demand large enough to warrant their construction.

As a result veterans must use whatever Government medical facilities are available. Under a long-standing agreement veterans are admitted for patient care to the Tripler General Hospital operated by the Department of Defense in Hawaii and to the medical facilities operated by the Department of Defense and the Department of Health, Education, and Welfare in Alaska.

This, in all but a few cases, is a just and sensible arrangement. For a few cases this causes a severe and perhaps dangerous hardship.

Alaska, the largest State in the Union by far, covers 586,400 square miles with a coastline stretching 33,904 miles. Transportation over much of the State is irregular and expensive. Roads are scarce, and often the only means of travel is by airplane. Federally owned hospitals are few and far between.

Thus, it is that there are times when veterans are unable—by reason of extreme illness, lack of money, or transport—to make the long trip over many hundreds of miles to the Government-owned hospitals. If their illness is service connected they are now permitted to make use of nearby private hospitals under private contract arrangements undertaken by the Veterans' Administration.

Veterans with non-service-connected illnesses, however, are denied the use of these private contract facilities. This is unfair, and is as I have said, in cases dangerous.

Until the advent of statehood, veterans with non-service-connected disabilities in both Alaska and Hawaii were allowed treatment at private facilities in the same manner as veterans with in-service ailments—although the veteran, to receive such care, was required, of course, to meet the same standards as those applied in the other 48 States.

The coming of statehood prohibited the continuance of this practice. This unfortunate result was caused by a technical deficiency in the veterans care legislation. The geographic conditions in our States which required private facility contracts for veterans care before statehood have not changed. They still exist, and the need for such care still exists.

This bill will see that such care is restored to Alaska and Hawaii veterans. The cost of this service will be small.

This legislation is strongly supported by the Senators of both States and on both sides of the aisle.

It is strongly supported by the major veterans organizations of both States.

Mr. President, when this measure was under consideration in the last session of the Congress both the Governor, William A. Egan, and the State Legislature of Alaska, gave their support to this proposal. I ask unanimous consent that a wire from the Governor and a joint resolution of the Alaska Legislature House Joint Resolution 70 be printed in the RECORD at this point.

These will indicate, Mr. President, the importance attached to this legislation by the people of Alaska and Hawaii. I urge its early adoption.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the telegram and joint resolution will be printed in the RECORD, and the joint resolution will be referred to the Committee on Labor and Public Welfare.

The bill (S. 625) to amend section 601 of title 38, United States Code, with respect to the definition of the term "Veterans' Administration facilities," introduced by Mr. BARTLETT (for himself and Mr. GRUENING), was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

The telegram and joint resolution presented by Mr. BARTLETT are as follows:

JUNEAU, ALASKA,
March 24, 1962.

HON. RALPH W. YARBOROUGH,
Chairman, Subcommittee on Veterans' Affairs, Committee on Labor and Public Welfare, U.S. Senate, New Senate Office Building, Washington, D.C.

Strongly urge favorable action by your subcommittee on S. 801 which would but restore to veterans of Alaska and Hawaii the rights to treatment in private hospitals which existed prior to statehood. Conditions upon which prior authority predicated—including absence any VA hospital in Alaska—remain unchanged. Areas within 48 States comparable in size to Alaska contain average of 34.4 VA hospitals reachable within maximum of 5 hours, traveltime. Travel to VA hospitals of other States is tremendous impractical burden. House Joint Resolution No. 70 strongly supporting provision S. 801 unanimously adopted by Alaska legislature this week. For expanded statement my views please refer to my letter to you under date April 14, 1960, supporting similar measure, S. 2201, and statement to House Committee on Veterans' Affairs April 10, 1961, on companion measure, H.R. 2923.

WILLIAM A. EGAN,
Governor.

HOUSE JOINT RESOLUTION 70

Joint resolution relating to hospitalization for Alaska and Hawaii veterans for non-service-connected disabilities

Whereas the Alaska delegation to Congress has introduced bills in both Houses of Congress which seek to restore to veterans in Alaska and Hawaii their rights to hospital treatment for non-service-connected disabilities; and

Whereas it is the purpose of S. 801 and H.R. 2923 to give Alaskan and Hawaiian veterans the same treatment as veterans of the other States who have comparatively easy access to veterans' hospitals; and

Whereas Alaskan and Hawaiian veterans requiring immediate emergency hospitalization are not now permitted to obtain the medical services they must have near their homes, but must be flown hundreds of miles to the nearest veterans' hospital in the United States proper; and

Whereas the closing of the Alaskan Veterans' Administration contact offices in the cities of Fairbanks and Ketchikan have further aggravated the problem for those veterans in need of medical treatment and care: Be it

Resolved by the Legislature of the State of Alaska in second legislature, second session assembled, That Congress is respectfully urged to take favorable action this year on either S. 801 or H.R. 2923 in order that Alaskan and Hawaiian veterans may receive needed hospitalization under Veterans' Administration contracts with hospitals located in their respective States; and be it further

Resolved, That copies of this resolution be sent to the Honorable LISTER HILL, chairman, Senate Labor and Public Welfare Committee; the Honorable OLIN E. TEAGUE, chairman, House Veterans' Affairs Committee; and the Alaska delegation to Congress.

Passed by the house February 27, 1962.
WARREN A. TAYLOR,
Speaker of the House.

Attest:
ESTHER REED,
Chief Clerk of the House.

Passed by the senate March 9, 1962.
FRANK PERATROVICH,
President of the Senate.

Attest:
EVELYN K. STEVENSON,
Secretary of the Senate.

Approved by the Governor March 15, 1962.
WILLIAM A. EGAN,
Governor of Alaska.

THE STATES NEED HELP ON HIGHWAY ENGINEERING COSTS

Mr. BARTLETT. Mr. President, I am pleased to introduce today, on behalf of the junior Senator from Alaska [Mr. GRUENING] and myself, a measure to increase from 10 to 15 percent the limitation on payments for construction engineering on Federal aid for primary, secondary, and urban highway programs.

The Federal Government has participated in highway construction on a matching basis with the States since 1916.

The ABC program of assistance in the building of primary, secondary, and urban highways has been of great help to the States in their efforts to keep pace with the vast and hurried expansion of motor travel.

It is not necessary to point out the large increases in the costs of highway construction. These have been extensive and continuous.

The complexities of modern highway planning and engineering have also caused the costs of such engineering to increase substantially. Unfortunately, there is a statutory limitation in the Federal-Aid Highway Act which requires that engineering costs be limited to 10 percent of Federal participation.

This limitation is clearly inadequate, and for this reason I am introducing today a measure to raise it from 10 to 15 percent.

It is my understanding that such an increase would have the approval of officials of the American Association of State Highway Officials and of many of our State highway commissioners.

Because of the widespread interest in—and the importance of—this measure, I ask unanimous consent that it may be printed in full at the end of my statement. I also ask that it lie on the desk for a week so that Senators may join in cosponsorship if they wish.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD, and lie on the desk, as requested by the Senator from Alaska.

The bill (S. 626) to increase the limitation on payments for construction engineering for Federal-aid primary, secondary, and urban projects, introduced by Mr. BARTLETT (for himself and Mr. GRUENING), was received, read twice by its title, referred to the Committee on Public Works, and ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (c) of section 106 of title 23, United States Code, is amended to read as follows:

"Items included in any such estimate for construction engineering shall not exceed 15 per centum of the total estimated cost of a project financed with Federal-aid primary, secondary or urban funds, after excluding from such total estimated cost, the estimated costs of rights-of-way, preliminary engineering and construction engineering. For any project financed with Interstate funds, such limitation shall be 10 per centum."

SEC. 2. The second sentence of subsection (d) of section 121 of title 23, United States Code, is amended to read as follows:

"Payments for construction engineering on any project financed with Federal-aid primary, secondary or urban funds shall not exceed 15 per centum of the Federal share of the cost of construction of such project after excluding from the cost of construction the costs of rights-of-way, preliminary engineering and construction engineering. For any project financed with Interstate funds, such limitation shall be 10 per centum."

COMMERCIAL FISHERY RESEARCH AND DEVELOPMENT PROGRAM

Mr. BARTLETT. Mr. President, on behalf of the senior Senator from Washington [Mr. MAGNUSON], the junior Senator from Washington [Mr. JACKSON], the junior Senator from New Jersey [Mr. WILLIAMS], the junior Senator from Massachusetts [Mr. KENNEDY], the junior Senator from Alaska [Mr. GRUENING], and myself, I introduce, for appropriate reference, a bill which is designed to assist our States in their efforts in commercial fishery research and development.

This is a proposal which several of my colleagues and I have been working on for a number of months. We believe it incorporates the best of many possible approaches.

The bill authorizes the Secretary of the Interior to cooperate with the States in carrying out projects designed for research and development of commercial fishing resources and authorizes to be appropriated annually $5 million for a total 5-year program. These funds would be apportioned among the States on a matching basis according to the extent of commercial fisheries in each State as represented by the value of the raw fish harvested by domestic fishing vessels and received within each State plus the average value of the fishery products manufactured within each State. To assure that each State will receive an adequate portion, a maximum of 10 percent and a minimum of one-half of 1 percent of the funds are assured under the allocation.

Each State desiring to take advantage of the benefits of the act is required to submit its plans for any proposed project to the Secretary of the Interior. The Secretary has authority to approve the plans and pay to the State the Federal share of any approved project in an amount not exceeding 75 percent of the total cost.

Mr. President, we anticipate that this program will be sufficiently flexible to meet the needs of each State which engages upon a program to assist in the conservation of its fishery resources. In one State this may mean assisting an effort to develop fish farms, in another State it may mean contributing to a program for the construction and operation of experimental fish hatcheries and yet in a third State it may be to benefit a State effort made at stream clearance for salmon. It is proper to leave with the States the initiative in requesting assistance in those programs that justify promotion as seen from the perspective of each individual State.

We must continue to encourage States to carry out their own programs and encourage them to cooperate with other States and with the Federal Government in bolder programs for the conservation of this common resource. But fish conservation needs extend across State boundaries, and indeed, across international boundaries.

In providing for Federal Government approval of and participation in State plans, we promote the concept of a coordinated effort in both our domestic and high seas fisheries. It is vital in these days when the pressures of greatly increased fishing efforts are being made throughout the world that we understand the limits of utilization beyond which we cannot go.

I submit that if we embark now on a concerted effort of research and development of our fisheries, we shall be able to continue to enjoy the benefits of this great resource. If we do not, we may lose one of our most valuable resources as well as a substantial national industry. We cannot continue to ignore the dangers of depletion and overutilization we are facing, nor can we fail to develop those fisheries which have not heretofore been developed.

It is our hope that passage of this legislation will demonstrate to other nations our grave concern and encourage them to embark on similar programs.

Mr. President, I ask unanimous consent that this bill be printed in full at the conclusion of my remarks and that it lie on the table for 1 week to permit other Senators to join us in sponsoring this legislation.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD, and will lie on the desk, as requested by the Senator from Alaska.

The bill (S. 627) to promote State commercial fishery research and development projects, and for other purposes, introduced by Mr. BARTLETT (for himself and other Senators), was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Commercial Fisheries Research and Development Act of 1963."

SEC. 2. As used in this Act, the term—

"Commercial fisheries" means any organization, individual or group of organizations or individuals engaged in the catching, processing, distribution, or sale of fish, shellfish or fish products.

"Fiscal year" means the period beginning July 1 and ending June 30.

"Obligated" means the written approval by the Secretary of the Interior of a project submitted by the State agency pursuant to this Act.

"Project" means the program of research and development of the commercial fishery resources, including the construction of facilities by the States for the purposes of carrying out the provisions of this Act.

"Raw fish" means aquatic plants and animals.

"State" means the several States of the United States, having commercial fisheries, including the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and Guam.

"State agency" refers to any department or division of a department of another name, or commission, or official or officials, of a State authorized under its laws to regulate commercial fisheries.

SEC. 3. The Secretary of the Interior is authorized to cooperate with the States through their respective State agency in carrying out projects designed for the research and development of the commercial fisheries resources of the Nation. Federal funds made available under this Act will be so used as to supplement, and, to the extent practical, increase the amounts of State funds that would in the absence of such Federal funds be made available for the purposes set forth herein.

SEC. 4. There is authorized to be appropriated to the Secretary of the Interior for the next fiscal year beginning after the date of enactment of this Act, and for the four succeeding fiscal years thereafter, $5,000,000 in each such year for the purposes of this Act.

SEC. 5. (a) Funds appropriated for the purposes of this Act shall be apportioned among the States, by the Secretary, on July 1 of each year or as soon as practicable thereafter, on a basis determined by the ratio which the average of the value of raw fish harvested by domestic fishing vessels and received within each State (regardless where caught) for the three most recent consecutive calendar years for which data satisfactory to the Secretary are available plus the average of the value to the manufacturer of manufactured and processed fishery merchandise manufactured within each State for the three most recent consecutive calendar years for which data satisfactory to the Secretary are available, bears to the total average value of all such raw fish harvested by domestic fishing vessels and received within each State (regardless where caught) and fishery merchandise manufactured and processed within all participating States for the three most recent calendar years for which data satisfactory to the Secretary are available. Each apportionment shall be adjusted so that no State shall receive, in any one fiscal year, less than one-half of 1 per centum nor more than 10 per centum of the total amount apportioned pursuant to this Act.

(b) So much of any sum not obligated under the provisions of this section for any fiscal year is authorized to be made available for obligation to carry out the purposes of this Act until the close of the succeeding fiscal year, and if unobligated at the end of such year, such sum shall be returned to the Treasury of the United States.

SEC. 6. (a) Any State desiring to avail itself of the benefits of this Act shall, through its State agency, submit to the Secretary full plans, specifications, and estimates of any project proposed for that State. Items included for engineering, planning, inspection, and unforeseen contingencies in connection with any works to be constructed shall not exceed 10 per centum of the cost of such works, and shall be paid by the State as a part of its contribution to the total cost of such works. If the Secretary approves such plans, specifications, and estimates as being consistent with the purposes of this Act and in accordance with standards to be established by him, he shall so notify the State agency. No part of any moneys apportioned under this Act shall be obligated with respect to any such project until the plans, specifications, and estimates have been submitted to and approved by the Secretary. The expenditure of funds authorized by this Act shall be applied only to such approved projects, and if otherwise applied they shall be replaced by the State before it may participate in any further apportionment under this Act.

(b) If the Secretary approves the plans, specifications, and estimates for the project, he shall promptly notify the State agency and immediately set aside so much of said appropriation as represents the Federal share payable under this Act on account of such project, which sum so set aside shall not exceed 75 per centum of the total estimated cost of the project.

(c) When the Secretary shall find that any program or project approved by him has been completed, he shall cause to be paid to the proper authority of said State the Federal pro rata share of said project: *Provided,* That the Secretary may, if he determines that said project is being conducted in compliance with the approved plans and specifications, make periodic payments on said project as the same progresses, but these payments, together with previous payments, shall not exceed the United States pro rata share of the project in conformity with said plans and specifications. The Secretary and each State agency may determine jointly at what time and in what amounts progress payments shall be made. All payments shall be made to such official or officials, or depository, as may be designated by the State agency and authorized under the laws of the State to receive public funds of the State.

SEC. 7. (a) All work, including the furnishing of labor and materials, needed to complete any project approved by the Secretary shall be performed in accordance with State laws and under the direct supervision of the State agency. Title to all property, real and personal, acquired for the purposes of completing any project approved by the Secretary, shall be vested in the State.

(b) The amount of any net proceeds resulting from the disposal of real or personal property, acquired pursuant to an approved project including supplies and equipment, to the extent of and in the same ratio that funds provided by this Act were used in the acquisition of such property, and if the disposal of such property occurs within five years of the date of acquisition, shall be paid by the State into the Treasury of the United States. In no case shall the amount paid into the Treasury of the United States under this section exceed the amount of funds provided by this Act for the acquisition of the property involved.

SEC. 8. The Secretary is authorized to make such rules and regulations as he determines necessary to carry out the purposes of this Act.

Mr. GRUENING. Mr. President, I am most pleased today to join my colleague, [Mr. BARTLETT] and other Senators in cosponsoring a bill to provide assistance to our Nation's ailing fishing industry. The bill with some modifications is basically the same as the measure (S. 1730) which I introduced during the last Congress with 28 cosponsors and I commend my colleague highly for taking the leadership in this fight to save and augment this vital American food resource

and to assist those engaged in occupations related to the fisheries, our fishermen, and fishery processors.

It is most fitting that this measure be introduced on the very day that the President sent to the Congress his farm message. In his message, the President started out by saying:

Proper management of our resources of food and fiber is a key factor in the economic future of the Nation.

He was, of course, talking about food produced on the land but it is equally true that "proper management of our resources of food" in the ocean is equally a key factor in the economic future of the Nation.

It is, however, a tragic fact that we have all too long neglected our vast ocean food potential. We have been profligate in this respect, which Japan and Russia have long ago recognized, that the ocean is as great a food resource as the land. They have built up great fishing fleets which have invaded our very waters. They are forging ahead in harvesting the oceans while we have neglected fisheries research, while we have failed to build a modern fishing fleet, while we have acted as though our superabundance of food supplies from the land will forever be sufficient to supply future human needs for sustenance, despite the population explosion throughout the world.

The program which we propose is modest in comparison with the vast sums we are today spending—and the even greater sums we will be spending tomorrow—on storing the surplus from the land.

A revitalized fishing industry could play a vital part in our food-for-peace program if the Congress would but realize that some effort should be expended on its rehabilitation. This legislation is important not merely to our coastal and Great Lakes States. Few States are without lake or river fisheries which furnish both food and recreation.

Our colleague from Massachusetts during the last Congress, former Senator Benjamin A. Smith II, on May 24, 1962, delivered a masterful address on the floor of the Senate, pinpointing the needs of the fishing industry and offering a seven-point program to meet those needs. His remarks are as cogent and timely today as they were 7 months ago. In order that those of my colleagues new to this Chamber may have the proposal before them and in order to refresh the recollections of my other colleagues, I ask unanimous consent that Senator Smith's remarks be printed in the CONGRESSIONAL RECORD at the conclusion of this statement.

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

A PROGRAM FOR OUR FISHERIES

(Speech by Senator Benjamin A. Smith II to the U.S. Senate, Thursday, May 24, 1962)

This spring a fleet of over 100 Russian fishing vessels has been operating as close as 15 miles from Cape Cod, Mass., on Georges Bank. This fleet is fishing our coastal waters with the most modern equipment yet developed anywhere in the world. Fish are brought through the stern of the Russian trawlers at up to 75,000 pounds a haul. This catch is processed on board ship with a minimum of waste and spoilage.

This is the second year that the Soviets have fished these waters, and they are here earlier this year than last. They have also 150 to 200 fishing vessels off Alaska in the Bering Sea where they have been fishing since 1959. This fleet has already taken 50 percent more herring than called for in its 1962 winter plan. These ships are all part of a mammoth state enterprise which has recently placed Russia ahead of the United States in world fishery production.

I would like to speak today about our own fishing industry, in the light of recent strides by the Soviets. I do so not to suggest that our security is in danger, nor that we imitate their every move. I bring up Russian achievements—and I shall talk about those of other nations as well—to emphasize the fact that the United States has a third-rate fishing fleet by world standards. The march of technology, which has transformed agriculture and so many other industries, has hardly brushed our fisheries. American fisheries desperately need to modernize and this modernization cannot take place without the help of the Federal Government.

The fisheries, as I shall use the term, comprise all the separate operations which take fish from water, process it into food, and bring it to market. Fishing is our oldest commercial industry. It stretches back to 1602, when the Englishman Bartholomew Gosnold made the first commercial fishing expedition off the Massachusetts coast, and was so impressed by the abundance there that he named the area Cape Cod.

The fisheries have been most important to the economic development of our country. They are a significant industry today in almost all the 23 States that border on our great oceans and the Gulf of Mexico, not to mention many inland States that have fresh water fisheries. Fisheries employ, directly and indirectly, 540,000 American workers. They are a major industry in my State of Massachusetts. Both the past fame and the present distress of my home town of Gloucester are largely attributable to this industry.

I speak today on the problems of our fisheries for all these reasons. And I would add one more: that if I, as a freshman Senator, am going to take this floor, it should be on a subject I know well; and all my life has been spent in this industry.

The fisheries in America are in very serious condition. The total catch of fish landed in the United States last year was 5,100 million pounds. This was less than was landed 20 years ago, even though our population increased during this period by 45 million people. In the last 10 years the number of fishermen in the United States has dropped by 31,000; the number of fishing boats by 16,000. More and more of the fish consumed by Americans is imported. Imports have doubled since 1949 and in 1961 accounted for 44 percent of our total consumption. We import more fish than any country in the world. Distress in the fisheries is especially severe in New England. At the end of World War II the fleet operating out of Boston had 120 trawlers. Now it has 61. At the end of the war the Gloucester fleet had over 400 boats. Today it has only about 100, and almost every month another fishing boat gives up and goes out of business.

Salmon production in the Northwest has been declining for many years. The Alaskan salmon pack, which averaged 5,900,000 cases in the 10-year period from 1936 to 1945, was reduced during the 10 years of the 1950's to 2,800,000 cases. The Columbia River pack for the 1936–45 period averaged 327,000. During the 1950's it dropped to 157,000. The low abundance of salmon is aggravated by the fact that other countries take on the high seas fish that originate in Alaskan waters. It is estimated that the Japanese alone may take 2 million Alaskan salmon this year.

The tuna fleet operating out of San Diego has declined in the last 10 years from 833 to 210 vessels. The sardine industry in Maine is plagued by wide fluctuations in the catch. Last year Maine sardine canners experienced their worst season in years, as landings dropped by nearly 100 million pounds.

Water pollution and the invasion of the lamprey have virtually wiped out our $8 million a year trout industry in the Great Lakes. Fishermen of this region, who used to bring in pike, whitefish and other valuable species, in addition to trout, are now reduced to trying to market smelt, carp and lesser value fish.

A serious shortage of shrimp has developed in our traditional fishing grounds in the Gulf of Mexico. The domestic shrimp catch from the Gulf of Mexico in 1961 was 72 million pounds lower than in 1960. As a result of this, imports of shrimp rose last year to over 50 percent of domestic consumption. While unutilized species of shrimp have been located in deeper waters, most boat owners cannot afford the navigation instruments, bigger engines and extra wire required to fish these grounds.

Oyster production has declined in the last 10 years by 19 million pounds, primarily due to depreciation of stocks by parasites, predators, and diseases. Oystermen are having trouble finding suitable oysters to market or sufficient oyster seed for planting. Many oyster companies on Long Island Sound, Delaware Bay, and Chesapeake Bay have gone out of business.

The result of this accumulation of difficulties in various of the fisheries is that America, after many years as the world's second largest producer of fish, has been displaced by Russia. In 1960, we actually fell to fifth place behind Japan, Russia, Red China, and Peru.

The basic problem pervading every part of our fisheries is backwardness of technology. It is technology, even more than wages, that allows fishermen of other countries to undersell us in our own ports. It is our dependence on old methods and obsolete equipment which makes costs so high that many fishing boat operations no longer pay. If there is to be any renaissance of the fisheries in this country, it will only come about through the application of modern scientific technology.

Fish is a highly perishable item, traditionally caught a long distance from where it is sold. The voyage from port to fishing grounds and back involves heavy expenditures for fuel, maintenance, and wages. The secret of economical operation, therefore, is to make the largest possible catch on a single trip and to process the catch as soon as possible to avoid spoilage.

The Russians have solved this problem through a considerable investment in a modern fishing fleet. Russian fleets are built around large factory ships 250 to 300 feet long, weighing 2,500 gross tons or more. These ships have complete facilities for filleting and freezing the catch. As many as one-half million pounds of processed fillets can be stored on such a ship at one time. This means the Russian trawlers do not have to journey to and from Russian ports. They operate from the mother ship. While almost all American vessels are forced to operate within a few hundred miles of home port, the Russian fleet can go almost anywhere and stay away from port for many months. The Russians have at least 100 trawler factory ships in operation and plan to have 160 more by 1965. We have none.

The Russians have also considerably outdistanced us in trawlers, the ships that pull

the fish from the sea. The average trawler in use in the New England fleet is over 25 years old. Most Russian trawlers have been built in the last 10 years. Our fishermen, using traditional methods, must cast their nets over the side of the boats and haul in the catch either by hand or by winches. Nets that can be used in this way are strictly limited in size. Many Russian trawlers are of the more advanced "stern chute" variety, which can use much larger nets operated by machine. As a result, it can take a small New England trawler an entire week to take in as much fish as a stern chute trawler gets in one haul. The Russians also have combination factory trawlers with processing facilities on board. Their large trawlers can fish in the kind of weather in which a New England trawler can't even leave port.

The Russians have also mobilized the most advanced technology for the improvement of fishing methods. They are preparing to equip their boats with electronic computers, which will adjust the depth of the trawl to the depth at which the fish are concentrated. Last November the Russians launched a whaling ship with facilities for all types of processing and canning the catch. The ship also had a helicopter for aerial spotting of whales and schools of fish.

Other nations have also modernized their fishing fleets. The Japanese have trawlers comparable in size to those of the Russians. Japanese fleets, with integrated facilities for catching and processing fish at sea, go regularly to many areas of the world. Japanese tuna boats have, on the average, a carrying capacity 60 percent larger than American boats.

A large Polish factory ship, able to process 30 tons of fish a day, was in Boston Harbor for repairs last year.

Canada is proceeding with expansion and modernization of its fleet. With the help of subsidies and loans from the National and Provincial governments, the groundfishermen have replaced many of their old, small boats with larger, more mobile vessels.

Three hundred twenty-four new vessels have been built with the assistance of the Government's subsidy. This in turn has helped improve the economic position of over a thousand fishermen. This fleet now accounts for more than 20 percent of the total groundfish landings on the Atlantic coast.

Peru increased its catch from 124 million pounds in 1950 to nearly 8 billion pounds in 1961. Even as underdeveloped a nation as Ghana, only 5 years independent, has trawlers much more up to date than ours.

The antiquity of our fleet is at the root of the problems of our fisheries. The number of new fishing boats built in the United States has been declining steadily. Last year's total was less than half that of 12 years ago.

Outmoded trawlers cannot return to port with a large enough catch to pay their way. They cannot control the quality of the fish as well as modern boats.

The backwardness of our technology explains why many of our processors find it cheaper to import fish in frozen blocks than to buy domestic fish, whose cost may be inflated by poor handling methods and equipment.

Outmoded trawlers cost more to repair. They cost more to insure. In fact, they involve such a great insurance risk that in New England a few years ago no company would insure fishing vessels. Now, a few companies will cover them but their rates have soared as the trawlers have aged.

That is why last year we imported over twice as much groundfish, fillets and blocks, as we caught ourselves: a record 195 million pounds.

From the trend of imports and the economic state of the industry, I think it is clear that American fisheries must either adapt to modern methods or slowly die. It has been estimated that by 1980, the Nation will be using 3 billion pounds more fish. But as long as other nations are able to produce a better product at less cost, they will increase their share of our domestic market, and reap the benefit of any increase in consumption here in America.

Modernization, then, is the key to progress. But the fishing industry's ability to modernize is severely limited by the economic troubles experienced in the last few years. The vast majority of owners of fishing vessels have a net worth of less than $500,000. When you consider that a modern groundfish trawler costs $450,000 to construct in the United States; a 450-ton tuna clipper, $740,000; a factory processing ship $8 million, you can see that almost none of these owners is in a position to modernize on his own. The new boats that are being built are of conventional types, without necessary modern equipment.

The precarious financial condition of the industry also makes it hard for owners to get bank credit for modernization. Nor have companies, with large resources been known to enter the fishing industry in recent years, as current prospects do not make it an attractive field for investment or diversification.

Other industries seeking to modernize have the option of purchasing abroad. Modern boats, with modern equipment, could be obtained abroad at considerable savings—about 50 percent for steel vessels and almost as much for wooden. But this option is not open to our fisheries. A Federal statute passed in 1792 prohibits any boat not built in the United States from landing fish in an American port. This law is unique in its field. No other industry is forbidden to use foreign capital equipment. This law operates harshly on our fisheries, but it has strong support in Congress and cannot be changed at this time. Nevertheless, the effect of this statute makes it all the more important that ways be found to encourage the building of modern boats in the United States.

The American fishing industry suffers not only from outmoded equipment but from backward techniques of harvesting, preserving, producing and marketing. Fish competes for the consumer dollar with poultry, meat and eggs. For many years now these segments of American agriculture have been in the midst of a technological revolution. We have learned to grow more food on less acreage, to prepare and package it better, to develop new foods and keep the costs at stable levels.

Take, for example, the poultry industry. It competes directly with fish as a low cost, high protein food. This industry has made phenomenal scientific advances. Chickens used to be fed in the barnyard, killed at the chopping block, and sold fresh at local markets. Today, they are born in incubators fed on assembly lines, killed and frozen by machine and shipped all over the world. American poultry can now underprice French poultry in France. Exports of poultry products last year amounted to $94 million. Exports of edible fishery products amounted to $19 million.

Technological backwardness is most prevalent in the following areas:

1. FINDING AND HARVESTING THE FISH

A number of advanced fishing methods are under development in various parts of the world to take the uncertainty and unnecessary expense out of catching fish commercially. The traditional method, still used by almost all American fishermen, is to cast nets at random in an area where fish have been known to feed. This method involves a large measure of chance and a good deal of wasted time and effort.

The Japanese and Russians carry on extensive exploratory operations for fish in all parts of the world. Research vessels precede their fishing fleets to scout promising areas and test the abundance of fish in various locations.

Underwater sonar equipment is used by other nations to a much greater extent to spot schools of fish. Some Russian factory ships are equipped with aircraft for this purpose. With modern telemeters it is possible, once the school is located, to determine its depth with sonar and to adjust the depth of the trawl to that of the fish. Other methods are being developed to herd fish toward nets by means of electric shocks. In the Caspian Sea fish are attracted by lights and then sucked up into boats with suction pumps. This method could prove most useful to us, for example, in the Maine sardine industry, where thousands of bushels are lost each year because antiquated seining gear cannot be used on the rocky coast.

While a few of our fisheries, notably tuna, have taken steps to modernize locating and harvesting of fish, most fishing boats are deprived of valuable catch because of adherence to traditional methods. Looking beyond these methods, it will be necessary in the future to explore the possibility of salt and fresh water farming of fish. Many parts of the sea, most convenient to our ports, attract few fish because little food grows in them. Scientists have proposed a number of methods for enriching these areas, many of which would vastly benefit our fisheries. With proper treatment large schools could even be attracted to shore areas. Eventually, fish could be grown and harvested in one operation and at a minimum of expense.

2. CONTROL OF QUALITY

Many of our fisheries are also deficient in controlling the quality of their product. Fish is a highly perishable item. Because of this, its appeal to consumers is greatly affected by small variations in color and looks. Many of our fishing boats, especially in New England, lack adequate facilities to guard against spoilage during the long trip back to port. The common preservative is ice but it is bulky and expensive to carry for so many days. As a result, it is difficult to keep high fish quality standards. This, in turn, hinders efforts to increase consumption.

Although the Federal Government has set up quality standards for various species, they are not mandatory. In the breaded frozen shrimp industry, for example, processors that comply with these standards are at a competitive disadvantage with those that do not.

3. MARKETING

At a time when other foods are marketed through effective mass distribution techniques, fish marketing is characterized by disorganization. If the income of fishermen is inadequate it is partly because the prices they receive bear no stable relationship to the retail market price.

In my hometown of Gloucester, fishermen are receiving 1½ to 2½ cents for whiting, which retails for 26 cents a pound a few blocks away. Schrod haddock fillets, which bring between 5 and 10 cents ex-vessel, retail for 55 to 59 cents a pound.

The unstable price situation occurs partly because the industry is selling a very perishable product. If some method could be devised to catch the fish and economically preserve it at sea, like freezing it on board the vessel as soon as caught, it would be possible to sell fish in a more stable market.

Fishermen and vessel owners, like farmers, are supplied with market information daily so that they can plan their marketing. Even with this help, however, the high perishability of the product and variations in quality adversely affect the marketing of fish and shellfish at the point of landing. Fishermen and vessel owners can only make ends meet at present by going out and bringing back all they can catch. If supplies are

large, prices drop to low levels because the product cannot be stored until market conditions improve. On the other hand, if supplies are light or scarce, prices become abnormally high.

4. PROCESSING

The spread between the price at which fishermen sell and that which housewives buy is largely a matter of processing costs. These costs are necessarily high because of the way Americans like their fish. They like them individually cleaned, usually frozen and packaged, and often precooked. When preparing a fish for eating, two-thirds of its weight is frequently discarded.

In order for our industry to successfully compete with imported products and lower their costs, it will be necessary for it to modernize. Experience in Gloucester with processing of ocean perch showed that mechanization is the only way that our plants could successfully compete with imports. Jobs were actually saved by machines in this case. I am convinced that in the present economic situation, better processing machines, instead of reducing the number of workers, would lower prices, and expand markets, and thus enhance employment opportunities in the industry.

These are the problems of our fisheries as I see them. The trend has been against us. The outlook is grim, but not hopeless. I believe that if the industry follows a prudent course, the downward trend could be stopped and our fisheries could obtain a larger share of the American market. But I am firmly convinced that in its present financial condition the industry cannot modernize without Government assistance. I therefore intend to outline specific measures our Government should take for the fisheries.

The fishing industry has not abused its constitutional right to petition the Federal Government for assistance. In fact, they have received less help from the Government than other basic foods. In the upcoming fiscal year our Government plans to spend $35.4 million on programs for the fishing industries. This compares with $5.8 billion on agricultural programs. Of course, agriculture is a much bigger industry, but even discounting this fact, our Government is spending over three times as much money on agricultural programs per dollar of product produced than on fisheries.

I do not begrudge our farmers one dollar of this expenditure. Their problems are great and the returns over the years have been meager. I merely make this comparison to show that greater Government support for fisheries would not be excessive by comparison with competing products.

In other nations—even those which practice private ownership—governments have taken important steps to help their fisheries modernize. Fisheries in these nations operate under elaborate systems of price supports, subsidies, tariffs, import quotas, and favored tax treatment. Britain, Canada, Finland, West Germany, and Ireland help fishermen pay their interest on money borrowed for modernization of vessels. The Governments of Malta, Ireland, and France make outright grants for this purpose, equal to up to 50 percent of the cost. Norway has a price support program for fish. When market prices drop below a certain level, fishermen are compensated out of an equalization fund. In Canada a fisherman can build a $150,000 boat for $9,000 down. He receives a subsidy from the Canadian Maritime Commission of 40 percent of the cost. His Province will also provide an interest-free loan for the bulk of the remainder. In Quebec the loan can go up to 90 percent of the cost remaining after the subsidy. Little wonder the conditions are so good in Canadian boatyards.

It is ironic and instructive that while our fishing fleet decays, many nations are building up their fleets from money they receive from us.

Since World War II $115 million in American foreign aid of various types, and $182 million in counterpart funds have been used by friendly nations to build up their fisheries. This sum of $297 million exceeds—by about $88 million—the sum our Government has spent on our own commercial fishing industry in the same period. I think we can do better than that.

We need a thoroughgoing program. We must assist the fisheries in the same way as the Government assists agriculture—at every phase of the operation from the raw to the marketed product. The fishing industry has deteriorated too far to be helped by any quick spot solution.

The loss of our fishing industry would cost our country dearly. One-half million people would be added to the rolls of the unemployed. The price of fish to consumers will be set outside the country. Millions of consumer food dollars, which should be staying in this country, will go abroad. This is already happening. Last year, per capita fish consumption in this country rose one-half pound. This was a substantial gain, but it was completely absorbed by rising imports.

Congress has set up a number of assistance programs for the American fishing industry. They are administered by the Bureau of Commercial Fisheries. The Bureau gives help in every phase of fishing, from exploring the waters to marketing the finished product and finding new uses for fish. The Bureau issues marketing reports, runs voluntary quality control programs, builds fish ladders to save salmon, and develops poisons to kill lampreys.

The Bureau has done an excellent job, with the tools it has, in introducing modern methods to an old-fashioned industry. The Bureau is short of badly needed, advanced equipment. In the whole North Atlantic, for instance, it only has one exploratory vessel of its own. All too often the Bureau, like the fishermen, must spend its money simply keeping its vessels up to date.

The fishermen also receive assistance through the Fisheries Loan and Mortgage Acts and the Vessel Subsidy Act.

The Fisheries Loan Act, passed in 1956, authorized a $13 million loan fund for repairing fishing and boat gear and for financing or refinancing the operators. Under this program, 560 loans totaling over $13½ million have been made to vessel owners and operators. It has been most successful where it has helped fisheries such as the tuna and salmon fishermen on the west coast buy newer, more efficient equipment. It does not, however, help build new vessels.

The Vessel Mortgage and Insurance Act, passed in 1960, provides Government insurance for mortgages for building or reconstructing fishing boats. This program has been in operation for about a year and a half. It is helpful in fisheries where the price of boats is not prohibitive. It is of no use, however, to fishermen who cannot afford to buy new vessels in this country.

The Vessel Subsidy Act, passed in 1960, provides a maximum Government subsidy of one-third the cost for vessels built for fisheries hurt by import competition. It has not been effective and I shall offer later several ways it should be changed.

These programs represent a step in the right direction. They have not, however, done the job of putting the industry back on its feet.

Our fishermen must convert quickly to modern techniques or they will not survive. In order to do this, they must have both immediate and long-term assistance. I think Congress should pass a program that will help save the industry from further decline, and enable it to compete with foreign producers. In addition, the Government should take steps to make our fisheries an effective weapon in our battle against hunger in the underdeveloped nations of the world. I, therefore, propose the following seven-point program:

1. Overhaul of the Vessel Subsidy Act to allow greater Government participation in subsidies to boatowners and to make a greater segment of the fishing industry eligible for assistance.

Vessels are at the heart of the fishermen's problems. At best the American fisherman can keep his present equipment up to date and in good repair. At worst, he cannot do this and the vessel deteriorates. Yet even if his equipment is in good condition, it is still far poorer and older than any being used by his principal foreign competitors.

If Congress will not let our fishermen shop on the open market, in any country, for the best vessel their money can buy, it should amend the Vessel Subsidy Act to make it truly effective. Since the act was passed, only one payment has been made under it. Although other applications are now pending, it is clear that this bill is too restrictive to provide the fishing industry with the strong ship construction incentive and assistance it needs. A vessel built with this assistance must always carry at least half a cargo of the fish for which it is getting the subsidy. Yet, fish in this category make up only 7 percent of the domestic catch.

The terms of the act should be broadened to make a greater portion of the industry eligible for its help. It should also allow a subsidized vessel greater flexibility in the catch it may take. The procedure for applying for a subsidy should be simplified. The applications must now be approved by three different Government agencies. It often takes several months to clear them, and vessel costs rise while the applicant waits for the paperwork to be finished. The procedure also discourages the boatbuilders from trying new or different designs. Instead they use the old ones, the ones that have been approved before.

The present maximum possible subsidy on steel-hulled vessels is 33⅓ percent. The actual price differential, however, between American and foreign shipyards for these vessels is now 40 to 50 percent. Since the American fishermen are, in effect, being forced to subsidize our boatyards by not being permitted to buy their vessels at the best possible prices, they should be paid the full difference whenever necessary. For this reason, Congress should increase the subsidy maximum to 50 percent.

2. Provide Federal loans to fish processors to help them modernize their plants.

New processing machinery has shown in several instances that it will not only pay for itself but can revolutionize the industry. Yet the processors, like the fishermen, have not been attracting private capital. And the Small Business Administration, which is supposed to handle loans rejected by commercial sources, has approved only three loans to New England fish processors in the last 9 years.

Congress should set up a loan program to help the processors purchase new equipment. This could be done either by amending the Fisheries Loan Act to include processors, or by inaugurating a separate program under the Small Business Administration.

3. Expand research into the finding, catching, processing and marketing of fish by enlarging present research programs, and providing new equipment for the Bureau of Commercial Fisheries.

A strong exploratory fishing program, which could pinpoint known locations of fish, would take much of the guesswork out of present fishing methods. This alone

would greatly improve the economics of the industry. More exploratory fishing could also locate new sources of fish. From Maine to the gulf and Alaska, major fisheries have been badly hurt through loss of stocks. Yet scientists estimate our coastlines hold, in locations yet discovered, an additional 7 billion pounds of fish a year—double our present catch.

The Bureau of Commercial Fisheries' exploratory fishing program has produced excellent results in the past. It should be broadened and strengthened in order to locate new and unused stocks. Congress should provide the Bureau with funds for new research vessels, to cover our present fishing grounds more thoroughly and to explore more distant oceans.

Congress should also support research on new equipment for the fisheries. One example of this is the proposed program of the Atomic Energy Commission to build two new portable food irradiators, machines which destroy bacteria in food through low-level radiation and allow it to be kept fresh at room temperature at long periods of time. Perfection of such equipment would help solve the present problem of extensive spoilage.

It would thereby create large new markets for fresh fish in areas of the country distant from the oceans. The funds for this program will, I hope, be approved by Congress this year.

4. Strengthen State commercial fisheries programs by a system of Federal matching grants.

State assistance is needed particularly for research in conservation, and in onshore waters, where the Bureau of Commercial Fisheries does little work. A worthwhile bill to give assistance to the State fishing groups has already been introduced by my colleague from Alaska, Senator GRUENING, and I hope hearings on it will be reopened.

5. Construction of a modern stern-chute factory trawler for processing fish at sea.

There is at the present time a bill before Congress to appropriate funds to the Bureau of Commercial Fisheries to build a modern, stern-chute trawler and factory ship for research purposes. No such fishing vessel has ever been built in an American shipyard. Yet, if our fishermen hope to compete on an equal basis with foreign fleets, they must have larger, more modern vessels of this type. The proposed vessel to be operated by the Bureau would carry the most modern freezing, filleting, canning, and other machinery aboard for processing fish at sea. It would give both the American fishermen and boatyards an economical laboratory in which to test and evaluate advanced fishing methods.

A bill to construct this trawler for operation in the Bering Sea and northern Pacific Ocean has been introduced in the Senate by my colleague from Washington, Senator MAGNUSON. I would hope amendment would be in order to permit the vessel to operate in the Atlantic Ocean as well.

6. Approval of fish protein for domestic consumption by the Food and Drug Administration.

Our fishing industry can play a vital part in the worldwide battle against hunger. In the underdeveloped areas of the world, the most critical health problem is protein malnutrition. This is a disease which affects an estimated 500 million people—1 of every 4—on this planet.

The means to alleviate this problem lie in the seas off the nations of Africa, Asia, and South America. While almost all these nations are within easy reach of the oceans, with few exceptions, none have developed modern fishing industries. They lack the capital and the technical know-how. Many of these countries are in tropical climates, but they have no method of preserving fish and consequently cannot use them to feed the people. Lake Chad in Nigeria, for example, contains sufficient fish to supply the entire country. They spoil, however, even before they are brought ashore.

The nation that can catch fish off the shores of these countries, process them, and make them available to the people cheaply will have tapped major new markets and also created a strong weapon in the cold war. Russia, through its trawler-factory ships has the means to do this. We do not. We do, however, have one advantage: That there has been developed, in this country, the means to manufacture from fish an inexpensive, high-protein food additive called fish protein. A few cents worth of this powder added daily to a person's diet can supply him with all his protein needs. Fish protein can be produced for as little as 15 cents a pound, and can be stored indefinitely in any climate without spoiling.

The value of American fish protein has been established in feeding experiments throughout the underdeveloped nations of the world. The United States has achieved a clear lead in this field by developing a finished, tested product ready for large-scale manufacture. This product is of great potential benefit to our fisheries. It is an excellent example of what modern technology can do for the fishing industry.

Full promotion of fish protein, however, has been hindered by the Food and Drug Administration ruling that, for esthetic reasons, it cannot be sold in the United States for human consumption.

This decision has been discussed on this floor previously by a number of distinguished Senators, including my colleague from Massachusetts, Mr. SALTONSTALL, the senior Senator from Illinois, Mr. DOUGLAS, and the junior Senator from Rhode Island, Mr. PELL. This is a shortsighted decision and does not represent, to our thinking, the type of cooperation which the industry should receive from the Government when it has made a significant breakthrough in new products and technology. A hearing will be held on this problem in the near future and I hope that fish protein concentrate will, as a result, gain approval on its own merit.

7. Construction of a pilot plant for manufacture of fish protein on land and at sea, aboard ships.

Congress appropriated $50,000 last year for a worldwide study of fish protein manufacturing methods. In order that this country may receive the full benefits of fish protein, I propose Congress appropriate funds to set up a pilot plant operation to determine the most economical way of producing fish protein on a large scale. With this support, we could design a plant to manufacture fish protein at sea aboard ships.

Once this is done, I hope the plant can be placed aboard a surplus freighter and sent to produce fish protein in those areas of the world where it is needed. Thus the United States could show dramatically its deep concern for feeding the world's hungry people. We must, however, do this as soon as possible. The Russians can easily convert the fish meal processing machinery aboard their factory ships to produce fish protein. And we know that they are already working to develop a fish protein manufacturing process of their own. We should not let our lead in this field go to waste.

Fish protein has received the support of many prominent Government officials, including the Secretary of the Interior, Stewart Udall, and Director of Food for Peace, George McGovern. I hope my colleagues in Congress will join me in supporting the effective use of this valuable product.

Recently, the Peace Corps received requests from Brazil, Venezuela, and Togo, for volunteers with expertise in the fisheries. A fisherman from my hometown of Gloucester, Michael Ruggiero, of the Bureau of Commercial Fisheries, volunteered to help the Corps recruit the people it needed for this work. The interest the Peace Corps has shown in our fishermen indicates to me that they are a skilled and valuable resource to our country—a resource we cannot afford to lose. They were the first commercial workers in the United States. There were times when only their skill saved the early settlers from starvation. They still represent an invaluable asset to this Nation, providing us with a valuable food product and showing the needier nations of the world the way to combat hunger.

We have a great opportunity in this field. We can begin today to rehabilitate our fisheries and regain our rightful place among the nations of the world. The benefits, to our economy and our foreign policy, will greatly exceed the costs.

The fishing industry, through 300 years, has often faced adversity. Today, another dawn is breaking. I hope my fellow Members of Congress will join me in giving this industry the assistance it so richly deserves.

ALTERATION, MAINTENANCE, AND REPAIR OF CERTAIN GOVERNMENT BUILDINGS AND PROPERTIES

Mr. MAGNUSON. Mr. President, by request, I introduce, for appropriate reference, a bill to provide for the alteration, maintenance, and repair of Government buildings and property under lease or concession contracts entered into pursuant to the operation and maintenance of Government-owned airports under the jurisdiction of the Administrator of the Federal Aviation Agency, and for other purposes. I ask unanimous consent that a letter from the Administrator, Federal Aviation Agency, requesting this proposed legislation, be printed in the RECORD.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the letter will be printed in the RECORD.

The bill (S. 629) to provide for the alteration, maintenance, and repair of Government buildings and property under lease or concession contracts entered into pursuant to the operation and maintenance of Government-owned airports under the jurisdiction of the Administrator of the Federal Aviation Agency, and for other purposes, introduced by Mr. MAGNUSON, by request, was received, read twice by its title, and referred to the Committee on Commerce.

The letter presented by Mr. MAGNUSON is as follows:

FEDERAL AVIATION AGENCY,
Washington, D.C., January 14, 1963.

DEAR MR. PRESIDENT: It is requested that the attached proposed bill to provide for the alteration, maintenance, and repair of Government buildings and property under lease or concession contracts entered into pursuant to the operation and maintenance of Government-owned airports under the jurisdiction of the Administrator of the Federal Aviation Agency, and for other purposes, be introduced in the Senate at your earliest convenience.

This proposal would grant specific authority to the Administrator of the Federal Aviation Agency to include in lease or concession contracts, provisions for the maintenance, repair, and alteration of Government buildings and properties by the grantee, lessee, or permittee notwithstanding the provisions of section 321 of the act

of June 30, 1932 (47 Stat. 412; 40 U.S.C. 303(b)). That section reads as follows:

"Except as otherwise specifically provided by law, the leasing of buildings and properties of the United States shall be for money consideration only, and there shall not be included in the lease any provision for the alteration, repair or improvement of such buildings or properties as a part of the consideration for the rental to be paid for the use and occupation of the same. The moneys derived from such rentals shall be deposited and covered into the Treasury as miscellaneous receipts."

The need for specific legislative authority for this purpose stems from a decision of the Comptroller General No. B–125035, dated February 1, 1962, to the Secretary of Interior. That decision, which was based on an interpretation of the above-quoted section, held that Department of Interior concession agreements were leases within the meaning of section 303(b) and that, therefore, inclusion of provisions in such agreements for the alteration, repair, or improvement of Federal property by the concessioners was unlawful (Congress removed the impact of this decision as it relates to the Department of Interior by enactment of Public Law 87–608).

The Comptroller General's decision has cast doubt upon the validity of some of our lease and concession agreements entered into in connection with the operation of the two Washington airports. Throughout the 20 years of operations at the Washington National Airport this Agency has entered into a number of leases and concession agreements which call for substantial investment by the tenants and concessionaires in improvements, alterations, and repairs to the airport property which they occupy. The same arrangements are used at the new airport. Rates, fees, and charges at the airports are established on the basis of contribution, in varying degrees, of alteration, repair and improvement by tenants and concessionaires. If such provisions are held invalid and the Agency required to perform these functions, substantial increase in appropriations would be required. It is also possible that the tenants and concessionaires would gain a substantial windfall by being relieved of the obligation to repair, alter, maintain, and improve the property occupied.

Section 303(b), like other sections of the Economy Act, reflects Congress' concern, among other things, that appropriations to the various agencies not be augmented by administrative devices. This policy consideration loses much of its force, however, when applied to revenue producing activities under the control of Government agencies. In its operation of the two Washington airports, it is the responsibility of this Agency to manage the properties in the most efficient and economical manner to the end that the airports are financially self-sufficient. These airports, being essentially business enterprises, require the application of business practices in their management. In business, it is quite common for the lessee to assume responsibility for the alteration, repair, and improvement of the premises. Leased premises are constantly remodeled, altered or improved to increase the lessee's revenue or meet competition. The lessee, who must make these decisions, is best equipped to carry them out. Furthermore, the administrative overhead costs to the Government are substantially reduced when responsibility for such work is undertaken by the lessee. Therefore, while the revenue from concessions may be less if repairs and alterations are assumed by the lessee, any loss in revenue will be offset by reduction in the Government's expenditures and other savings in operating costs.

Finally, we believe that placing responsibility upon lessees for the maintenance, repair, and alteration of leased space provides an added incentive for the exercise of greater care by the lessee in the use and treatment of the premises. In the long run, this becomes a significant factor in reducing operating costs and protecting the value of the capital investment.

The Bureau of the Budget has advised that there is no objection from the standpoint of the administration's program to the submission of this proposed legislation to the Congress.

Sincerely,

N. E. HALABY,
Administrator.

OPERATION OF CERTAIN CONCESSIONS AT THE WASHINGTON NATIONAL AIRPORT

Mr. MAGNUSON. Mr. President, by request, I introduce, for appropriate reference, a bill to amend the act of October 9, 1940 (54 Stat. 1030, 1039), in order to increase the periods for which agreements for the operation of certain concessions may be granted at the Washington National Airport, and for other purposes. I ask unanimous consent that a letter from the Administrator, Federal Aviation Agency, requesting the proposed legislation, be printed in the RECORD.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the letter will be printed in the RECORD.

The bill (S. 630) to amend the act of October 9, 1940 (54 Stat. 1030, 1039), in order to increase the periods for which agreements for the operation of certain concessions may be granted at the Washington National Airport, and for other purposes, introduced by Mr. MAGNUSON, by request, was received, read twice by its title, and referred to the Committee on Commerce.

The letter presented by Mr. MAGNUSON is as follows:

FEDERAL AVIATION AGENCY,
Washington, D.C., January 14, 1963.

DEAR MR. PRESIDENT: It is requested that the attached proposed bill "To amend the act of October 9, 1940 (54 Stat. 1030, 1039), in order to increase the periods for which agreements for the operation of certain concessions may be granted at the Washington National Airport, and for other purposes," be introduced in the Senate at your earliest convenience.

This proposal would amend the Supplemental Appropriations Act of 1940 to exempt from the 5-year lease limitation, concessions at Washington National Airport involving construction or installation by the party contracting with the Government of buildings or facilities costing in excess of $50,000. The purpose of this legislation is to provide the same authority to the Agency in its administration of Washington National Airport as it now possesses with respect to the operation of the new international airport at Chantilly, Va. Enactment of this legislation would permit, when appropriate and beneficial to the Government, the Agency to negotiate agreements with proponents designed to meet common requirements at both airports which can best be performed through the investment of private capital.

In certain cases, private financing clearly appears to be the best method to provide additional important facilities needed to meet the increasing business generated at the airport. This proposal would permit the long-term leases necessary to interest potential investors in making a major capital investment for permanent construction of buildings of substantial value.

Example of areas in which it would be advantageous to have longer leases than are now permitted are rental car maintenance buildings, inflight food commissary buildings, or a hotel which require capital investment totaling upward of a million dollars.

It should be pointed out that this method of financing is being used more and more frequently by leading airports throughout the country as a means of providing vitally needed physical facilities to meet a wide variety of airport needs. This method has the advantage of providing such essential facilities through private financing, thus conserving badly needed tax funds for other purposes and also reducing the amount of bond money required to develop a thoroughly operational airport. Such arrangements normally provide that the physical facility constructed by these potential investors become the property of the airport at the end of the specified lease period which is sufficient to allow for amortization of the investment.

This is the method which was recently used by the FAA to provide hotel facilities at the new international airport. Under the terms of our contract, the successful proponent agrees to construct a 200-room hotel at an estimated cost of more than $3 million.

At the end of the 40-year lease, the hotel becomes the property of the Federal Government.

We feel that Washington National Airport should have the same legislative authority to meet certain special situations where it would be advantageous to the Government and the taxpayers to utilize private financing to secure important physical facilities required in connection with vital airport consumer services.

At the present time, there are a number of areas in which the Agency could utilize private financing at Washington National Airport advantageously to develop additional sources of revenue to offset the operating costs of the airport. In these cases, however, long-term leases are required since major capital investment for the permanent construction of buildings of substantial value is necessary to undertake these new or expanded consumer services.

The Bureau of the Budget has advised that there is no objection from the standpoint of the administration's program to the submission of this proposed legislation to the Congress.

Sincerely,

N. E. HALABY,
Administrator.

AUTHORITY FOR THE PERFORMANCE OF CERTAIN FUNCTIONS AND ACTIVITIES OF THE FEDERAL AVIATION AGENCY

Mr. MAGNUSON. Mr. President, by request, I introduce, for appropriate reference, a bill to provide basic authority for the performance of certain functions and activities of the Federal Aviation Agency, and for other purposes. I ask unanimous consent that a letter from the Administrator, Federal Aviation Agency, requesting the proposed legislation, be printed in the RECORD.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the letter will be printed in the RECORD.

The bill (S. 631) to provide basic authority for the performance of certain functions and activities of the Federal Aviation Agency, and for other purposes, introduced by Mr. MAGNUSON, by request,

was received, read twice by its title, and referred to the Committee on Commerce.

The letter presented by Mr. MAGNUSON is as follows:

FEDERAL AVIATION AGENCY,
Washington, D.C., January 14, 1963.

DEAR MR. PRESIDENT: It is requested that the attached proposed bill "To provide basic authority for the performance of certain functions and activities of the Federal Aviation Agency, and for other purposes," be introduced in the Senate at your earliest convenience.

The proposed bill would amend the Federal Aviation Act to authorize the Administrator to provide certain goods and services to Agency employees and dependents stationed in Alaska and points outside the continental United States which are necessary and not otherwise available. Specifically, it would provide the Administrator with authority to (1) furnish emergency medical services and supplies; (2) purchase, transport, store, and distribute food and other subsistence supplies; (3) establish, maintain, and operate messing facilities; (4) provide motion pictures for recreation and training; (5) construct, repair, alter, equip, and furnish living and working quarters; (6) reimburse Agency employees for food, clothing, medicine and other supplies furnished by them in emergencies for the temporary relief of distressed persons.

The purpose of this proposal is remedial in nature and would, if enacted, provide the Administrator of the Federal Aviation Agency with specific legislative authority in carrying out his responsibilities. It is remedial in nature because similar authority was given to the Secretary of Commerce by Public Law 390, 81st Congress (63 Stat. 907), and delegated by the Secretary to our predecessor agency, the Civil Aeronautics Administration. However, Public Law 390, 81st Congress, was, through inadvertence, not incorporated into the Federal Aviation Act of 1958 and, while the functions of the Administrator of Civil Aeronautics were transferred to the Administrator of the Federal Aviation Agency, the authority of Public Law 390, 81 Congress, remained in the Secretary of Commerce. Since the establishment of the Federal Aviation Agency, the provisions of Public Law 390 have been extended to the Agency by language in the annual appropriation acts.

The proposal differs from Public Law 390, 81st Congress, in that it is condensed. Repetitious matter and authorities which are otherwise available to the Administrator have been deleted. For example, the Administrator already possesses adequate authority to make available to other agencies services, equipment and facilities on a reimbursable basis when appropriate (section 302(k) of the Federal Aviation Act). Therefore, all provisions relating to this subject in Public Law 390, 81st Congress have been deleted. In addition, the phrase "in remote localities" appearing in paragraphs "(d)," "(e)," and "(f)" of Public Law 390 has been omitted. We consider this phrase superfluous since the services would be provided only where they are "not otherwise available." The provisos of "(b)" and "(c)" calling for reports to the Congress have likewise been omitted, consistently with the congressional intent expressed in Public Law 706, 83d Congress (68 Stat. 966).

In exercising his authority under (b)(5) of the proposed bill, the Administrator would continue to utilize, to the fullest extent practicable, the existing capabilities of the Department of Defense in awarding contracts for the performance of construction services so as to avoid duplicating existing engineering and construction capability within the Department of Defense.

The Bureau of the Budget has advised that there is no objection from the standpoint of the administration's program to the submission of this proposed legislation to the Congress.

Sincerely,

N. E. HALABY,
Administrator.

PROHIBITION OF LOCATION OF CHANCERIES OF FOREIGN GOVERNMENTS IN CERTAIN RESIDENTIAL AREAS IN THE DISTRICT OF COLUMBIA

Mr. FULBRIGHT. Mr. President, I introduce, for appropriate reference, a bill to prohibit the location of chanceries or other business offices of foreign governments in certain residential areas in the District of Columbia. It is similar to legislation on this subject which the Committee on Foreign Relations reported favorably to the Senate last year.

Under the terms of the bill—after the date of its enactment—no foreign government would be permitted to construct, alter, repair, convert, or occupy any building for use as a chancery, chancery annex, or other business office on any land, regardless of the date it was acquired, within a one-family detached dwelling residence district, except on the same basis as a U.S. citizen or entity.

The bill does not prohibit a foreign government from continuing to occupy any building which is currently lawfully being used as a chancery, chancery annex, or other business office; nor does it prohibit the making of ordinary repairs to any such building. In addition, enactment of this proposed legislation is not intended to have a retroactive effect. Legally authorized construction which has actually begun would not be affected by this bill.

The bill also states that its provisions "shall not be administered in such a way as to discriminate against any foreign government on the basis of the race, color, or creed of any of its citizens."

Mr. President, I am introducing this bill because I continue to be concerned about the encroachment of business establishments in residential areas in the District of Columbia. For a number of years foreign governments have been permitted to locate their chanceries in residential areas in the District, in spite of the fact that the types of activities carried on by these chanceries are of a commercial nature and experience has shown that they tend to disrupt quiet, residential neighborhoods.

The zoning regulations of the District of Columbia clearly define a chancery as "the business offices of the chief of the diplomatic mission of a foreign government." Such being the case, in my opinion, foreign governments wishing to locate chanceries or other business offices in Washington should be subject to the same building and zoning regulations which apply to American commercial or business establishments.

Unfortunately, however, under section 8207 of the District of Columbia zoning regulations, a foreign government may establish a chancery or other business office in a residential area by obtaining a so-called variance from the District Board of Zoning Adjustment, even though there has been no clear set of criteria for granting or withholding such variance. I do not think this situation should be allowed to continue. As long as American concerns are precluded from locating their business offices in residential areas in the District of Columbia, I see no reason why foreign governments should not be placed on substantially the same footing.

Mr. President, I believe there is an urgent need for legislation to specify in certain terms where and under what conditions chanceries and other business offices of foreign governments may be located in the District of Columbia in the future.

As Assistant Secretary of State Frederick G. Dutton wrote me last year:

> The chancery situation in Washington has for a long time been confused and unsatisfactory for all parties concerned.

Moreover, he added:

> The Department of State would welcome an equitable and reasonable law prohibiting the future construction of chanceries in designated residential areas of the District of Columbia.

In commenting on how the zoning regulations should be amended, Mr. Dutton said the position of the Department of State was that areas categorized as one-family detached dwelling residence districts under the zoning regulations of the District of Columbia should be closed to all future construction and that no more variances should be granted for these areas. He expressed the view, however, that future chancery construction should not be limited to special purpose and commercial districts, but that chanceries should be permitted in certain other districts, "provided it can be shown that they are not being set up in areas of these districts which are already overcrowded with chanceries." On the other hand, the Commissioners of the District of Columbia favor an absolute restriction on the location of chanceries in all residential areas because they feel it would serve to stabilize zoning in those areas.

I believe there was some discussion in the Senate last year regarding the chancery situation in Washington. I do not feel too strongly one way or the other about the method which should be adopted to reach a satisfactory solution to the problem. The main point, in my view, is that the rights of American citizens ought to be respected by prohibiting, insofar as is practicable, all foreign governments from locating their chanceries or other business offices in residential areas in the District of Columbia.

Mr. President, the bill I am introducing today is designed to accomplish that purpose, and I hope it will be approved by the Senate at an early date.

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

The bill (S. 646) to prohibit the location of chanceries or other business offices of foreign governments in certain residential areas in the District of Columbia, introduced by Mr. FULBRIGHT, was received, read twice by its title, and referred to the Committee on the District of Columbia.

PAYMENT OF A CLAIM MADE BY THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

Mr. FULBRIGHT. Mr. President, by request, I introduce for appropriate reference a bill to authorize payment of a claim made by the Government of the United Kingdom of Great Britain and Northern Ireland.

The proposed legislation has been requested by the Under Secretary of the Navy and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill may be printed in the RECORD at this point, together with the letter from the Under Secretary of the Navy, dated January 11, 1963, in regard to it.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the bill and letter will be printed in the RECORD.

The bill (S. 647) to authorize payment of a claim made by the Government of the United Kingdom of Great Britain and Northern Ireland, introduced by Mr. FULBRIGHT, by request, was received, read twice by its title, referred to the Committee on Foreign Relations, and ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the limitations contained in the Act of October 9, 1940 (54 Stat. 1061), or in any other provision of law, the claim of the United Kingdom of Great Britain and Northern Ireland for various supplies and services furnished by the British Navy in 1946 to the United States Navy in the sum of 3,336 pounds, 16 shillings, and 5 pence shall be held and considered to have been timely filed. The Secretary of the Navy is hereby authorized to pay this claim out of Navy appropriations otherwise available for the payment of such claims.

The letter presented by Mr. FULBRIGHT is as follows:

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, D.C., January 11, 1963.

The PRESIDENT OF THE SENATE,
U.S. Senate,
Washington, D.C.

MY DEAR MR. PRESIDENT: There is enclosed a draft of proposed legislation "To authorize payment of a claim made by the Government of the United Kingdom of Great Britain and Northern Ireland."

PURPOSE OF THE LEGISLATION

The purpose of this proposed legislation is to authorize payment for supplies and services furnished by the British Navy to the U.S. Navy in 1946 in the amount of 3,336 pounds, 16 shillings, and 5 pence. This claim was forwarded by the British Navy to the U.S. Navy Regional Accounting Office, Washington, D.C., in July 1951, well within the time prescribed by the statute of limitations. Additional substantiation was required and further correspondence took place between the British Admiralty and the U.S. Navy Regional Accounting Office. It was not until December 17, 1959, that the U.S. Navy Regional Accounting Office administratively approved the claim and forwarded it for payment to the General Accounting Office.

On February 19, 1960, the General Accounting Office denied the claim on the ground that it had not been received in that Office within the 10-year statute of limitations contained in the act of October 9, 1940 (54 Stat. 1061). The authority which this proposal would provide is needed to permit payment of a just obligation on the part of the United States to the United Kingdom.

COST AND BUDGET DATA

The cost to the Government of this legislation at the official rate of exchange will be $9,343.10 which would be charged to appropriation 17M804, "Maintenance and operation, Navy successor account"; therefore, current appropriations will not be used. The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this proposal for the consideration of the Congress.

Sincerely yours,

PAUL B. FAY, JR.,
Under Secretary of the Navy.

INTRODUCTION OF BILL TO MAKE THE BIRTHDAY OF ABRAHAM LINCOLN A LEGAL HOLIDAY

Mr. JAVITS. Mr. President, I introduce, for appropriate reference, a bill to make the birthday of Abraham Lincoln a legal holiday. I had contemplated introducing the bill—which I introduce on behalf of myself, the distinguished minority leader [Mr. DIRKSEN], the Senator from Illinois [Mr. DOUGLAS], the Senators from Kentucky—which, incidentally, was the birthplace of Abraham Lincoln—[Mr. COOPER and Mr. MORTON], the Senators from Indiana [Mr. HARTKE and Mr. BAYH], the Senator from California [Mr. KUCHEL], and my colleague from New York [Mr. KEATING]—before now, because of our interest in having the 12th of February, the birthday of Abraham Lincoln, made a legal holiday. The vote on the rules motion was taken this afternoon; and perhaps it is just as well that the bill is introduced now, in a kind of symbolic sense.

Mr. President, this year is the 100th anniversary of the Emancipation Proclamation. I think most Americans would be amazed to learn that Lincoln's birthday is not a Federal legal holiday. Certainly it should be. Abraham Lincoln is one of the really supreme characters and Presidents of our Nation, and one of the most luminous figures in the world, whose influence has come down to us for over a century; and through the ages he will go down as an American in whom Americans take greatest pride, and by whom they are inspired for the sanctity of our Union, for its humanitarianism, for its strength, for its justice, and for its determination to maintain the peace, with honor and individual dignity for all its citizens.

Mr. President, I hope very much that this bill, with bipartisan sponsorship, will be passed by the Congress, with the result that what most Americans now think to be the case will actually become the case, in law—to wit, that Abraham Lincoln's birthday, February 12, will be a legal holiday each year.

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

The bill (S. 648) making the birthday of Abraham Lincoln a legal holiday, introduced by Mr. JAVITS (for himself and other Senators), was received, read twice by its title, and referred to the Committee on the Judiciary.

AMENDMENT OF WATER POLLUTION CONTROL ACT

Mr. MUSKIE. Mr. President, I introduce, for appropriate reference, a bill amending the Federal Water Pollution Control Act, as amended. I ask unanimous consent that it remain at the desk for 10 days to afford my colleagues an opportunity to cosponsor the legislation.

Federal financial assistance to cities to aid in the construction of necessary sewage treatment plants is an important and significant feature of a well-rounded Federal water pollution control program. Such Federal inducement to spur cities to undertake needed construction is fully consonant with Federal aims and responsibilities for restoration and conserving the quality of the Nation's water supplies.

The response on the part of the communities is certainly heartening. Encouraging progress is being recorded. The full potential of this stimulatory program is not being realized, however, in the case of our larger cities. As presently authorized, a grant for a single project may not exceed 30 percent of the reasonable construction cost or $600,000, whichever is less. In the case of a joint project in which several communities participate the ceiling is $2,400,000. These ceiling limitations are unrealistic when applied to the considerably greater expenditures which a larger city must bear in installing necessary treatment works. In application, they approximate as little or less than 10 percent of the costs involved and thus they fail to achieve what is at once a primary and necessary objective in efforts to control water pollution. The bill, which I introduce today, would bring these amounts more in line with the equities and purposes involved by increasing the single project grant maximum to $1 million and the joint project combined grants maximum to $4 million.

An even more excessive financial burden confronts our older established cities. They are currently faced with the necessity of separating their combined storm and sanitary sewers. The reserve capacity provided in their treatment plants to handle periodic storm water runoffs is presently not even adequate to properly process sanitary sewage alone. Consequently, after a rainfall large overflows of these combined storm and sanitary wastes are diverted from entering the treatment plants and are discharged raw without any treatment to the streams.

The harmful effects of these periodic doses of concentrated pollutants are felt not only in the adjoining vicinity but also far downstream. Interferences with many legitimate uses of water result. Obviously body contact water pursuits are out of the question in such situations

and closed bathing beaches serve as a forceful reminder that the quality of the water is severely impaired.

As I have stated, the separation of these combined collection systems requires huge expenditures on the part of the communities. In order to encourage and assist these hard-pressed cities, my bill would provide Federal financial participation to the extent of 30 percent of the total estimated reasonable costs and would authorize appropriation of $100 million annually from which these grants would be made.

In the previous Congress, I presented a proposal to provide for more effective utilization of certain Federal grants by encouraging better coordinated local review of State and local applications. This proposal is effectively advanced in a provision of my bill which would authorize an additional 10-percent grant to be made for those projects that are certified by an official State, regional, or metropolitan planning agency as being in conformity with a comprehensive plan of development. The grave errors of our past practices in metropolitan development that now arise to haunt us in the form of blighted areas must not be allowed to be repeated; by no means should Federal funds be permitted to contribute to their perpetuation.

Today, more than ever before, the individual citizen is aware of the needs for preventing and controlling water pollution. In order to assist him in his willingness and desire to avoid contributing to bad pollution practices and to deter those who willingly pursue such deleterious practices, authority is provided for the issuance of rules and regulations by the Secretary of Health, Education, and Welfare setting forth standards of quality necessary for all legitimate water uses to be applicable to interstate or navigable waters and the type, strength, or volume of matter which may be permissibly discharged into these waters. In my own State, our previously abundant shellfish-producing waters have been immeasurably harmed through disposal of deleterious wastes. The economic losses that have ensued are irreparable.

The responsibilities in regard to Federal water pollution control are as seriously important as any of the other considerable responsibilities now residing in the Department of Health, Education, and Welfare. The successful and effective discharge of these water pollution control responsibilities must in no way be prevented through lack of adequate recognition of their import. For this reason, my bill would establish the Federal Water Pollution Control Administration as a direct operating arm of the Department. The potentialities to be realized from effective water pollution control are too significant and the consequences of failure too serious to allow those responsible for the administration of the programs to be hindered through lack of adequate status and authority.

I ask unanimous consent that the complete text of the bill, and a section-by-section analysis of the bill be printed in the RECORD at this point.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the bill and section-by-section analysis will be printed in the RECORD, and the bill will lie on the desk, as requested by the Senator from Maine.

The bill (S. 649) to amend the Federal Water Pollution Control Act, as amended, to establish the Federal Water Pollution Control Administration, to increase grants for construction of municipal sewage treatment works, to provide financial assistance to municipalities and others for the separation of combined sewers, to authorize the issuance of regulations to aid in preventing, controlling, and abating pollution of interstate or navigable waters, and for other purposes, introduced by Mr. MUSKIE (for himself and Mr. HUMPHREY), was received, read twice by its title, referred to the Committee on Public Works, and ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Water Pollution Control Act (33 U.S.C. 466) is amended by inserting after section 1(b) thereof the following new subsection:

"(c) It is the purpose of this Act to establish a positive national water pollution control policy of keeping waters as clean as possible as opposed to the negative policy of attempting to use the full capacity of such waters for waste assimilation."

SEC. 2. Such Act is further amended by redesignating sections 2 through 14 as sections 3 through 15, respectively, and by inserting after section 1 the following new section:

"FEDERAL WATER POLLUTION CONTROL ADMINISTRATION

"SEC. 2. There is hereby created within the Department of Health, Education, and Welfare a Federal Water Pollution Control Administration (herein referred to as the 'Administration'). The Administration shall be headed by a Commissioner of Water Pollution Control (herein referred to as the 'Commissioner'). The Commissioner shall administer this Act through the Administration under the supervision and direction of the Secretary of Health, Education, and Welfare and an Assistant Secretary of Health, Education, and Welfare designated by the Secretary. The Commissioner and such other professional, technical, and clerical assistance as may be necessary to discharge the responsibilities of the Administration shall be provided from the personnel of the Department of Health, Education, and Welfare."

SEC. 3 (a) Clause (2) of subsection (b) of the section of the Federal Water Pollution Control Act herein redesignated as section 7 is amended by striking out "$600,000," and inserting in lieu thereof "$1,000,000,".

(b) The second proviso in clause (2) of subsection (b) of such redesignated section 7 is amended by striking out "$2,400,000," and inserting in lieu thereof "$4,000,000,".

(c) Such redesignated section 7 is further amended by adding at the end thereof the following new subsections:

"(g) The Secretary is authorized to make grants to any State, municipality, or intermunicipal or interstate agency for separation of combined sewers which carry both storm water and sewage or other wastes on the date of enactment of this subsection to prevent the discharge of untreated or inadequately treated sewage or other waste into any waters and for the purpose of reports, plans, and specifications in connection therewith.

"Federal grants under this section shall be subject to the following limitations: (1) No grant shall be made for any project pursuant to this subsection unless a comprehensive plan for storm drainage in connection therewith shall have been submitted by the applicant to the appropriate State water pollution control agency or agencies and to the Secretary and unless such project shall have been approved by such appropriate State water pollution control agency or agencies and by the Secretary and unless such project is included in a comprehensive program developed pursuant to this Act; (2) no grant shall be made for any project in an amount exceeding 30 per centum of the estimated reasonable cost thereof as determined by the Secretary; (3) no grant shall be made for any project under this subsection until the applicant has made provision satisfactory to the Secretary for assuring proper and efficient operation and maintenance of the separated sewers after completion of the construction thereof; (4) no grant shall be made for any project under this subsection unless such project is in conformity with the State water pollution control plan submitted pursuant to the provisions of section 5 and has been certified by the State water pollution control agency as entitled to priority over other eligible projects on the basis of financial as well as water pollution control needs.

"There are hereby authorized to be appropriated for the fiscal year ending June 30, 1964, and for each succeeding fiscal year, the sum of $100,000,000 per fiscal year for the purpose of making grants under this subsection. Sums so appropriated shall remain available until expended.

"The provisions of subsections (c), (e), and (f) of this section shall be and are hereby made applicable to and for the purposes of this subsection except that the proviso contained in subsection (c) shall not be thus applicable.

"(h) Notwithstanding any other provisions of this section, the Secretary may increase the amount of a grant by 10 per centum for any project which has been certified to him by an official State, metropolitan, or regional planning agency empowered under State or local laws or interstate compact to perform metropolitan or regional planning for a metropolitan area which has been defined by the Bureau of the Budget as a standard metropolitan statistical area and within which the assistance is to be used, or other agency or instrumentality designated for such purposes by the Governor (or Governors in the case of interstate planning) as being in conformity with the comprehensive plan developed or in process of development for such metropolitan area."

SEC. 4. The section of the Federal Water Pollution Control Act herein redesignated as section 9 is amended by redesignating subsection (i) as subsection (j) and inserting after subsection (h) the following:

"(i) In order to aid in preventing, controlling, and abating pollution of interstate or navigable waters in or adjacent to any State or States which will or is likely to endanger the health or welfare of any persons, and to protect industries dependent on clean water such as the commercial shellfish and fishing industries, the Secretary shall, after reasonable notice and public hearing and in consultation with the Secretary of the Interior and with other affected Federal, State, and local interests, issue regulations setting forth (a) standards of quality to be applicable to such interstate or navigable waters, and (b) the type, volume, or strength of matter permitted to be discharged directly into interstate or navigable waters or reaching such waters after discharge into a tributary of such waters. Such standards of quality and of matter discharged shall be based on present and future uses of interstate or navigable waters for public water supplies, propagation of fish and aquatic life and wildlife, recreational purposes, and agricultural,

industrial, and other legitimate uses. The alteration of the physical, chemical or biological properties of such interstate or navigable waters or the placing of matter in such waters in violation of regulations issued under this subsection is hereby declared to be a public nuisance and subject to abatement under the provisions of this section. Nothing in this subsection shall prevent the application of the provisions of this section to any case to which they would otherwise be applicable."

The section-by-section analysis presented by Mr. MUSKIE is as follows:

SECTION-BY-SECTION SUMMARY OF THE BILL

Section 1. National water pollution control policy: Adds new subsection (c) stating the act's purpose to establish a positive national water pollution control policy of keeping waters as clean as possible as opposed to the negative policy of attempting to use the full capacity of such waters for waste assimilation.

Section 2. Establishment of Federal Water Pollution Control Administration: Renumbers existing sections 2 through 14 of the act as sections 3 through 15, respectively, and inserts a new section 2 creating the Federal Water Pollution Control Administration within the Department of Health, Education, and Welfare. A Commissioner of Water Pollution Control is to administer the act through the Administration under the supervision and direction of the Secretary and an Assistant Secretary. The Commissioner and other required staff are to be provided from the personnel of the Department.

Section 3. Waste treatment plant construction grants and grants for separation of combined storm water and sewage systems: Subsection (a) provides for increasing the dollar ceiling limitation on any grant for a single waste treatment plant construction project from $600,000 to $1 million.

Subsection (b) provides for increasing the dollar ceiling limitation on a grant for a project which will serve more than one municipality from $2,400,000 to $4 million.

Subsection (c) adds new subsections (g) and (h), the former providing for a new program of grants to assist municipalities in the separation of combined sewers which carry both storm water and sewage or other wastes in an amount not to exceed 30 percent of the estimated reasonable cost of the construction. Authorizes appropriation of $1 million per fiscal year for this purpose. Provisions for allocation and payment of grant funds and applicability of Davis-Bacon Act provisions now pertaining to waste treatment plant construction projects are made applicable to the new grants program.

The new subsection (h) authorizes the Secretary to increase by 10 percent the amount of a grant for any project which has been certified to him by an official State, metropolitan, or regional planning agency as conforming to a comprehensive plan developed or in process of development for the metropolitan area wherein the project is being requested.

Section 4. Standards of quality and matter discharged: Redesignates subsection (i) of the redesignated section 9 as subsection (j) and inserts a new subsection (i) to provide that the Secretary shall issue regulations, after reasonable notice and public hearing, setting forth (a) standards of quality to be applicable to interstate or navigable waters and (b) the type, volume, or strength of matter permitted to be discharged into these waters or a tributary of such waters. The standards are to be based on present and future uses of interstate or navigable waters for public water supplies, propagation of fish and aquatic life and wildlife, recreational purposes and agricultural, industrial, and other legitimate uses. The alteration of the physical, chemical, or biological properties of these waters by acts in violation of the Secretary's regulations are declared a public nuisance and subject to abatement under the section's enforcement provisions. The applicability of the enforcement provisions to any case where they would otherwise be applicable is not to be prevented by this subsection.

Mr. HUMPHREY subsequently said: Mr. President, earlier today the Senator from Maine [Mr. MUSKIE] introduced amendments to the Water Pollution Control Act. I am very much interested in this proposed legislation, since I have been sponsoring such legislation in the past together with Representative BLATNIK.

I now ask unanimous consent to have my name added as a cosponsor of the legislation proposed by the Senator from Maine. I have cleared this with the Senator from Maine.

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

AGRICULTURAL ECONOMY — MESSAGE FROM THE PRESIDENT (H. DOC. NO. 55)

Mr. MANSFIELD. Mr. President, the President's message on agriculture, received by the Congress today, has been read in the House. I therefore ask unanimous consent that the reading of the message in the Senate be waived, and that it be appropriately referred.

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

The message from the President was referred to the Committee on Agriculture and Forestry.

(For President's message, see House proceedings of today.)

EXTENSION OF TIME FOR COMMITTEE ON GOVERNMENT OPERATIONS TO FILE REPORT

Mr. MUSKIE. Mr. President, the Committee on Government Operations is now in the process of preparing its report to the Senate as provided in Senate Resolution 359 of the 87th Congress. Because of the delays involved in having the committee hearings printed, and receiving sufficient data to complete the report, I ask unanimous consent that the committee be granted a 60-day extension in submitting its report to the Senate.

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

INCORPORATION OF ELEANOR ROOSEVELT FOUNDATION—ADDITIONAL COSPONSOR OF BILL

Mr. HUMPHREY. Mr. President, I ask unanimous consent that at the next printing of the bill (S. 171) to incorporate the Eleanor Roosevelt Foundation, introduced by me on January 14, 1963, the name of the Senator from New Jersey [Mr. WILLIAMS] may be added as a cosponsor.

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

HONORARY CITIZENSHIP FOR WINSTON CHURCHILL—ADDITIONAL COSPONSORS OF JOINT RESOLUTION

Mr. RANDOLPH. Mr. President, on January 14 I introduced Senate Joint Resolution 3, which would confer honorary citizenship of this country on Winston Churchill, of Great Britain. I ask unanimous consent that the names of Senators HUGH SCOTT, of Pennsylvania, and THRUSTON B. MORTON, of Kentucky, be included as cosponsors of this measure the next time it is printed. I am grateful that my colleagues have joined in this proposal.

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

Mr. SCOTT. Mr. President, if the Senator will yield, may I thank the Senator from West Virginia for his courtesy.

STANDING COMMITTEE ON VETERANS' AFFAIRS—ADDITIONAL COSPONSORS OF BILL

Mr. CANNON. Mr. President, I ask unanimous consent that at the next printing of the resolution (S. Res. 48) to create a Standing Committee on Veterans' Affairs, the names of Senators BIBLE, WILLIAMS of New Jersey, MOSS, KUCHEL, GRUENING, and KEFAUVER be added as consponsors.

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

LEGISLATIVE AUTHORITY TO SELECT COMMITTEE ON SMALL BUSINESS—ADDITIONAL COSPONSOR OF RESOLUTION

Mr. PROUTY. Mr. President, at its next printing, I ask unanimous consent that the name of the junior Senator from Connecticut [Mr. RIBICOFF] be added as a cosponsor to the resolution (S. Res. 30) granting legislative authority to the Select Committee on Small Business, submitted by me on January 15, 1963. The resolution gives full legislative authority to the Senate Committee on Small Business, and I am very happy to say there are 31 cosponsors of it.

The VICE PRESIDENT. 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:

Richard D. Fitzgibbon, Jr., of Missouri, to be U.S. attorney, eastern district of Missouri, for the term of 4 years—recess appointment.

Frank Udoff, of Maryland, to be U.S. marshal, district of Maryland—recess appointment.

Jack T. Stuart, of Mississippi, to be U.S. marshal, southern district of Mississippi, for the term of 4 years, vice Rupert H. Newcomb, resigned.

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 Thursday, February 7, 1963, 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 RECEIPT OF NOMINATION BY COMMITTEE ON FOREIGN RELATIONS

Mr. FULBRIGHT. Mr. President, as chairman of the Committee on Foreign Relations, I desire to announce that today the Senate received the nomination of Sigurd S. Larmon, of New York, to be a member of the U.S. Advisory Commission on Information for a term of 3 years, expiring January 27, 1966, and until his successor has been appointed and qualified.

In accordance with the committee rule, this pending nomination may not be considered prior to the expiration of 6 days of its receipt in the Senate.

NOTICE OF HEARINGS ON WILDERNESS BILL

Mr. ANDERSON. Mr. President, I announce that hearings on S. 4, the wilderness bill, have been set for February 28 at 10 a.m. at room 3106, New Senate Office Building.

S. 4 is identical to the wilderness bill passed by the Senate last year by a 78-to-8 vote. Because the committee has held extensive hearings in the past, persons who desire to appear are being asked to confine themselves to new matter in regard to the measure insofar as that is possible.

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. AIKEN:

Address on the agricultural program, delivered by the Secretary of Agriculture before the National Limestone Institute on January 22, 1963.

MASS TRANSPORTATION BY RAIL

Mr. SALTONSTALL. Mr. President, since the end of World War II, more than $20 billion have been expended on highway construction. Recent rates of expenditure have been running at a level of about $3 billion annually.

Despite these heavy outlays, traffic congestion remains a serious problem in and around our large urban centers. A major segment of our transportation plant—the railroad industry—is in financial difficulty. This is particularly true in the case of railroads that are obliged to operate commuter service in metropolitan areas.

Boston, Mass., is a case in point. This city is the scene of a 1-month-old experiment to determine whether motorists can be drawn back to mass transportation by rail. The experiment is to run for 1 year. It is being conducted by the Boston & Maine Railroad, in cooperation with the Mass Transportation Commission of Massachusetts under a grant of $2.2 million in matching Federal and State funds.

For many years, the Boston & Maine Railroad has been sustaining heavy losses in its passenger operations. These deficits have ranged from more than $15 million, in 1951, to $3.8 million, in 1962. Boston & Maine officials estimate that last year the railroad sustained a net deficit of about 70 cents for each passenger carried.

Nevertheless, the railroad agreed to participate in the experimental program, and is applying the Federal-State grant toward a reduction of 30 percent in fares and an increase in service of more than 85 percent. Funds allocated to the railroad will not permit expenditures to be made for new equipment or capital improvements.

The Boston & Maine is to be commended for joining in a test that represents the first practical effort to determine whether motorists can be persuaded under any circumstances to help ease highway congestion, by using mass transportation facilities.

The first results of the Boston experiment have produced increases of from 13 to 20 percent in peak-hour passenger volume over that of a year ago. These results do not permit any conclusions at so early a stage in the experiment. But even before the program yields enough information to permit any preliminary judgments, it is apparent that its birth was forced by a fundamental anomaly in past Government policy on transportation. Since 1951, some $500 million of Federal funds have been poured into highway construction in Massachusetts. The State contribution has been much larger. Each new mile of highway has added to urban traffic congestion. At the same time, it has induced a steady attrition in passenger volume and revenues of urban mass transportation facilities. Now, in the Boston area, it has necessitated a joint Federal-State appropriation of $10.2 million to determine whether any solution can be found to problems born of more than a billion dollars of Federal and State highway spending in Massachusetts over the last 15 years.

The implications of the Boston experiment go far beyond the State limits of Massachusetts. They are significant, not only in terms of the transportation needs of urban communities throughout the country; they bear importantly on such vital national requirements as an effective civil-defense program, for if the present strangulation of urban traffic arteries is not brought closer to solution, the consequences, in the event of a sudden national emergency requiring rapid dispersal of urban populations, would be catastrophic.

In economic terms, we can no longer afford to brook a continued debilitation of the railroad segment of our national transportation industry. The situation is particularly acute in New England, where the railroad plant has been laboring under deficit burdens that have put one railroad out of business entirely, and have plunged another into bankruptcy.

The Boston commuter experiment could conceivably end by proving that lowered fares and increased service can attract more riders than could be counted on under the fare and service schedules which obtained before the experiment began. But while this important public objective might be achieved, there will remain a question as to whether this service can be supported within the framework of private enterprise. In posing this question, the answer to which is vital to any thoughtful formulation of effective national planning on problems of urban transportation, I ask unanimous consent to have printed in the RECORD a highly relevant statement issued by the president of the Boston & Maine Railroad, Mr. Daniel A. Benson, on the occasion of his company's agreement to participate in the Boston commuter experiment.

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

STATEMENT BY DANIEL A. BENSON, PRESIDENT, BOSTON & MAINE RAILROAD

The Boston & Maine Railroad will cooperate to the fullest extent in the mass transportation demonstration. The outcome of this experiment will be as vital a matter of interest to the Boston & Maine Railroad as we know it will be to the community.

As aptly noted when the demonstration project was first announced, the public response to this program will play a large part in determining the future of railroad commuting service in Massachusetts.

The Boston & Maine is to receive an allocation of $2,200,000 for its share of the experimental program. This grant will not eliminate the Boston & Maine's passenger deficit, nor was it intended that it should do so. The Boston & Maine passenger deficit, which is a matter of public record, is running at a level of $3,800,000 for the year 1962. It is obvious, therefore, that the Boston & Maine will be matching the Federal-State grant for the mass transit experiment with a very large investment of its own.

For several years, passenger traffic has been declining in direct proportion to new highway construction. In the first 6 months of 1962, the Boston & Maine carried 2,851,524 passengers, or 117,630 less than for the same period of 1961. On the basis of total revenues from all passenger operations in the first half of 1962, the Boston & Maine sustained an average loss of about 70 cents for each passenger carried.

No privately operated enterprise can continue to incur losses of this magnitude and expect to stay in business.

If rail passenger service is a public necessity that cannot be supported by private enterprise then public means for its support will have to be found. We believe this is the central issue that will be determined by the public response to the demonstration program.

The Boston & Maine will not venture a prejudgment on the effect of the demonstration program on railroad passenger revenues.

However, we believe it to be in the public interest to make it plain that if passenger

revenue losses continue, the basic needs of financial survival will leave the Boston & Maine no choice but to consider such measures as are open to it to divest itself of its passenger deficit.

GENERAL DE GAULLE AND THE UNFAVORABLE BALANCE OF PAYMENTS

Mr. SYMINGTON. Mr. President, for months I have felt that the problem of our continuing unfavorable balance of payments—steady loss of gold—was becoming a problem comparable to that of adequate resistance against Communist aggression.

If this unfavorable balance continues, and especially when considering the extent of the obligations we have in Europe which must be honored in gold, our currency, and therefore our economy, could find itself in very serious trouble indeed.

Economics and politics are closely entwined.

In that connection, Mr. President, I ask unanimous consent that an article from Brussels, published this morning in the Washington Post, be printed at this point in the RECORD. The article is entitled "De Gaulle's Push: New Cold War?", and was written by Robert Estabrook.

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

DE GAULLE'S PUSH: NEW COLD WAR?

(By Robert H. Estabrook)

BRUSSELS.—In the modern history of nations there is no peacetime parallel for the brutality with which President de Gaulle blocked British entry into the European Economic Community. Frenchmen secretly attracted by Gaullist grandeur must be appalled by the calculated slap at an ally which succored France during the dark days of war.

Despite French prevarications there was no great gulf in the negotiations. They were so close to success, as a high French official acknowledged in a candid moment, that De Gaulle had to stop them. Notwithstanding Britain's past insularity and tactical mistakes, her wish to join Europe is genuine. De Gaulle's veto was coldly cynical.

The funereal mood here derives partly from the fact that the other five EEC delegations saw that De Gaulle was not merely challenging Britain. He is challenging the orientation of the new Europe—ironically in substantial measure the creation of Frenchmen—and beyond that the entire concept of the Western alliance with American participation.

What is remarkable is that other countries went so far in resisting De Gaulle and insisting on fixing responsibility. Even tiny Luxembourg, often thought to be economically under France's thumb, met the political challenge emphatically. The plan to continue close consultation with Britain is no idle gesture.

Since World War II Americans have grown used to having their way in Western affairs. It shocks our pride to have our grand design disrupted so rudely. De Gaulle has as much right as we to advance his objectives; the difference is in power to execute them. He relies on sheer audacity, stubborness and an impenetrable mystique.

What, then, is he after? His inspiration cannot be merely pique or contempt for the Anglo-Saxons although his contempt (even for his own countrymen) is enormous. Nor can it be solely grandeur, although this surely figures prominently. The Quai d'Orsay has been saying privately to politicians that DeGaulle had been preparing 20 years for (1) reunification of Germany, which makes the Franco-German tie crucial, (2) a Sino-Soviet break, and (3) a showdown with China by Western Europe and the Soviet Union acting together.

Add to this the report in the Norwegian newspaper Arbeiterbladet that De Gaulle envisages a sort of glorified Rapacki plan of disengagement with reunification of a demilitarized Germany and demilitarization of Communist countries as well as Greece and Turkey. Thereby he would roll back the Russians and Americans too.

This may be overdrawn, but it has a plausible ring. De Gaulle has been honeying up to the Russians and might have Mr. Khrushchev's encouragement. More surprising is the report that German Chancellor Adenauer has assented to an idea the mere mention of which ordinarily would cause political fits. But conceivably in his old age Adenauer has been seduced by hope for reunification.

Then add De Gaulle's efforts to cozy up to Spain and to play off Denmark against Norway. His purpose could be to complete the wrecking of the present community or at least split the political opposition to his design for a "European" Europe.

What is wrong is not the notion of readjustment with the Russians, which perhaps has been rejected too automatically, but the thought that it could safely be built around France or even Germany if the latter somehow consented. Doctrinal split or not, Khrushchev is still a Communist eager to profit from divisions in the West.

If the concept of Atlantic partnership is to withstand De Gaulle's erosions, additional impetus is needed. It is not enough to pick up the pieces of the European community. The NATO multilateral nuclear force could be the nucleus of venture decisions and responsibility with the Europeans.

It may be that a new cold war with France is ahead, though room must be left for De Gaulle to change his mind. Perhaps the new Europe has been too starry-eyed. But De Gaulle also may miscalculate profoundly what motivates nations. The deftness with which we play our own role can be instrumental.

Our friends in Europe will be watching carefully to see how firmly we react. Never have diplomatic skill, clear vision about Western aims and avoidance of foolish irritations been more important.

Mr. SYMINGTON. I also ask unanimous consent that an article by Walter Lippmann, published today, be printed at this point in the RECORD.

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

THE GENERAL AS PROPHET

(By Walter Lippmann)

General de Gaulle has made it quite plain that in excluding Britain from the Common Market he means to cut way down the political influence of the United States in Europe. We shall delude ourselves if we think his action is a mere episode which will be washed away by the stream of history.

We shall delude ourselves also if we regard the general as a relic of the past, say as an imitation Napoleon. For however irritating he may be, General de Gaulle is not and never has been a fool, and though his roots are deep in the past, again and again it has been shown that he is endowed with second-sight about the future.

He is confronting this country with the need to make a difficult and momentous reappraisal of our postwar foreign policy as it has been developed by Roosevelt, Truman, Eisenhower, and Kennedy. The policy has grown out of the demonstrated fact that in the First World War, again in the Second World War, and again in the cold war the European members of the Atlantic Community have not been able to defend themselves without the intervention of the United States.

This is what brought the American people out of their historic isolation and took them into Europe from which the general would now wish to expel them. Why does he wish to expel them? No doubt in part because we have tiresome habits and it would be more agreeable if we were not there. But the substantial reason for expelling us is that in the judgment of the general we are at the end of that postwar situation in which the United States has been the defender and the banker of Western Europe.

For one thing the Russian menace is no longer, he assumes, a military matter, and even if it is, the United States cannot be relied upon to risk thermonuclear war for the sake of a European interest. Moreover, not only has Western Europe recovered but the United States with its heavily mortgaged and vulnerable gold reserves is, relatively speaking, no longer the paramount economic power that it was at the end of World War II.

Our problem, therefore, is, I submit, to reappraise our ideas and our policies and to readjust them to the passing of the postwar era. We are not dealing with a wicked man who can be or should be slapped down. We are dealing, I believe, with a prophetic man who is acting as if the future, which is probably coming, has already arrived. Just as he would not give Britain a few years to readjust its agriculture to the Common Market, so now he is not giving us the time to reappraise and revise our policies. What makes him so difficult is that he presents us not with a diplomatic argument but with an accomplished fact. It is only fair to add that this has often been the one effective way to make people change their minds.

Thus, while it is true that the post-war role of the United States in the defense of Europe is bound to come to an end, there are great risks in bringing this about so abruptly. Americans in their heart of hearts do not like being involved in Europe. There is a serious risk, which should not be overlooked, that they will discount too quickly the future which the general foresees. The Mansfield committee report is a signpost pointing toward withdrawal and isolation.

There is a serious risk also that such an abrupt turn in Europe will provoke a protectionist reaction in this country. With Europeans holding a mortgage on such a very large portion of our dwindling gold reserves, a reaction would be only too easy to start, and it may be very difficult to prevent many undesirable protectionist measures. France and the rest of the Common Market countries are mistaken if they think that the United States can be excluded from European affairs and that at the same time it will continue to provide the non-Communist world with its reserve currency. That will seem to a host of Americans a lot more trouble than it is worth.

There is also the question of how Moscow will react to the violent shaking up of the Western Alliance. I hope Mr. Khruschev will react to it as we are reacting to the violent shaking up of his alliance with Red China—that is to say, by doing nothing about it except perhaps to sit back and enjoy it.

It will be tempting to him, of course, to do some fishing in the troubled waters of the Atlantic Community. But it would not be profitable to do so. For nothing that is now happening in Europe changes the fact that the peace of the world will be made or lost by the U.S.S.R. and the United States of America.

Mr. SYMINGTON. Mr. President, Mr. Lippmann wrote:

> However irritating he may be, General de Gaulle is not and never has been a fool.

Later on Mr. Lippmann stated:

> Moreover, not only has Western Europe recovered, but the United States, with its heavily mortgaged and vulnerable gold reserves is, relatively speaking, no longer the paramount economic power that it was at the end of World War II.

Mr. Lippmann later added:

> With Europeans holding a mortgage on such a very large portion of our dwindling gold reserves, a reaction would be only too easy to start, and it may be very difficult to prevent many undesirable protectionist measures. France and the Common Market countries are mistaken if they think that the United States can be excluded from European affairs and that at the same time, it will continue to provide the non-Communist world with its reserve currency.

Surely one would agree with this wise statement.

In that connection, as this Nation faces a heavy reduction in taxes, along with a planned heavy deficit, we are also considering a larger foreign-aid program and a much larger defense program. Inasmuch as both of the latter programs vitally affect our problem of balance of payments, and inasmuch as the Department of Defense is now planning major changes in our defense posture, I hope these problems can be correlated, prior to final decision as to appropriations on the part of the Congress.

I am confident this administration will proceed with wisdom and restraint in this increasingly important matter. But I cannot help wondering whether General de Gaulle has ever heard the old American saying: "You cannot have your cake and eat it too."

RECOGNITION OF SENATORS

Mr. STENNIS, Mr. KUCHEL, and other Senators rose.

Mr. STENNIS. Mr. President—or is the Senator from California [Mr. KUCHEL] now recognized?

The VICE PRESIDENT. Under the rules the Chair must recognize the Senator first addressing the Chair. Sometimes Senators do not address the Chair. The Senator from Mississippi [Mr. STENNIS] is now recognized.

CITATION TO SENATOR LISTER HILL ON HIS 25TH ANNIVERSARY AS A U.S. SENATOR

Mr. STENNIS. Mr. President, our colleague, Senator LISTER HILL, has ably served the people of the great State of Alabama in the U.S. Senate for more than a quarter of a century.

During this time his remarkable work in the field of hospital construction, eradication of mental illness, sickness, and disease has been as a beacon on a hill, giving light where there was darkness, giving strength where there was weakness, and restoring health and hope where there was illness and despair.

On this special occasion, and recognizing the outstanding achievements by Senator HILL over the last 25 years, the National Committee Against Mental Illness presented to Senator HILL an appropriate citation for his service.

No one is more worthy of this award and recognition than Senator HILL.

It is with great pleasure that I invite my colleagues of the Senate to read the citation so presented, and therefore, Mr. President, I ask unanimous consent that the citation be printed in the RECORD in full text at this point.

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

CITATION TO SENATOR LISTER HILL ON HIS 25TH ANNIVERSARY AS A U.S. SENATOR

Named by his doctor father for one of the world's greatest surgeons, LISTER HILL has brought new lustre to that revered name and and has won the undying gratitude of the medical research community for his many legislative contributions to the never-ending fight against disease and premature death.

Above and beyond this, he has earned the heartfelt thanks of millions of Americans in all walks of life for his espousal of legislation which has brought the modern hospital and the fruits of medical research increasingly within the reach of the less fortunate—the aged, the indigent and the rural people formerly deprived of the benefits of modern medicine. It is a simple truth that thousands upon thousands of Americans are alive today because of the dedicated efforts of this great son of Alabama, whose life purpose is embodied in the principle that our magnificient democracy is only as strong as its weakest link.

To list the legislative accomplishments of LISTER HILL in the fields of health, education and welfare would require a volume in itself. The Hill-Burton Hospital Construction Act has been the prime force over the past 17 years in the building of hundreds of thousands of hospital beds and additional rehabilitation centers, nursing homes and diagnostic clinics. The Health Research Facilities Act of 1956, conceived and shepherded through the Congress by the senior Senator from Alabama, has already brought into being hundreds upon hundreds of new research laboratory centers. The National Defense Education Act of 1958, which LISTER HILL sponsored in the Senate, was a landmark in legislative history in that it signified the deep commitment of our National Government to increased support of higher education in this country. The legislation which Senator HILL sponsored creating the Joint Commission on Mental Illneses and Health has revolutionized the care of the mentally ill in this country and has been hailed by psychiatric leaders as the most important single development in the history of our care of the mentally ill since the first State mental hospital was opened in Virginia in 1773.

While these and many other legislative accomplishments have been of vast importance, they are secondary to LISTER HILL's great role as the proponent of medical research. Known far and wide as the "statesman of health," his has been the most powerful voice during the past decade in increasing medical research appropriations devoted to reducing the toll exacted by the killers and cripplers which sap the vitality of this great democracy.

In saluting you on this, the 25th anniversary of your service in the U.S. Senate, we know in our hearts that the best part of the story is yet to unfold. We know that in the years to come, your magnificient vision and enormous political skill will lead us to new victories against the age-old afflictions which claim more than 1½ million American lives each year.

You have written a glorious page in the history of medical research and you have written an equally impressive chapter in the annals of the U.S. Senate.

We know that children not yet born will one day venerate the name of LISTER HILL for rising in his righteous wrath and leading the victorious fight against those diseases which have afflicted mankind since the very beginning of recorded time.

NATIONAL COMMITTEE AGAINST MENTAL ILLNESS.
MARY LASKER,
FLORENCE MAHONEY,
Cochairmen.
MIKE GORMAN,
Executive Director.

JANUARY 10, 1963.

U.S. SENATE YOUTH PROGRAM

The VICE PRESIDENT. The Chair recognizes the Senator from California.

Mr. KUCHEL. Mr. President, this week in the Capital of our country are 100 outstanding high school students. They, together with two outstanding students from the District of Columbia, are participating in a unique program—the U.S. Senate youth program.

A year ago the Senate adopted a resolution establishing a U.S. Senate youth program. The resolution provided:

> The continued vitality of our Republic depends in part on the intelligent understanding of our political processes and the functioning of our National Government by the citizens of the United States.

Mr. President, I cannot congratulate the Senate enough in causing to be brought to the Capital two high school students from each State in the Union chosen in accordance with an examination process determined by the head of the Office of Public Instruction in each State, and gathered here, each one assigned to a Member of the Senate. They are attending sessions of the Senate, listening to Senators, the President of the United States, the Vice President of the United States, the Speaker of the House of Representatives, and a distinguished member of the U.S. Supreme Court, and participating to a high degree in a process which will add to their education and to their active interest—indeed, to the active interest of all high school students—in the free government in which the President of the Senate and I are so proud to participate.

I am glad to salute the William Randolph Hearst Foundation, which came forward and said it would underwrite the cost of the program. Without such assistance the program would not have been effective. The American Political Science Association, which has taken part in the determination of the program this week, deserves a special meed of praise.

I rise today to congratulate the senior Senator from Kentucky [Mr. COOPER] and the distinguished junior Senator from Rhode Island [Mr. PELL] who serve as cochairmen for the Senate youth program. But equally important, as one interested in the program, I should like to salute the distinguished junior Senator from Nebraska [Mr. CURTIS] and the distinguished junior Senator from North Carolina [Mr. JORDAN], both of whom, in the Committee on Rules and Administration, to which our resolution was first referred, actively aided in the preparation of this week's event.

I single out also Mr. Randolph Apperson Hearst, the head of the William Randolph Hearst Foundation, and Dr. Evron M. Kirkpatrick, executive director of the American Political Science Association.

It warmed the heart of every one of those high school students to see the overwhelming majority of Senators, Republicans and Democrats together, sit down at lunch a couple of days ago at one of the unique functions that have been undertaken this week.

I ask unanimous consent that the agenda for the U.S. Senate youth program this week be printed at this point in the RECORD, together with the names and addresses of all the high school students who are participating.

There being no objection, the agenda and list of names and addresses were ordered to be printed in the RECORD, as follows:

U.S. SENATE YOUTH PROGRAM, JANUARY 27 THROUGH FEBRUARY 1, 1963

AGENDA

Sunday, January 27: Arrival throughout the day at the Mayflower Hotel. Informal meetings with the Senate youth program staff in the hotel's east room.

10 p.m.: Lights out.

Monday, January 28

7:30 a.m.: Group picture at hotel.

8 a.m.: Breakfast at hotel in Chinese Room; general instructions and introductions by Ira P. Walsh, Senate youth program director, Randolph A. Hearst, trustee, William Randolph Hearst Foundation; Evron M. Kirkpatrick, executive director, American Political Science Association.

10:15 a.m.: Buses to Capitol.

10:30 a.m.: Welcome by Senate leadership in Senator's reception room; speakers were Senator THOMAS H. KUCHEL, of California; and Senator HUBERT H. HUMPHREY, of Minnesota.

11 a.m.: Tour of Senate Chamber.

12 noon: Luncheon, dining room, 1202 New Senate Office Building; speaker, Pierre E. G. Salinger, Press Secretary to the President.

1:45 p.m.: Visit Supreme Court, East Conference Room; welcome by Justice Byron R. White.

3:30 p.m.: Visit to House of Representatives conducted by Representative Ken Hechler, of West Virginia; welcome by the Honorable John W. McCormack, Speaker of the House of Representatives; speaker, William M. Miller, Doorkeeper of the House.

5:15 p.m.: Buses to hotel.

6:30 p.m.: Dinner at hotel in Chinese Room; speakers were Robert Huckshorn, National Center for Education in Politics Faculty fellow, with the Republican National Committee; James Chubbuck, program officer, Governmental Affairs Institute; Kenneth Olson, American Political Science Association congressional fellow; Royce Hanson, Department of Government, American University.

8:30 to 10 p.m.: Press interviews, District of Columbia Rooms.

11 p.m.: Lights out.

Tuesday, January 29

8 a.m.: Breakfast at hotel in Chinese Room; orientation conducted by Stephen Horn, legislative assistant to Senator Thomas Kuchel; Colgate Prentice, administrative assistant to Senator John Sherman Cooper; William Connell, administrative assistant to Senator Hubert H. Humphrey; Ray Nelson, administrative assistant to Senator Claiborne Pell.

10 a.m.: Buses to Senate Office Building.

For the remainder of the day the students will serve as interns in the offices of their respective Senators.

12 noon: Luncheon with Senators, room 1202, New Senate Office Building; presiding Senator CLAIBORNE PELL, of Rhode Island.

5 p.m.: Students to return to Rotunda area, Old Senate Office Building;

5:15 p.m.: Buses to hotel.

7 p.m.: Dinner at hotel in Chinese Room; speaker, James Quigley, Assistant Secretary of Health, Education, and Welfare.

8:30 to 10 p.m.: Press interviews in District of Columbia rooms.

11 p.m.: Lights out.

Wednesday, January 30

7:30 a.m.: Breakfast at hotel in Chinese Room; speaker, Edwin Goldfield, Director of Statistical Reports, U.S. Census Bureau.

9 a.m.: Buses to Senate Office Building.

9:30 a.m.: Attend committee hearings—to be announced.

1 p.m.: Luncheon in dining room, 1202 New Senate Office Building; speaker, Robert G. Baker, secretary for the majority, U.S. Senate.

2:30 p.m.: Panel discussion, third floor conference room, New Senate Office Building; John G. Stewart, legislative assistant to Senator Hubert H. Humphrey; William Welsh, administrative assistant to Senator Philip A. Hart; Thomas Hayes, administrative assistant to Senator Winston L. Prouty; Michael Bernstein, minority counsel, Senate Committee on Labor and Public Welfare.

4 p.m.: Observe Senate session.

5:15 p.m.: Buses to hotel.

7:30 p.m.: Dinner at hotel in Chinese Room; speaker, Senator CARL CURTIS, of Nebraska.

11 p.m.: Lights out.

Thursday, January 31

7:30 a.m.: Breakfast at hotel in Chinese Room; speaker, Bill D. Moyers, Deputy Director, the Peace Corps.

9 a.m.: Buses to Department of State.

9:30 a.m.: Briefings, interviews at State Department auditorium east; moderator, Evron M. Kirkpatrick, executive director, American Political Science Association.

12 noon: Luncheon at State Department in Benjamin Franklin Room; speaker, George C. McGhee, Under Secretary of State for Political Affairs.

2:15 p.m.: Buses to Department of Defense.

2:30 p.m.: Briefings, interviews at the Pentagon, room 5A1070; welcome by the Honorable Robert S. McNamara, Secretary of Defense.

5:15 p.m.: Buses to hotel.

7:30 p.m.: Dinner at hotel in Colonial Room; speaker, Senator LEE METCALF, of Montana.

9 to 11 p.m.: Free time. Relatives and friends in the area may call for visits with Senate youth program participants.

11 p.m.: Lights out.

Friday, February 1

7 a.m.: Breakfast at hotel in Chinese Room; speaker, William Elder, Curator of the White House.

8:30 a.m.: Buses to White House.

8:45 a.m.: Tour of White House.

9:30 a.m.: President Kennedy will greet Senate youth program participants in the White House Rose Garden.

10:30 a.m.: Buses depart for tour of Washington.

1:15 p.m.: Luncheon at Carlyle Hotel.

5 p.m.: Buses return to hotel.

7 p.m.: Dinner at hotel in Chinese Room; speakers, Senator CLAIBORNE PELL, cochairman and other members of the Senate youth program advisory committee.

11 p.m.: Lights out.

Saturday, February 2

7:30 to 9 a.m.: Continental breakfast at hotel in Chinese Room; Senate youth program participants will board morning flights for return to their homes.

Name of student	Address and city	State	Senator	School and principal
Altman, Tova	2805 Dorchester Rd., Baltimore	Maryland	Daniel B. Brewster	Forest Park High School; Dorothy M. Duval.
Anderson, Richard	Route 1, Box 75, Blair	Wisconsin	William Proxmire	Blair Public High School; Chester Meissner.
Antil, John	300A Elm St., Northampton	Massachusetts	Leverett Saltonstall	Northampton High School; Ronald J. Darby.
Arnold, Phillip	Post Office Box 162, Kaaawa, Oahu	Hawaii	Hiram L. Fong	Kamehameha School for Boys; Allen Bailey.
Backus, Richard	24 Summer St., Goffstown	New Hampshire	Norris Cotton	Goffstown High School; Charles Vaughan.
Biggs, Barbara	301 West El Caminito, Phoenix	Arizona	Carl Hayden	Xavier High School; Sister Mary Katrine.
Bonnemort, Elizabeth	145 North 2d West, Kaysville	Utah	Wallace F. Bennett	Davis High School; Richard S. Stevensen.
Booe, Mike	3024 Circlewood, Little Rock	Arkansas	John L. McClellan	Hall High School; Terrell Powell.
Boozer, Melvin	1112 3d St. NE., Washington	District of Columbia	Vice President Johnson	Dunbar Senior High.
Bostick, George	333 West Main St., Forsyth	Georgia	Herman Talmadge	Mary Persons High School; Lewis Waldrop.
Brown, Betsy	340 Broadwater, Billings	Montana	Mike Mansfield	Billings Senior High School; Charles E. Borberg.
Bruhn, Judith Ann	Rural Route No. 1, Durant	Iowa	B. B. Hickenlooper	Durant Community High School; Alfred Voss.
Bryan, Terry A	230 American Ave., Dover	Delaware	John J. Williams	Dover High School; Joseph P. Sedule.
Bryant, Mary Anne	135 Pineview Dr., Athens	Georgia	Richard Russell	Athens High School; Guy Driver.
Cameron, Denton	406 Republic, Henderson	Nevada	Alan Bible	Basic High School; John A. Dooley.
Chase, Joan	Valley Cross Rd., Jackson	New Hampshire	Thomas J. McIntyre	Kennett High School; Robert Moulton.
Civils, John D	732 Cavalier Circle, Kinston	North Carolina	Sam J. Ervin	Grainger High School; Frank Mock.
Clements, Thomas	537 Hawthorn Rd., New Castle	Indiana	Vance Hartke	Walter P. Chrysler High School; James L. Pugh.
Courtnage, Mike	Box 1579, Ketchikan	Alaska	E. L. Bartlett	Ketchikan High School; Ray Bassett.
Crowley, Jean	503 Taylor; Moscow	Idaho	Frank Church	Moscow High School; Mark Anderson.
Cummings, David	3 Fairview Terr., Woburn	Massachusetts	Edward M. Kennedy	Woburn High School; Henry Blake.
Dashiell, Kathleen	213 South Gray Ave., Colonial Heights, Wilmington.	Delaware	J. Caleb Boggs	H. C. Conrad School; William M. Troutman.
Day, Christian	7259 Shawnee Rd., North Tonawanda	New York	Jacob K. Javits	Starpoint Central; Harold E. Keech.
Dixon, Virginia	609 South Jay St., Aberdeen	South Dakota	George McGovern	Central High School; Willard E. Ellis.
Douberley, William	Post Office Box 13, Dundee	Florida	Spessard Holland	Haines City High School; J. D. Jenkins.
Durrett, Joe	2416 Sunset Dr., Tampa	do	George Smathers	Plant High School; Paul R. Wharton.
Gawer, Glenda Rae	Route 3, Owensville	Missouri	Stuart Symington	Owensville High School; Bennet Mullen.
Gillespie, Gardner	95 Osborn Rd., Rye, N.Y.	Connecticut	Abraham A. Ribicoff	Loomis School, Windsor; Francis O. Grubbs.
Gohl, Michael	729 Clinton St., Flint	Michigan	Pat McNamara	Holy Redeemer School; Sister M. Raphaelita.
Haines, Jeffrey	1845 Jenifer St., Madison	Wisconsin	Gaylord A. Nelson	Madison East High School; A. J. Barrett.

Name of student	Address and city	State	Senator	School and principal
Hardin, Cindy	2110 A St., Lincoln	Nebraska	Roman Hruska	Lincoln High School; William Bogar.
Hathaway, Mike	128 North St., Tahlequah	Oklahoma	Mike Monroney	Tahlequah High School; Thomas W. Johnson.
Hokama, Leona	312 Mahana Pl., Lanai City	Hawaii	Daniel Inouye	Lanai High and Elementary School; Milton de Mello.
Holt, Bill	1222 Hedgewood Lane, Schenectady	New York	Kenneth B. Keating	Nishkayuna High School; Joseph H. Oakey.
Hunt, Linda Lee	Rural Route 2, West Union	Illinois	Paul Douglas	Marshall High School; E. J. Harrington.
Ireson, Diane	2 Hillcrest Rd., Springfield	Vermont	George D. Aiken	Springfield High School; L. Russell Heath.
Johnson, Alston	316 Gladstone Blvd., Shreveport	Louisiana	Allen J. Ellender	Jesuit High School; Father Charles Leinger.
Johnson, Barry	2609 Boyer St., Beaufort	South Carolina	Olin D. Johnston	Beaufort Senior High School; William E. Dufford.
Johnston, Douglas	4752 Meadowview Rd., Murray	Utah	Frank Moss	Murray High School; Bryce G. Bertelson.
Jones, Nicholas	1600 Radnor Rd., Delaware	Ohio	Frank Lausche	Rutherford B. Hayes High School; Thomas D. Graham.
Kennedy, Patricia	38 Lexington Ave., West Warwick	Rhode Island	Claiborne Pell	John F. Deering High School; John J. Kelly.
King, Richard Alan	806 Cedar Rd., Charleston	West Virginia	Jennings Randolph	Charleston High School; Rexford Plymale.
Kitchen, Stephen	1653 Johnson, Ashland	Kentucky	John S. Cooper	Paul Blazer High School; H. L. Ellis.
Krebill, Robert	1102 Seymour, Keokuk	Iowa	Jack Miller	Keokuk Senior High School; Roby Ellery Fretwell.
Kuchel, Harold	1001 West Wagon Wheel Dr., Phoenix	Arizona	Barry Goldwater	Washington High School; William Berry.
La Rocca, Robert	6 Wessex Rd., Silver Spring	Maryland	J. Glenn Beall	Montgomery Blair High School; Richard Wagner.
Longeteig, Karen	Route 1, Craigmont	Idaho	Leonard Jordan	Highland High School; Merrill McCarten.
McClellan, Susan	12155 Southeast 91st, Renton	Washington	Henry M. Jackson	Renton High School; Karl J. Weber.
McGrain, John	4273 Canon Dr., La Canada	California	Clair Engle	John Muir High School; Dr. John Venable.
McLelland, Stan	1113 Grimes, Harlingen	Texas	R. W. Yarborough	Harlingen High School; Gordon Nix.
McMichael, Kathryn	3006 Gorton Rd., Shreveport	Louisiana	Russell B. Long	Fair Park High School; Earl K. McKenzie.
Masulla, Mary	940 Diamond Hill Rd., Woonsocket	Rhode Island	John O. Pastore	Woonsocket High School; Joseph F. Dowling.
Merrill, Philip	Tuttle Rd., Cumberland Center	Maine	Edmund S. Muskie	Greely Institute; Thomas Burdin.
Mihelich, Mira Ann	1644 Glacier Ave., Juneau	Alaska	Ernest Gruening	Juneau-Douglas High School; George McMillan.
Miles, Michael	403 Kemp Dr., Portsmouth	Virginia	Harry F. Byrd	Churchland High School; F. B. Beck.
Miley, Charles	Battletown Dr., Berryville	do	A. Willis Robertson	Clarke County High School; C. E. Miley, Jr.
Millstone, David J	233 Riverview Ct., Morgantown	West Virginia	Robert C. Byrd	Morgantown High School; Scott H. Davis.
Mitchell, Barbara	13 Blaine St., Fort Fairfield	Maine	Margaret Smith	Fort Fairfield.
Moatts, Colyn	1101 7th Ave., Clanton	Alabama	Lister Hill	Chilton County High School; S. E. Waters.
Mullett, Michael	1044 Highland Ave., Abington	Pennsylvania	Hugh Scott	Abington Senior High School; W. Eugene Stull.
Murphree, Alan	Route No. 3, Houston	Mississippi	James O. Eastland	Houston High School; D. B. Blanton.
Murrian, Bob	4300 Buffat Rd., Knoxville	Tennessee	Estes Kefauver	Holston High School; R. E. Hendrix.
Neff, Jerry	127 Pinedale Dr., Rapid City	South Dakota	Karl Mundt	Coolidge High School; Donald Varcoe.
Nesmith, Joyce	1101 Trenton Pl., Washington	District of Columbia	Vice President Johnson	Ballou Senior High School.
Newman, Peg	718 West Buttles St., Midland	Michigan	Philip A. Hart	Midland Senior High School; William Wang.
Nustul, Gary	21 East 3d Ave., Columbus	Montana	Lee Metcalf	Columbus High School; Bernard MacDonald.
O'Hara, Dennis	1111 Walnut St., Coatesville	Pennsylvania	Joseph F. Clark	S. Horace Scott Senior High School; Walter E. Fink.
Oliver, Donald	Route 1, Murray	Kentucky	Thruston B. Morton	Murray College High School; Wilson Grant.
Palenchar, Cathy	Bernard Dr. and Frederick Lane Trenton.	New Jersey	Clifford P. Case	Villa Victoria Academy; Sr. Concetta Latima.
Parker, Omar	111 Chenault Ave., Hoquiam	Washington	Warren G. Magnuson	Hoquiam High School; Donald E. Egge.
Parks, Patricia	2636 Northwest Cornell Rd., Portland	Oregon	Wayne Morse	St. Mary's Academy; Sister Idamae, SNJM.
Paulsen, Judy	2205 Gladstone Terr., Oklahoma City	Oklahoma	Howard Edmondson	John Marshall High School; Robert B. Chaney.
Peddicord, Lynne	1600 Sunset Dr., Wamego	Kansas	Frank Carlson	Wamego High School; Glenn Martin.
Perry, Alan	424 Pecan Ave., Philadelphia	Mississippi	John Stennis	Philadelphia High School; George F. Pettey.
Pfeifer, Ronald	901 South 52d, Lincoln	Nebraska	Carl T. Curtis	Lincoln Southeast High School; Craig Whitney.
Rifer, Wayne	9205 Southwest 35th Ave., Portland	Oregon	Maurine Neuberger	Woodrow Wilson High School; Dr. Kenneth Erickson.
Riley, Reese	909 North Orchard Ave., Farmington	New Mexico	Edwin Mechem	Farmington High School; H. L. Willoughby.
Ripley, Walter	50 Centerwood Rd., Newington	Connecticut	Thomas J. Dodd	E. C. Goodwin Technical School; Kenneth Merrill.
Rossland, Karen	1106 West 4th, Williston	North Dakota	Milton Young	Williston Senior High School; Leon Olson.
Schellhorn, Daniel	Sergeantsville	New Jersey	H. A. Williams, Jr.	Hunterdon Central High School; Robert C. Shoff.
Schofield, Jeffrey	2556 Woodstock Rd., Columbus	Ohio	Stephen Young	Upper Arlington High School; Joseph A. Dorff.
Schuck, Sandra	1419 Dupont Ave., Minneapolis	Minnesota	Eugene McCarthy	St. Anthony of Padua High School; Sr. Marie Marce.
Scott, Tommy	425 Crook Ave., Henderson	Tennessee	Albert Gore	Chester County High School; James Williams.
Seeburger, Frey	9305 West 5th, Lakewood	Colorado	Gordon Allott	Lakewood High School; Vernon Heaston.
Seely, Michael	48 Perry St., Barre	Vermont	Winston Prouty	Spaulding High School; Anatole G. Pendo.
Selstad, John	4200 18th Ave. South, Minneapolis	Minnesota	Hubert Humphrey	Roosevelt Senior High School; John C. Wells.
Smart, Douglas	505 Peach St., Magnolia	Arkansas	J. W. Fulbright	Magnolia High School; Jack Clemens.
Smith, Norma	6426 Harrisburg, Stockton	California	Thomas Kuchel	Lincoln High School; Ellis M. Mertins.
Stillwell, Robert	926 Fairfield Ave., North Augusta	South Carolina	Strom Thurmond	North Augusta Senior High School; S. E. Stillwell.
Stralt, Randy	5203 Sierra, San Antonio	Texas	John G. Tower	Harlandale High School; Dr. J. B. Bowden.
Swaeby, Jim	3490 Fordham Ct., Boulder	Colorado	Peter H. Dominick	Fairview High School; Wendell L. Greer.
Talesnick, Alan	7200 Washington, Indianapolis	Indiana	Birch Bayh	North Central High School; Gene L. Schwilck.
Taylor, William Morris	2334 Wallis, Overland, St. Louis	Missouri	Edward V. Long	Ritenour High School; George F. Chapman.
Thompson, Barbara	1134 East 17th, Casper	Wyoming	Gale W. McGee	Natruna High School; William D. Reese.
Veazey, Kenneth	Post Office Box 504, Foley	Alabama	John J. Sparkman	Foley High School; Oscar B. Rich.
Viebranz, John	509 Tyler Rd. NW., Albuquerque	New Mexico	Clinton Anderson	Valley High School; Ralph E. Dixon.
Warner, Coralee	853 North 3d, Wahpeton	North Dakota	Quentin Burdick	Wahpeton High School; Alvin E. Hans.
Whitenight, Ken	1700 Mississippi St., Lawrence	Kansas	James B. Pearson	Lawrence High School; Meal M. Wherry.
Williams, Richard	760 Wingate Rd., Glen Ellyn	Illinois	Everett Dirksen	Glenbard West High School; John D. Sheshan.
Wilson, Robert	4700 North Sharon Amity Rd., Charlotte.	North Carolina	B. Everett Jordan	East Mecklenburg High School; David Singleton.
Wright, Tom	Morrisey Route, New Castle	Wyoming	Milward Simpson	Newcastle High School; Jack Carpenter.
Young, Eric	Box 588, Elko	Nevada	Howard Cannon	Elko High School; Edwin Jensen.

Mr. KUCHEL. Mr. President, in conclusion, I hope very much that the program may be one continuing means by which this parliamentary organization may indicate to the youth of America that it wants them to play their part in arriving at the responsibilities of citizenship so that our free government may continue.

Mr. KEATING. Mr. President will the Senator yield?

The VICE PRESIDENT. The time of the Senator has expired.

Mr. KUCHEL. Mr. President, I ask unanimous consent that I may have 1 additional minute.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. KUCHEL. Mr. President, I yield to the Senator from New York.

Mr. KEATING. I join the Senator from California in saluting the various Senators who have participated in the program. Personally I was thrilled in meeting the young people who were chosen through competition in the various States. I hope they will gain from their contact with Government officials, including Members of the Senate. I am sure that Senators have gained from their contact with the students.

Mr. KUCHEL. I thank my able friend, who has played a very prominent part in the U.S. Senate youth program.

AIRPOWER IN THE ILL-FATED BAY OF PIGS INVASION OF CUBA

The VICE PRESIDENT. The Chair recognizes the Senator from Texas [Mr. TOWER].

Mr. TOWER. Mr. President, the Attorney General says that U.S. airpower was not involved in the ill-fated Bay of Pigs invasion of Cuba, in April 1961. The U.S. News & World Report, in its February 4 edition, gives the following excerpts of actual messages from the beachhead during the 3 days, April 17 to 19, as follows:

2AW to air command: "Brigade commander on Blue Beach says he must have jet support. He is under heavy attack by Mig jets and heavy tanks. Pepe."

2AW to air command: "Blue Beach under air attack by four jets and two Sea Furies. Where is our jet cover? Pepe."

2AW to air command: "First battalion under heavy artillery attack. Also Blue Beach from east. Request air knock out artillery as soon as possible. Where is our jet cover gone to? Pepe."

To air command: "Where are F-51's (F-50's—World War II model fighter planes) and transport? Enemy tanks attacking east side of Blue Beach. Pepe."

To base: "Barracuda, Marsopa, and Lou (code names for invasion ships) cannot arrive Blue Beach, discharged and leave by

daylight. Request jet cover for us in beachhead area."

To base: "Marsopa proceeding Blue Beach with three Lou's (landing craft). If low jet cover is not furnished at first light, believe we will lose all ships. Request immediate reply. Blue Beach under attack by Migs and T-33. Request immediately jet support or cannot hold. Pepe."

To base: "Will Blue Beach have jet cover tonight and tomorrow? Request air cover stay lower down as enemy planes come in low. Was attacked by jets after our own cover arrived. Did not receive help from air cover. Pepe."

To air command: "Tell Cuban pilots we are fighting last-ditch stand. Give them gasoline and ammunition. Road north to Covadonga is full of enemy and there is artillery east and west of Blue Beach."

To air command: "Can't you throw something into this vital point in the battle? Anything. Just let pilots loose. Pepe."

To base: "Do you people realize how desperate the situation is? Do you back us or quit? All we want is low jet cover and jet close support. Enemy has this support. I need it badly or cannot survive. Please don't desert us. Out of bazooka and tank ammo. Tanks will hit me at dawn."

To air commander: "Blue Beach under attack by B-26. Where is promised air cover? Pepe."

Mr. President, those messages show conclusively that jet cover was expected. The only jets in the area were those based upon a U.S. carrier, standing by just over the horizon during that period. The only other jets were those based in nearby Florida. It is my fervent hope that we shall soon discover the facts of the situation.

SOVIET BUILDUP IN CUBA

Mr. KEATING. Mr. President, the Soviet buildup in Cuba is mounting anew, and exceedingly serious evidence arrives daily. Not only are the Soviets building up their existing forces and equipment in Cuba into a state of top-notch readiness, but additional material and equipment continues to flow into the island under suspicious circumstances.

In his press conference of last week, the President said that we have had evidence of only one large vessel carrying predominantly military equipment into Cuba since October. The very next day, on Friday, January 25, a second large vessel arrived. Under maximum security conditions, it unloaded a cargo of armaments.

The route followed by these two ships is generally termed a "maximum security route," a passage traveled by the Soviets through areas where the United States is least able to maintain adequate surveillance of ships' contents.

It is also, ominously enough, the identical route followed last summer by the first of the Soviet vessels carrying medium-range, ground-to-ground missiles into Cuba.

While the Soviets continue to ship military equipment under tight security conditions into Cuba and to unload it at docking points where outsiders are rigorously excluded—only Soviets are allowed to handle it—there is also a semimonthly passenger steamship service between Cuba and Russia and a weekly nonstop Moscow-Havana flight. These provide ample facilities for the Soviets to transport additional equipment to their newest satellite—under conditions that make tight U.S. surveillance difficult, if not impossible.

Furthermore, while evidence mounts of new equipment pouring in from the Communist bloc, there is continuing, absolutely confirmed and undeniable evidence that the Soviets are maintaining and guarding the medium-range sites they had previously constructed in Cuba. There has been no Soviet move to dismantle these concrete sites or withdraw the launching bases, as one might expect if the Soviets intended in good faith to keep these missiles out of Cuba in the future.

On the contrary, the Soviets' 24-hour maintenance of these sites gives rise to the very real possibility that Russia hopes to return the heavy missiles to the island and get them into commission—or, even more ominous—that they may have missiles left on the island and need only to wheel them out of caves. Let me make clear that I have no confirmed evidence now that there are still ground-to-ground missiles or mobile missile launchers or aimers for these missiles in Cuba, but the Soviet activity around these sites cannot help but raise a number of serious questions. Without onsite inspection, it is hard to see how we will ever know for sure the true missile situation in Cuba.

Finally, I have no idea that the Soviets are planning to attack the United States directly. What they are planning to do—in fact they are already doing it—is mount an increasing wave of sabotage, terrorism, political subversion, and agitation throughout Latin America. Already riots in Venezuela, Peru, Brazil clearly and demonstrably are the work of Communists trained and armed in Cuba.

We can expect this to get worse and worse. Economic progress and development in Latin America, such as that planned under the Alliance for Progress, will become infinitely harder to achieve, if not impossible. Private capital will flee the continent. No amount of U.S. aid will be able to fill the gap. This is in progress, but it will hit a new crescendo, for Castro is now proving that he has survived the latest crisis, that he is able to defy both the United States and the Organization of American States. His supporters in Latin America, cowed in October, are taking heart again.

The time will come when the United States will have to make the hard choice—get rid of this advance Communist arsenal, no matter how, or give up Latin America. The Alliance for Progress could do a lot of good—in a stable political climate—but to invest U.S. funds for long-term, carefully balanced, economic development projects in Latin America while Castro is investing Soviet funds for guns and terrorism is like trying to cure a cancer patient with vitamin pills. I have nothing against vitamin pills—in fact I take them myself—but we are only fooling ourselves and our friends if we think they will cure the cancer that Castro is injecting in the very bloodstream of Latin America.

It is so much easier to destroy than to build. The time will come when we will have to abandon Latin America or get rid of this cancer. Furthermore, the Soviets are building Cuba up to the point where it will be impossible to get them out with conventional weapons. Cuba is becoming an impregnable fortress just as fast as the Soviets can make it so.

One objective may be to make it so difficult for us to use conventional weapons that it will turn out to be an effort to force the United States to use nuclear weapons.

One of the most significant lessons of the October Cuban crisis, in my judgment, was the advantage the United States derived from the fact that we had the choice. We could decide what weapons and tools we wanted to use. The Soviets had only one effective choice—missiles. As a result, they backed down. But when the newest Soviet buildup in Cuba is completed, when all equipment is unloaded, installed, and defended, our positions will be reversed. It will be clearly impossible for any number of native Cuban forces to dislodge the Soviet might. And it may also be impossible for any American forces to dislodge it using conventional weapons. I am very much afraid this may be the long-range Soviet objective. If we permit them to achieve it, then national independence, political stability, and economic development will be forever impossible, not only in Cuba, but throughout South America.

I intend to speak on this subject at greater length next week and offer some definite proposals as to what we can do. But the need right now is for facts. The American people have the right to know how many ships are landing in Cuba, what supplies they are bringing, what the Soviets now in Cuba are doing, and what it means for the long-term security of this entire hemisphere. Cuba's explosive potential in the Western Hemisphere is increasing week by week.

THE UNDECLARED WAR IN VIETNAM

Mr. YOUNG of North Dakota. Mr. President, I share the concern of many people in my state and elsewhere over what amounts to our involvement in an undeclared war in Vietnam. Many brave Americans are losing their lives in Vietnam just as they did in the undeclared war in Korea.

Mr. President, I completely share the feeling regarding this matter as expressed so well in a recent column by David Lawrence, which appeared in the Grand Forks Herald of Grand Forks, N.D., on January 16, 1963; and in another column by David Halberstam which appeared in the Minneapolis Morning Tribune of Minneapolis, Minn., on January 26, 1963.

Mr. President, I ask unanimous consent to have these two columns printed in the RECORD as a part of my remarks.

There being no objections, the columns were ordered to be printed in the RECORD, as follows:

[From the Grand Forks (Minn.) Herald, Jan. 16, 1963]

DAVID LAWRENCE

WASHINGTON.—For what cause have 53 Americans given their lives in South Vietnam? What is the Government here telling the unfortunate parents and relatives? It would seem that not only is a persuasive explanation due the families of the men killed, but it is due the American people as well. For other Americans in uniform—about 1 million of them—now are stationed in 41 different lands and may any day be asked to make similar sacrifices. An official explanation as to why the United States is risking the lives of its youth in South Vietnam has not been forthcoming. Yet Congress alone, under the Constitution, has the right to declare war. A President who finds our national safety threatened need not wait for Congress but may in an emergency order our armed services into action because there isn't time to consult Congress. At the earliest practicable moment, nevertheless, a President is morally obligated to ask for a resolution of both Houses of Congress to authorize the continued use of American troops.

When President Wilson suddenly ordered Marines to land in Vera Cruz in 1914, to intercept a shipment of arms from Germany, a request for a joint resolution of authorization was made only a few days later. The request was promptly granted. In 1950, when President Truman overnight ordered our Armed Forces to help the United Nations to repel the invasion of South Korea, he called it a "police action," though it turned into a major war. Congress never authorized it explicitly but later gave the military operation validity by passing the necessary appropriations.

There have been a few cases in which Marines have been landed for brief periods in foreign countries by the United States to protect American lives and property and no resolutions have been sought from Congress. But in no case have such forces been used to carry on any operations involving military action against another country.

Today American troops and equipment—at a cost to American taxpayers of $1 million a day—are in South Vietnam, and the official word is that all this is solely to help in defensive operations at the request of the local government.

American troops usually do not engage in any foreign war without the authorization of the people's representatives—the Congress of the United States. It is recognized, of course, that a President may take measures of instant retaliation if an attack is made against this country, but it is assumed Congress would even then be asked to authorize any continued warfare. Under the North Atlantic Treaty Organization, the United States is pledged to regard an attack on any of the member states as being just the same as an attack on the United States. But after the initial steps have been taken, the Congress is supposed to furnish the necessary authority to carry on the war.

Just why the administration has not presented the facts about the situation in South Vietnam to the American people is a mystery. Informal and confidential talks with members of the foreign relations committees of Congress have been held by the Department of State. But these are by no means a substitute for the requirements of the Constitution. American boys have already been killed in action in South Vietnam, and many more of them may be sacrified in the Congo or other parts of the world to quell local disturbances.

The U.S. Government today has taken the position that, under the assumed authority of the United Nations, American advisers and equipment can be used in the Congo to settle by force an internal war in a state which covers a considerable area in central Africa.

President Eisenhower found himself in a tough spot in the Far East when an attack on Quemoy and Matsu, the islands off the shore of Red China, was threatened in 1954 and 1955. He asked Congress for authority to resist such an attack and to use American armed forces. The issue was fully debated, and a joint resolution authorizing military action in certain contingencies was overwhelmingly adopted.

This was a policy of candor and of fairness to the American people and their representatives. It ought to be repeated. Whenever the Congress, moreover, does debate the issues and the use of troops is sanctioned, then the psychological effect of such a step is without question felt abroad. It helps to dispel any notion that the executive branch of the Government here is engaged in a venturesome game that it might not perhaps play to the finish.

[From the Minneapolis (Minn.) Morning Tribune, Jan. 26, 1963]

GI's IN VIETNAM HAILED FOR LONELY KIND OF COURAGE

(By David Halberstam)

SOC TRANG, SOUTH VIETNAM.—Gen. Earle G. Wheeler, Chief of Staff, Friday praised American fighting men in Vietnam for daily displaying a lonely type of courage and bravery not even required in World War II.

He made his statement during a day in which he awarded 13 medals for bravery to Americans for their participation in the recent battle of Ap Bac.

If there were ever any doubt about the depth of American involvement in Vietnam's war, it should have disappeared yesterday with a glance at the citations for decorations, the knowledge that 3 other Americans were killed in action in the battle and the further knowledge that 54 other Bronze Stars for valor and Distinguished Flying Crosses have been recommended for Ap Bac.

A Brook Park, Minn., man was one of the servicemen honored. Sfc. Arnold Bowers, 29, received a Bronze Star Medal from Wheeler.

Ap Bac was the recent battle in the Mekong Delta where a trapped Communist regular battalion inflicted heavy losses on Vietnamese regulars before slipping out of a pocket at nightfall.

Here at the home of the 93d Helicopter Company which has borne the extremely heavy burden of Vietnam fighting in 11 months with seven helicopters destroyed, Wheeler told the assembled men:

"This is a dirty, nasty little war and you can get killed in it just as dead as if you were landing at Omaha Beach. But this is also a lonesome war and you don't have the might and majesty of the United States of America as we did at Omaha."

Because of the loneliness of the war, Wheeler told the GI's that the job here required a special type of courage.

"We all know what we're fighting against here. Perhaps some of you feel like strangers in a strange land," he said. "But no American is ever a stranger in a land where men are fighting to remain free."

His words were particularly welcome to the fighting men who have come to look on the swelling stream of visiting generals and other VIP's as more of a bother than anything else and who are often embittered by what they consider stateside ignorance and indifference to the dangers of Vietnam. They have a feeling that this war is not taken seriously by many people in the States and if they find anything of positive nature in Ap Bac it is that it apparently dramatized the U.S. involvement here.

INCREASE OF IMPORT QUOTAS FOR RESIDUAL FUEL OIL

Mr. MORTON. Mr. President, the announcement of the Department of the Interior of an increase of import quotas for residual fuel oil of over 6 million barrels, all dumped within the next 60 days, cannot be justified or explained in any way other than as a political sop to New England. There are no facts to justify this sharp relaxation of residual fuel oil quotas.

Residual oil prices are soft. Demand has not increased. There are no shortages. Nevertheless, Secretary Udall has just taken work away from thousands of American coal miners and railroaders. The economic statistics used by Interior to explain its action are as phony as a three-dollar bill.

The President talked one way in West Virginia when he was seeking votes during the 1960 campaign. Yet, his own Secretary of the Interior, Mr. Udall, has repeatedly acted another way.

The promises of Senator Kennedy, the candidate, and the performance of President Kennedy's Secretary of the Interior offer a sharp contrast.

The National Coal Policy Conference issued an immediate rebuttal to Secretary Udall's decision yesterday. I ask unanimous consent that the conference's statement be printed in the RECORD at this point.

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

STATEMENT OF THE NATIONAL COAL POLICY CONFERENCE

WASHINGTON, January 30, 1963.—"The unwarranted increase in residual oil import quotas for the remainder of this quarter announced Tuesday represents another severe blow to the already seriously damaged coal industry," Joseph E. Moody, president of the National Coal Policy Conference, declared today.

"The total increase—17,000 barrels per day, for the full year to be available in the next 2 months—is more than 6.5 million barrels, or the equivalent of 1.5 million additional tons of coal to be displaced in the next 2 months.

"This lost coal production would have provided jobs for more than 600 U.S. coal miners for a full year, or 3,600 miners during the next 2 months," Mr. Moody said. "These destroyed miners' jobs can now be added to the 17,000 full-time jobs already lost each year to imported residual oil, which now displaces more than 45 million tons of U.S. coal annually.

"Today's action was taken at the same time that a spokesman for the administration acknowledged to us that there has been an increase in imports in the first 8 months of the quota year of over 17 million barrels and that consumption on the east coast has been 5.6 million barrels less than was anticipated by the Bureau of Mines in their demand forecast on which quotas were established last April.

"The Department of Interior press release announcing the new increase stated that there was a reduction of 4 million barrels in stocks as of December 31, and that the supply of domestic residual for the east coast

this year had proved to be approximately 10 million barrels less than was anticipated by the Bureau of Mines.

"However, the Geological Survey, which compiles such figures for the Department of Interior, reports that shipments of domestic residual from the Gulf Coast for the period April through November declined 4,442,000 barrels and the Bureau of Mines reports that refinery output of domestic residual on the eastern seaboard amounted to 31.7 million barrels April through October for 1962, the latest period available, as compared with 32 million in the same period of 1961. Thus, there was an actual decline of only about 4.5 million barrels in domestic supply in the first 8 months, compared to a year ago. This means that there was a net increase in residual available to the east coast of about 12.5 million barrels during the first 8 months of this quota year.

"Even in the face of these facts, the Department of Interior is now adding an additional 6.5 million barrels during the next 60 days. Under the already existing import levels, quotas for this quarter were 37½ percent of the year's total, or 770,830 barrels per day. This enormous increase, when added to existing quotas, means that import levels for the next 2 months will reach the astronomical figure of 878,000 barrels per day.

"This is by far the highest level of imports ever recorded under the oil import control program. The previous record was 819,000 barrels daily reached for 1 month in January of 1962.

"This further severe blow to the domestic coal industry came despite the fact that the Department of Interior officials admit no shortage of residual oil now exists on the east coast. A survey made this week by NCPC among trade sources in New York-New England area revealed that residual imports are selling well below posted prices and that oil is in plentiful supply.

"Yet, in face of adequate supplies and a stable price, the import quota for residual oil was again increased—the third such increase since this administration assumed office 2 years ago and raising imports to 190 million barrels for the year as compared to 154 million barrels of allowable imports in 1960.

"There would seem to be no other conclusion to draw than that under this administration the domestic coal industry is considered expendable."

ESTABLISHMENT OF JOINT COMMITTEE ON THE ORGANIZATION OF THE CONGRESS

Mr. HUMPHREY. Mr. President, on January 14, the senior Senator from Pennsylvania [Mr. CLARK], on behalf of himself and a number of other Senators, including myself, introduced Senate Concurrent Resolution 1, to establish a Joint Committee on the Organization of the Congress and recommend improvements thereon.

As a member of the Senate Committee on Government Operations for 14 years and chairman of the Subcommittee on Reorganization and International Organizations for three Congresses, I feel that it is my duty to the Senate to call attention to the fact that the Committee on Government Operations has devoted a very great deal of time, effort, and attention to the organization and operation of the Congress ever since the enactment of the Legislative Reorganization Act of 1946. This work has been carried on in accordance with the specific mandate of section 102(1)(g)(2)(C) of that act, which places upon that committee the responsibility for "evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government." The resolution was referred to the Committee on Rules and Administration.

I fully concur with the Senator from Pennsylvania in the need to restudy and revamp thoroughly the organization and procedures of Congress. I have pledged myself to this effort. But I believe it is also necessary for every Senator to be aware of the extensive work in this area which has been done by this committee and its staff over the past 15 years. In fact, three of the original staff members who have been working on these matters over the years are still with the committee. Accordingly, it is my purpose to review briefly the nature and extent of this work, which should form the basis for any additional work which the Congress may desire to authorize in the future.

At the outset, I should like to point out that the Committee on Government Operations has devoted some attention to the organization and operation of the Congress during every Congress since the enactment of the Legislative Reorganization Act of 1946. I shall first review these activities for each Congress and I shall then make special reference to some of the more important aspects of this work.

In the 80th Congress, in February 1948, the committee held hearings for 5 days, taking 270 pages of testimony from congressional leaders, representatives of the two major political parties, committee chairmen and outside experts, with the express purpose of evaluating the Legislative Reorganization Act of 1946. Following an analysis of the various positions expressed, the committee made 13 specific recommendations which were incorporated in a committee bill, S. 2575, with all of the members of the committee as cosponsors. The bill was reported unanimously by the committee, placed on the Senate Calendar, and rereferred to the Committee on Rules and Administration for study as to its effect on the rules of the Senate. However, that committee took no action on it prior to the adjournment of the 80th Congress.

During the 81st Congress, the committee considered S. 2898, to establish a Joint Committee on the Budget, which would have amended section 138 of the Legislative Reorganization Act and was designed to strengthen the fiscal operations of the Congress so as to enable it to exercise properly its constitutional responsibilities in this field. After considerable deliberation, the committee decided to defer action on the measure until the 82d Congress, to be considered as part of a projected overall examination and evaluation of the organization and operation of Congress. I will refer to this important area later in my remarks.

In the 82d Congress, after much careful preparation, the committee once again held extensive hearings to evaluate the effect of the Legislative Reorganization Act of 1946. By the summer of 1951, the Congress had had more than 4 years of experience with the workings of the act, and was in receipt of numerous proposals for change. To assist in this task, the committee obtained the temporary services of Dr. George B. Galloway, former staff director of the Joint Committee on the Organization of Congress, on a reimbursable basis. Dr. Galloway prepared an extensive study of the operation of the 1946 act which was distributed to all members of the committee. Fourteen days of hearings were held during which testimony was heard on such topics as committee structure and operation, staffing of Congress, workload on Congress, oversight of administration, strengthening fiscal controls, lobbying, compensation of Members of Congress, composition and tenure of Congress, congressional ethics and immunity, party government in Congress, and congressional procedures and internal administration.

Among those who testified were various congressional leaders from both Houses of Congress who had sponsored amendments to the act, as well as staff members and outside experts. In all, 60 witnesses appeared, of which 14 were Senators, 15 were Members of the House, 3 of whom are now Members of the Senate, 10 were congressional staff members, 7 were political scientists, 7 represented civic groups, 5 were officials of the General Accounting Office, and 2 were former Members of Congress. In addition to oral testimony, the committee received numerous statements, letters, articles, and other written material, all of which were printed in the hearings. The recommendations which were received contained 184 proposals, and the printed hearings ran to 697 pages, including a 7-page summary of recommendations and an 18-page subject index.

Following these hearings, the committee held a series of executive sessions at which it reviewed the recommendations and gave its tentative approval to 27 proposed amendments to the Legislative Reorganization Act. At the committee's direction, the staff prepared informative data and drafts of legislation embodying these 27 proposals.

The committee's inquiry resulted in three byproducts. The first of these was a summary by title of all of the amendments to the Legislative Reorganization Act of 1946 which had been adopted by law or resolution, between 1947 and 1951, printed as Senate Document No. 11, 82d Congress. The second was a staff study of some problems of committee jurisdiction in selected subject-matter fields, printed as Senate Document No. 51, 82d Congress. Finally, the staff made a systematic analysis of the numerous recommendations received for improvements in the operations of the Congress, relative to adequate staffing of the committees, for closer surveillance of fiscal and other policies of the Congress, adjustment of retirement benefits of legislative employees, and the revision and strengthening of the Federal Regulation of Lobbying Act, which was enacted in 1946 as title III of the Legislative Reorganization Act.

During this same Congress, the committee took 182 pages of testimony in a 3-day hearing on S. 913, to amend the

Legislative Reorganization Act of 1946 to provide for more effective evaluation of the fiscal requirements of the executive branch of the Government. This bill would have established a Joint Committee on the Budget and provided it with a competent professional staff to enable the Congress to handle its vital appropriations responsibilities. It passed the Senate by a vote of 55 to 8, and was reported favorably by the House Committee on Rules. After some debate on the measure in the closing hours of the 82d Congress, it failed of passage by a vote of 155 ayes to 173 nays. I might add at this point that virtually identical bills were processed by the Committee on Government Operations, reported favorably and passed by the Senate in the 83d, 84th, 85th, and 87th Congresses, only to die each time in the House of Representatives.

In the 83d Congress, in addition to giving serious attention once again to strengthening the fiscal operations of the Congress by creating a Joint Committee on the Budget (S. 833), the staff of the Committee on Government Operations, at the direction of the committee prepared a complete compilation of the Legislative Reorganization Act of 1946 with amendments from the time of its enactment through the first session of the 83d Congress, printed as Senate Document No. 71. In addition, the Subcommittee on Reorganization of the Committee on Government Operations made a full evaluation of the Federal Regulation of Lobbying Act—title III of the Legislative Reorganization Act—holding numerous executive sessions, and ultimately prepared a complete draft revision of the act which, with some minor changes, was later introduced as S. 3784. In this connection, the staff prepared a number of studies dealing with constitutional and legal aspects of the act. In that Congress, the committee also devoted considerable attention to a bill, S. 1006, dealing with the scheduling of legislative action on appropriations measures and yea-and-nay votes on amendments to appropriations measures.

In the 84th Congress, the Committee on Government Operations undertook a series of studies, relative to the organization and operation of Congress, which related to, first, the need for tighter congressional control over the purse strings, and for legislation designed to remedy serious deficiencies in appropriations procedures and the expenditure of public funds; second, a revision and strengthening of title III of the Legislative Reorganization Act, dealing with the regulation of lobbying; and, third, changes in the rules of the Senate so as to bring about better coordination of all functions of that body in order to permit better adjustment of schedules of Members for the performance of essential duties in the Senate and in committees, looking toward the improvement of the legislative process.

Once again, the committee devoted much effort to perfecting the amendment to section 138 of the Legislative Reorganization Act, referred to above, which was designed to strengthen congressional control over appropriations by providing for the Congress the same kind of expert staff facilities and detailed technical information for the Appropriations Committees of the Congress as the Bureau of the Budget provides for the executive branch. The bill, S. 1805, was designed to remedy serious deficiencies in appropriations procedures and to improve congressional surveillance over the expenditure of public funds. As in the 83d Congress, the bill passed the Senate and was allowed to die in the House Committee on Rules.

As in the previous Congress, the Committee on Government Operations again devoted much time to a revision of the Federal Regulation of Lobbying Act—title III of the Legislative Reorganization Act. The bill, S. 2308, was the culmination of several years of extensive staff work and careful consideration by the committee and its Subcommittee on Reorganization.

Finally, in the 84th Congress, at my direction, the staff compiled data and pertinent information relative to the time required of Senators in carrying out their legislative duties in sessions of the Senate and in meetings of standing, special, or joint committees of which they are members. This summary and review of Senate floor sessions and committee meetings in the 84th Congress was printed as Senate Report No. 96 in the 85th Congress.

Also, in the 85th Congress, the committee again concerned itself with the vital need for legislation designed to remedy deficiencies in appropriations procedures and the expenditure of public funds, considering and reporting favorably S. 1585, identical to S. 1805 of the 84th Congress, S. 833 of the 83d Congress and S. 913 of the 82d Congress. Again, the measure passed the Senate and died in the House.

Following the extensive study by the staff of the committee relative to the time required by Senators to carry out their legislative duties in the 84th Congress, referred to above, the committee introduced Senate Resolution 102, relative to fixing separate days for Senate sessions and committee meetings. This resolution, which was part of the committee's program to improve the operations of the Senate, was based upon Senate Report 96, which contained, in addition, a wealth of information on the workload of the Senate, its Members and committees, and was designed to focus attention on the day-to-day problems and responsibilities.

The committee again devoted itself to the task of perfecting the lobby regulation legislation. The committee had before it S. 2191, to amend title III of the Legislative Reorganization Act, introduced by the Senator from Arkansas [Mr. McCLELLAN] and other members of the Special Committee To Investigate Political Activities, Lobbying and Campaign Contributions. The staff of the Committee on Government Operations prepared a series of staff studies on various aspects of the bill, following which the committee held a series of executive sessions at which various issues raised by the bill were considered and discussed.

Finally, during the 85th Congress, the staff of the committee, in connection with its work on the proposed Science and Technology Act of 1958, prepared an amendment to rule XXV of the Senate rules—title I of the Legislative Reorganization Act—which would have created standing Committees on Science and Technology in the Senate and House of Representatives with general jurisdiction over science and technology as well as the general oversight jurisdiction now exercised by the Joint Committee on Atomic Energy. The Joint Committee on Atomic Energy would have been abolished and its functions and members reassigned, with retention of their seniority, to the permanent standing committees in the respective Houses of the Congress.

During the 86th Congress, the staff of the Committee on Government Operations conducted a comprehensive study and analysis of the budgeting and accounting programs and procedures of the Federal Government, printed as Senate Document No. 11, 87th Congress. Part II of this study was devoted entirely to improvements in fiscal operations under the Legislative Reorganization Act of 1946. Here it was pointed out that one of the major aims of the act was to strengthen the congressional power of the purse. To accomplish this objective, the act provided for a legislative budget, a Joint Committee on the Budget, expenditure analyses by the Comptroller General, development of a standard appropriation classification schedule, studies by the Comptroller General of restrictions in appropriations acts, studies by the Appropriations Committees of both Houses of permanent appropriations and of the disposition of funds resulting from the sale of Government property or services, and expansion of the staffs of the Committees on Appropriations.

Senate Document No. 11 contains an extensive reveiw of all of the staff and committee work done in an effort to implement those objectives and achieve orderly processes and more adequate congressional controls.

This report, I am pleased to say, has been characterized by the Comptroller General of the United States as "a remarkable document to which all concerned can point with pride," and as a historic work which will "be of great value to congressional committees and Members of Congress," which "should be required reading and reference for anyone seriously concerned with financial management in Government."

In addition, in the 86th Congress, the staff of the Committee on Government Operations prepared a staff study listing all of the proposals filed in the Senate from the 80th through the 86th Congresses, proposing the establishment of standing, select, special and joint committees of the Congress, whether temporary or permanent, covering specified areas of Federal activity or national problems with which the Congress has been and is concerned—staff memorandum 86–2–49, December 7, 1960.

Finally, the staff of the committee prepared a special study and review of the committee system in the U.S. Senate with special reference to the development of the practice and procedure of

referring measures to committees prior to action by the Senate.

I come now, Mr. President, to the 87th Congress. It will be recalled that during the 85th Congress, the staff of the committee prepared an extensive survey of the activities of the U.S. Senate in the 84th Congress—Senate Report No. 96—which revealed, among other things, that Senators do not have sufficient time to give thorough attention to committee deliberations and actions, and that 90 percent of all work of the Congress on legislative matters is carried out in committee. It was recommended that separate days be assigned for committee meetings and for floor action.

Following up the findings of the previous study, the staff of the committee, at the direction of the chairman, prepared a survey of the present committee structure of the Congress. The startling results of this survey revealed that the Congress currently maintains a total of 303 committee units, including 36 standing committees, 3 special and select committees, 11 joint committees and 253 subcommittees. Of the total number, 127 units are in the Senate and 152 are in the House of Representatives. Added to this are 11 joint committees which have 13 subcommittees of their own. The staff study containing the details of this survey was published as Staff Memorandum No. 87–1–27, July 18, 1961. On that same day, I announced the findings of the staff on the floor of the Senate for the information of the Members and in order to inform the citizens of our Nation so that they might have a better understanding of the tremendous workload carried by Members of Congress.

Mr. President, I cite this study and my remarks on the floor of the Senate on this subject in order to inform the Senate that as recently as the 1st session of the 87th Congress, the Committee on Government Operations was engaged in a major project dealing with the committee system and the workload of individual Members of Congress. Furthermore, the results of our work were available to all, having appeared in the CONGRESSIONAL RECORD, volume 107, part 10, pages 12819–12823.

Finally, in the 87th Congress, the Committee on Government Operations again directed its attention to the very vital subject of strengthening congressional control of the purse strings and again reported a bill, S. 529, which would have established a Joint Committee on the Budget and improved congressional procedures for handling appropriations and expenditures. This bill passed the Senate under unanimous consent, but the House Rules Committee failed to report it.

In summary, Mr. President, the Legislative Reorganization Act of 1946 vests in the Committee on Government Operations a continuing responsibility for evaluating the effects of laws enacted to reorganize the legislative branch of the Government. I am pleased to report to the Senate that this committee has met this responsibility through the years by making continuing studies and inquiries into the organization and operation of the Congress, in general, and the Senate in particular. The results of our work are available in the form of printed reports, documents, staff memorandums and insertions in the CONGRESSIONAL RECORD, and it is my intention that this work will continue to be performed and the results made public from time to time.

FIFTEENTH ANNIVERSARY OF U.S. INFORMATION AGENCY

Mr. HUMPHREY. Mr. President, January 27, 1963, marked the 15th anniversary of the enactment of Public Law 402, the Smith-Mundt Act. In passing this legislation the Congress acknowledged officially the existence of a worldwide struggle for the minds and souls of men. And on these floors it forged a policy designed to construct an American capability in the ideological, psychological, and political war with the propaganda and policies of international communism.

It is tempting on such occasions to review the past experience, take stock of our assets and liabilities, and applaud the accomplishments of the U.S. Information Agency and its predecessor organizations and directors. For there has developed in the U.S. Information Agency an important strategic national resource. This consists of a worldwide communications apparatus, an improved and efficient know-how, and increased professionalism among its dedicated personnel.

American libraries and information centers are well known and appreciated abroad. The Voice of America has an international reputation. Hundreds of foreign newspapers and magazines carry USIS stories, pictures, and favorable cartoons about the United States and its people. USIA-made motion pictures are distributed to the far corners of the world. Their message is carried to hundreds of millions by riverboat, jeep, animals, as well as by plane, ship, and truck. More American books in foreign languages are being translated. American music is being heard, and American art is being displayed. The world has begun to appreciate the evidence of an American culture which has emerged in an atmosphere of freedom, and in the spirit of free and creative inquiry.

This and more could be said about past and present accomplishments. However, I would rather focus on what remains to be done and what ought to be done in order to strengthen and further develop the American effort. I do not know of anything that could be more important to the national interest if it is done well.

For example, how many people appreciate the impact of the series of American exhibits that has been displayed in Moscow, Leningrad, Kiev, Tashkent, in Warsaw, in Poznan, and in other eastern European and Russian cities? How many people know what happens when children and adults borrow and read books from USIS libraries abroad? How do we know when a Voice of America broadcast or an Agency pamphlet or news story will prompt men and women in foreign lands to think and act in a manner favorable to the future of freedom?

The answer is that most of us do not know, and although surveys and studies of media impact exist which frequently show favorable reactions, we do these things, we have passed this legislation, because we have faith in our ideas and ideals, because we have faith in the written and spoken word and because we believe that faithful images of our life and people as seen in photographs, motion pictures, and television will convey a message of hope, a message of dynamic, ever-stirring America whose people are on the march to progress, plenty, and peace.

It is my belief, however, that with all our achievements to date, we are just beginning to scratch the surface in this ideological struggle. Make no mistake, peaceful coexistence means continuous ideological and political struggle. It does not call for an end to the contest of ideas. It intensifies this struggle and we must be up to it. We must not be No. 2 or No. 3. We must strive in every way to pursue excellence with imagination, ability, and foresight. We must—all of us in the Congress—be ready with suggestions and constructive proposals to assist the Executive in the discharge of these important duties in order that the United States may always be No. 1 in this field.

Public Law 402 showed foresight in having created within this statute an independent, outside Advisory Commission on Information of private citizens who are expert in the field of mass communications. They have labored diligently in this field for 15 years. I have read their 17 reports to Congress as they were issued over the years and I have from time to time commented on these reports on the floor of the Senate.

Today, the Commission has issued its 18th report to Congress. And again it attempts to help chart the future in this important ideological struggle. It suggests, among other things, that the USIA, too, should look to the future by establishing a long-range, forward-planning unit which would concentrate on the task of discovering new improvements, new ideas, and new methods of disseminating information around the world.

The Commission also suggests that we in the Congress can do more through the personal associations and relationships that are developed in the interparliamentary meetings which we attend.

Finally, the Commission recommends that the appropriate committees of Congress conduct hearings on research in international mass communications with a view toward determining the best ways of reducing international tensions, promoting stability and increasing international understanding by means of international communication.

One of the principal reasons for this recommendation is the challenge and opportunities that have been opened up for us by the U.S. success with Telstar, the first international communication satellite capable of transmitting voices and images around the world. What is important now, states the Commission, is the nature of the contents that will be carried by this new vehicle of communication.

In order to insure quality content for its programs, USIA as well as private American networks should be sensitive to the habits, attitudes and views of foreign audiences. The U.S. Advisory Commission on Information has observed that research into atomic energy and space exploration resulted in important technical breakthroughs and discoveries. It believes similarly that research into international communication projects is also necessary and that it could illuminate and improve our total efforts to communicate effectively with foreign audiences. It could help the USIA in its work with foreign labor groups, farm groups, cooperative associations, students, and intellectuals.

I wish to support this Commission's recommendation and urge that hearings be considered by the appropriate committee. Carefully planned and prepared hearings could shed important light on our present inadequacies, on methods of improving our communications, and on areas of ignorance and misunderstanding that we need to remedy in order to do quality work.

On this 15th anniversary of the passage of Public Law 402, I wish to salute its authors and congratulate the present Director of USIA, Mr. Edward R. Murrow and his staff, who are laboring so diligently and indefatigably.

THE PRESIDENT'S EDUCATIONAL PROGRAM

Mr. SIMPSON. Mr. President, I have just read the President's message on his educational program, and I feel a great concern for the effects of this program on our public school system. I have had a lifelong interest in education. I have served as a member of the local school board in my hometown, Cody, Wyo. I have served for 13 years as the president of the board of trustees for our State university. I have served as president of the National Association of Governing Boards for State Universities and Allied Institutions. I was a member of the educational committee of the national chamber of commerce. I merely give this recitation to disclose some qualifications to indicate that I have more than a passing knowledge of the education field.

The President states that his Federal assistance program will bring no controls to our local school system, but I state that there is no such thing as Federal aid without Federal control.

The administration's program attempts to interject the Federal Government into our traditional system of public schools, which is presently meeting the challenges and forging ahead at a much greater rate than the present administration had anticipated would be necessary.

I wish to point out that I am for a strong and adequate educational system in America. I yield to no one in my desire to see the educational system flourish in America. It cannot be regimented and flourish. Let us meet the challenge in the American way, not through a complicated scheme to remove control, at any cost, from the local level where it belongs.

Mr. President, there are others who share my concern over the President's program, which promises to give everything to all people, and I feel that an editorial appearing in the Wall Street Journal today, January 31, is appropriately timed. I, therefore, ask unanimous consent that this editorial, entitled "In the Name of Quality," be inserted in the RECORD along with these remarks.

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

IN THE NAME OF QUALITY

In our village, and from all we hear in thousands of other communities, the quality of education has improved dramatically in recent years. Courses are tougher and more is demanded of the student.

This is in large measure a grassroots revolt against too many years of soft thinking and soft teaching. It has not been inspired by official Washington or brought about by Federal funds. Perhaps, as President Kennedy says, it is by no means enough; that much more must be done to increase the quality and availability of education at all levels. But the education message delivered to Congress this week raises the strongest doubts that it is showing the way to do it.

The recommendations, for one thing, rest on certain misconceptions and superficialities. The assumption throughout seems to be that a sprawl of new or expanded Federal programs can all but solve problems of ignorance, unskilled workers and school dropouts; problems that lead to delinquency, unemployment, chronic dependence and waste of human resources.

It would be fine if it were so simple, but we all know that the roots of these social ills go deeper than any lack of classrooms and teachers. The disturbing thing is that the message proposes far-reaching Federal remedies without any evidence of a serious analysis of the causes of the problems.

In the same way, the message glibly repeats the cliche that the crisis in higher education facilities is now at hand. It ominously declares that $23 billion worth of new facilities will be needed by 1970 to accommodate the college enrollment.

Such statements reflect superficiality with a vengeance. Many colleges have more space than students, and a good education is not a monopoly of the schools with the most glamorous reputations. Moreover, multiple applications by the same students are inflating the whole enrollment crisis. And the message overlooks a basic question in this regard, whether the Nation is trying to put too many youngsters through college—in many cases beyond either ability or desire.

The tendency to ignore fundamental questions also shows up in the emphasis on research. The Federal Government already dominates the Nation's research effort, and the signs of abuse, waste, and distortion are mounting. For it is by no means true that anything and everything in the name of research is worth doing. Yet the message, proposing much more aid in this area, seems to make that unthinking assumption.

In short, we will not improve quality by ill-conceived programs which in fact put the stress on quantity of classrooms and other facilities. What we will get, through this sort of legislation, is a new proliferation of Federal activity costing an estimated $5 billion over 5 years.

The President says his ambitious educational enterprise offers Federal assistance without Federal control. It isn't necessary to debate the abstract theory of Federal versus local control; it is enough to note that aid of such scope must entail control, just as it already does in research.

In fact, it would be irresponsible for the Government to spend so much without trying to determine how it is being spent. The only question then becomes to what ends the control would be exercised.

One of the practical virtues of our traditional system of community control of public schools, plus numerous private schools, is that local mistakes do not become national mistakes. They are also more easily corrected, as we have been witnessing in the hometown revolt against softness.

The Nation should not be eager to infringe a system which has done spectacularly well in the past and today is bringing radical improvements in quality. Certainly it should be skeptical of Federal programs that proclaim quality but map paths to a new conformity.

THE PREVIOUS QUESTION

Mr. RUSSELL. Mr. President, on almost every occasion when the rules of the Senate are under discussion we have some controversy as to the effect of the so-called previous question rule, which existed in the Senate during the first few years of its existence.

I made a very careful study of that question some 15 years ago, and concluded that beyond any peradventure the original previous question rule in the Senate was not a mechanism for cloture or, indeed, even for the purpose of stopping debate in the Senate, but that it was utilized only to postpone or to avoid a decision on a pending question.

Some time ago, Dr. Joseph Cooper, who is a professor of political science in the Department of Government at Harvard University, very carefully researched this whole question. I had Dr. Cooper's thesis printed as a Senate document.

In the light of some statements which have been made during the present debate, I believe it would be well to have this thesis printed in the body of the RECORD, in order that it might be available for all those who may have an interest in this matter in the future. From my experience, it will be a matter of interest in almost every year that the Senate is in session.

I, therefore, ask unanimous consent that Dr. Cooper's thesis entitled "The Previous Question: Its Standing as a Precedent for Cloture in the U.S. Senate," be printed in the RECORD at this point in my remarks.

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

Mr. RUSSELL. I yield.

Mr. HUMPHREY. Is this the professor at Harvard who made this study?

Mr. RUSSELL. Yes.

Mr. HUMPHREY. Has this study been printed as a Government document?

Mr. RUSSELL. Yes; but never in the CONGRESSIONAL RECORD.

Mr. HUMPHREY. I believe it should be printed in the RECORD. I certainly have no objection.

Mr. RUSSELL. I find that some statements have been made heretofore, about the same length, on the other side of the question and have been printed in the RECORD. In fact, one such thesis has been printed twice. I think it only appropriate that the one I refer to should be printed at least once.

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

THE PREVIOUS QUESTION: ITS STANDING AS A PRECEDENT FOR CLOTURE IN THE U.S. SENATE—A DISSERTATION ON THE SO-CALLED PREVIOUS-QUESTION RULE AS EMPLOYED BY THE SENATE IN ITS EARLY DAYS

(Presented by Mr. RUSSELL)

FOREWORD

By great good fortune, there has come to my attention an outstanding and scholarly dissertation by Dr. Joseph Cooper, a professor of political science in the Department of Government at Harvard University, entitled "The Previous Question: Its Standing as a Precedent for Cloture in the Senate of the United States."

Dr. George B. Galloway, senior specialist, American Government and Public Administration of the Library of Congress, was gracious enough to permit me to see Dr. Cooper's work.

Dr. Cooper reached the conclusion, after his painstaking study, that the previous question rule in the early Senate was not in any sense a restriction on debate nor a mechanism for cloture.

I have never seen Dr. Cooper and had never heard of him or his study of this subject until after he had completed his research and prepared his dissertation. It is most gratifying that his findings support the position that I have taken a number of times on the floor of the Senate when efforts to impose further restrictions on freedom of debate were pending in the Senate. Dr. Cooper's thesis is a notable contribution to the history of the Senate and to an understanding of its rules. I feel it should be made available to all of the Members of the Senate as well as students and others interested in the history of this great parliamentary institution. I have therefore asked unanimous consent that Dr. Cooper's thesis be printed as a Senate document.

RICHARD B. RUSSELL.

Many persons interested in Senate procedure are aware that a rule for the previous question existed in that body during its first 17 years.[1] Still, the manner in which this rule was understood and used has been and continues to be a topic of much misunderstanding and disagreement. Thus, as eminent a student of the Senate as Lindsay Rogers seems to believe that the previous question existed as a cloture mechanism in the early Senate, whereas other equally eminent students of the Senate, such as George H. Haynes and Clara (Kerr) Stidham, are convinced that the rule was not so used or understood.[2] In recent years, as a result of the efforts of a group of liberal Senators to impose some form of majority cloture on the Senate, interest has been revived in the nature of the precedent furnished by the original Senate rule for the previous question. The leading antagonists in the controversy have been Senator RICHARD RUSSELL, Democrat, of Georgia, and Senator PAUL DOUGLAS, Democrat, of Illinois.

Senator RUSSELL has contended that the previous question did not serve as a mechanism for cloture in the early Senate, but merely as a mechanism for postponing or avoiding decision.[3] Senator DOUGLAS has argued that RUSSELL'S view is "almost completely wrong."[4] In so arguing, DOUGLAS has not only relied on his own investigations; in addition, he has made use of extensive research done for him by Irving Brant. Thus, he has twice introduced into the CONGRESSIONAL RECORD a memorandum on the previous question prepared by Brandt.[5] This memorandum contends that in the early Senate a simple majority had the power to close debate through use of the previous question in order to bring a matter to decision and that on occasion this power was actually exercised.

The aim of this paper is to settle the long-standing dispute over the status and significance of the rule for the previous question which existed in the Senate in the years from 1789 to 1806.[6] In terms of the Haynes-Stidham-Russell line of thought the previous question mechanism in the early Senate provides no valid precedent for the adoption of majority cloture today. In terms of the Rogers-Douglas-Brant line of thought it provides a solid precedent.

I. PROPER USAGE IN PARLIAMENTARY THEORY, 1789-1806

We may start our inquiry by examining what parliamentary theory in these years conceived to be the proper function of the motion for the previous question. There is very little evidence to support the contention that in the period 1789–1806 the previous question was seen as a mechanism for cloture, as a mechanism for bringing a matter to a vote despite the desire of some Members to continue talking or to obstruct decision.[7] This is true for the House as well as for the Senate.[8] On the other hand, convincing evidence exists to support the contention that the previous question was understood as

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[1] On Apr. 16, 1789, the Senate adopted the following rule as the 9th of a code of 19 rules adopted that day:

"The previous question being moved and seconded the question from the chair shall be: 'Shall the main question be now put?' And if the nays prevail, the main question shall not then be put."

This rule was omitted in the revised rules adopted 17 years later on Mar. 26, 1806. See "Annals of Congress," Washington, 1834–55, 1 Cong. 1, 20–21, and 9 Cong. 1, 202–203.

[2] See Lindsay Rogers, "The American Senate," New York, 1926, p. 165; George H. Haynes, "The Senate of the United States," Boston, 1938, vol. I, p. 393; and Clara (Kerr) Stidham, "The Origin and Development of the United States Senate," Ithaca, 1895, p. 59.

Also relevant are Robert Luce, "Legislative Procedure," Boston, 1922, pp. 275 and 289; Henry Jones Ford, "The Rise and Growth of American Politics," New York, 1898, p. 265; and Franklin L. Burdette, "Filibustering in the Senate," Princeton, 1940, pp. 14, 15, and 219.

[3] See CONGRESSIONAL RECORD, vol. 103, pt. 1, p. 153, Washington, 1873–1961. See also CONGRESSIONAL RECORD, vol. 99, pt. 1, p. 117, and S. Doc. No. 4, 83 Cong. 1, p. 11.

[4] CONGRESSIONAL RECORD, vol. 103, pt. 5, pp. 6669–6686. See also CONGRESSIONAL RECORD, vol. 107, pt. 1, pp. 241–256.

[5] Ibid. For other statements of Brant and DOUGLAS see Proposed Amendments to Rule XXII of the Standing Rules of the Senate, "Hearings Before a Special Subcommittee of the Committee on Rules and Administration," U.S. Senate, 85 Cong. 1, Washington, 1957, pp. 170–182 and 31–45.

Senator JOSEPH S. CLARK, Democrat, of Pennsylvania, has also been a leading advocate of the view that majority cloture would be a return to original Senate practice. See "Senate Rules Must Be Reformed," reprint of speeches and proposals of Senator JOSEPH S. CLARK, Washington, 1960, pp. 22–26.

[6] The House of Representatives has, of course, had a previous question rule since its inception in 1789. Over the years this rule has undergone many changes and it now serves as a very effective mechanism for cloture in the House. See any recent manual of rules for the House of Representatives, rule XVII and explanatory footnotes. See also Asher C. Hinds, "Hinds' Precedents of the House of Representatives," Washington, 1907, secs. 5443–5446.

[7] There are only two pieces of evidence that can be cited in support of the contention that the previous question was understood as a cloture mechanism in the Senate before 1806. The first is the fact that on the cover of his famous journal William Maclay, a Senator from Pennsylvania in the First Congress (1789–91) records the following as Senate rule 7:

"In case of debate becoming tedious, four Senators may call for the question; or the same number may at any time move for the previous question, viz., 'Shall the main question now be put?'"

See "The Journal of William Maclay," New York, 1927, p. 403. It is clear, however, that this rule never became an official rule of the Senate. Instead, it, together with the other rules listed on the cover, probably represent Maclay's proposals for Senate rules. See Stidham, op. cit., p. 38, footnote 2, and p. 60, footnote 2. See also Haynes, op. cit., vol. I, p. 392, footnote 3. Still, from the way this rule is worded it is often assumed that Maclay understood the previous question as a cloture mechanism. This is far from clear. The Senate of the Commonwealth of Pennsylvania in 1790 had two separate rules dealing with the matters contained in rule 7 as listed by Maclay. One permitted four Senators to ask for the question, i.e., a vote, when the debate became tedious and the other permitted four Senators to move the previous question. This suggests that the objects of these procedures were understood as separate and distinct and that Maclay merely lumped them together for purposes of brevity since both kinds of motions required the same number of initiators. See "Journal of the Senate of the Commonwealth of Pennsylvania, 1790–1791," Philadelphia, 1791, pp. 50–51 (Dec. 29, 1790), rules 13 and 17. It is true, however, that by 1790 the House of Representatives in Pennsylvania only had a rule for the previous question. Note the conclusions drawn with reference to this fact by Lauros G. McConachie. See Lauros G. McConachie, "Congressional Committees," Boston, 1898, p. 24. Yet see "Journal of the House of Representatives of the Commonwealth of Pennsylvania, 1790–1791," Philadelphia, 1791, p. 129 (Jan. 28, 1791).

The second piece of evidence that might be cited to support the contention that the previous question was understood as a cloture mechanism in the Senate during the years from 1789 to 1806 is Jefferson's statement that use of the previous question had been extended to accomplish ends beyond the mere suppression of delicate discussions. Thomas Jefferson, "A Manual of Parliamentary Practice," Washington, 1820, sec. XXXIV. In this regard see Luther Stearns Cushing, "Elements of the Law and Practice of Legislative Assemblies in the United States of America," 1866, par. 1420 and related footnote 4. However, in all probability what Jefferson had in mind here was use of the previous question on propositions that were not delicate, simply, for the purpose of suppressing an undesired decision. This is indicated by his discussion of why it would be preferable to permit the main question to be amended when the motion for the previous question was being debated. It is also indicated by the fact that Jefferson at no point states that on a certain date the previous question was used for cloture in the Senate, whereas it is unlikely that he would have allowed such an important and revolutionary precedent to go by unnoted.

[8] For conceptions of the function of the previous question in the House see Hinds' Precedent, op. cit., sec. 5445 and De Alva S. Alexander, "History and Procedure of the House of Representatives," Boston, 1916, p. 181. See also "Annals," 1 Cong. 1, 324 (May 11, 1789); 2 Cong. 2, 846–851; 3 Cong. 1, 595–596; 3 Cong. 2, 960; 3 Cong. 2, 998–1000; 5 Cong. 2, 650–652; 5 Cong. 2, 1067; 7 Cong. 1, 439–441; 7 Cong. 1, 1045; 9 Cong. 1, 1091–1092; and 10 Cong. 1, 1183–1184. It should be noted that in the last instance mentioned Randolph's argument assumes that the previous question is a mechanism for avoiding decisions, not discussions.

a mechanism for avoiding either undesired discussions or undesired decisions, or both.

The leading advocate of the view that the proper function of the previous question related to the suppression of undesired discussions was Thomas Jefferson. In his famous manual, written near the end of his term as Vice President for the future guidance of the Senate, he defined the proper usage of the previous question as follows:

"The proper occasion for the previous question is when a subject is brought forward of a delicate nature as to high personages, etc., or the discussion of which may call forth observations, which might be of injurious consequences. Then the previous question is proposed: and, in the modern usage, the discussion of the main question is suspended, and the debate confined to the previous question." [9]

In terms of his approach, then, Jefferson regarded as an abuse any use of the previous question simply for the purpose of suppressing a subject which was undesired but not delicate, and he advised that the procedure be "restricted within as narrow limits as possible." [10]

Despite Jefferson's prestige as an interpreter of parliamentary law for the period with which we are concerned, his view of the proper usage of the previous question cannot be said to have been the sole or even the dominant one then in existence. A second strongly supported conception understood the purpose of the previous question in a manner that conflicted with Jefferson's view; that is, as a device for avoiding or suppressing undesired decisions.

The classic statement of this view was made in a lengthy and scholarly speech delivered on the floor of the House of Representatives on January 19, 1816, by William Gaston. In this speech Gaston, a Federalist member from North Carolina, argued that on the basis of precedents established both in England and America the function of the previous question was to provide a mechanism for allowing a parliamentary body to decide whether it wanted to face a particular decision. In the course of his speech he took special pains to emphasize his differences with Jefferson:

"I believe, sir, that some confusion has been thrown on the subject of the previous question (a confusion, from which even the luminous mind of the compiler of our Manual, Mr. Jefferson, was not thoroughly free) by supposing it designed to suppress unpleasant discussions, instead of unpleasant decisions." [11]

Gaston's speech, to be sure, was made 5 years after the previous question had been turned into a cloture mechanism in the House and it was made as a protest against this development.[12] It is valuable, nonetheless, as an indication of the state of parliamentary theory in the years from 1789 to 1806 and its standing as evidence of this nature is supported both by the arguments made in the speech itself and by less elaborate statements made on the floor of the House in the years before 1806.[13]

That the previous question was understood as a mechanism for avoiding undesired decisions in the early Senate as well as the early House is indicated by an excerpt from the diary of John Quincy Adams.[13a] The excerpt comes from the period in which Adams served in the Senate and it contains his account of Vice President Burr's farewell speech to the Senate. In this speech, delivered on March 2, 1805, Burr by implication seems to understand the function of the previous question as relating primarily to the suppression of undesired decisions.

"He [Burr] mentioned one or two of the rules which appeared to him to need a revisal, and recommended the abolition of that respecting the previous question, which he said had in the 4 years been only once taken, and that upon an amendment. This was proof that it could not be necessary, and all its purposes were certainly much better answered by the question of indefinite postponement." [14]

We should note in closing our discussion of proper usage that in Burr's case, as in a number of others, his words do not rule out the possibility that he understood the previous question as a mechanism for avoiding undesired discussions as well as undesired decisions. Indeed, despite the exclusive character of the positions maintained by Jefferson and Gaston, their basic views could be held concurrently and in the years immediately preceding 1789 they were, as a matter of general agreement, so held in the Continental Congress. The previous question rule adopted by that body in 1784 read as follows:

"The previous question (which is always to be understood in this sense, that the main question be not now put) shall only be admitted when in the judgment of two Members, at least, the subject moved is in its nature, or from the circumstances of time and place, improper to be debated or decided, and shall therefore preclude all amendments and further debates on the subject until it is decided." [15]

Thus, a third alternative existed in parliamentary theory in the early decades of government under the Constitution with reference to the previous question—that of seeing it as a mechanism for avoiding both undesired discussions and undesired decisions. The extent to which Jefferson's, Gaston's, or a combination of their positions, dominated congressional conceptions of the proper function of the previous question is not clear.[16] The lack of rigidity in parliamentary theory was an advantage rather than a disadvantage and the average Member, in the years before 1806 as now, was not apt to be overly concerned with the state of theory or its conflicts unless some crucial practical issue was also involved. However, practice in these years reveals that in both the House and the Senate the previous question was used mainly for the purpose of avoiding or suppressing undesired decisions, rather than undesired discussions.[17] Still, practice also reveals that the degree to which these purposes can be distinguished varies widely from instance to instance and that often any distinction between them must be a matter of degree and emphasis, rather than a matter of precise differentiation.

II. PROPER OPERATION IN PARLIAMENTARY THEORY, 1789–1806

In line with the prevailing conception of the previous question as a device for avoiding undesired discussions and/or decisions, the mechanism itself was clearly designed to serve such ends, rather than the ends of cloture. This can be seen if we examine parliamentary theory in the years from 1789 to 1806 with reference to three key facets of the rule's operation: the possibility of debate before determination of the motion, the course of procedure after determination of

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[9] Jefferson's Manual, op. cit., sec. XXXIV.

[10] Ibid.

[11] "Annals," 14 Cong. 1, p. 707.

[12] See references cited in footnote 6 above.

[13] See references cited in footnote 8 above.

[13a] The fact that a considerable amount of secrecy characterized the early sessions of the Senate also makes less reasonable the supposition that in this body the previous question was understood solely as a mechanism whose proper usage was confined to the suppression of delicate discussions. Until 1794, the Senate held all its sessions behind closed doors. In that year a resolution was passed which opened the doors for the consideration of legislative business, though simultaneously a new rule was passed which permitted any Member to move to close the doors whenever he thought necessary. However, the Senate did provide for the regular publication of its legislative journal from the very first year of its operation. The proceedings of the Senate when acting in its executive capacity continued to be held in secret far beyond the year 1806. Moreover, in the years before 1806 and beyond, the Senate appears to have published only portions of its executive journal and to have done so on very few occasions. For material on secrecy in the Senate see Stidham, op. cit., pp. 39–40, 98–102, and 170–171; Haynes, op. cit. vol. II, pp. 665–670 and 779–782; George P. Furber, "Precedents Relating to the Privileges of the Senate of the United States," Washington, 1893 (S. Doc. No. 68, 52 Cong. 2, vol. VII of misc. doc. vols.); Dorman B. Eaton, "Secret Sessions of the Senate," New York, 1886; and Joseph P. Harris, "The Advice and Consent of the Senate," Berkeley, 1953, p. 249. See also Jefferson's Manual, op. cit., sec. XLIX, and "Rules of the United States Senate," Dec. 7, 1801, Houghton Library Document, Harvard University, Call No. ACUN33C.801r.

[14] Charles Francis Adams (ed.), "Memoirs of John Quincy Adams," Philadelphia, 1874, vol. I, p. 365. That Burr saw the previous question primarily as a mechanism for avoiding or suppressing undesired decisions can be inferred from the fact that he said "all its purposes were certainly much better answered by the question of indefinite postponement." This claim can be seen to be most correct if one regards the previous question as a mechanism for suppressing undesired decisions rather than undesired discussions. The consequence that indefinite postponement entailed that the previous question did not necessarily entail was total suppression of a matter for the remainder of the session. Such a consequence is better suited for suppressing decisions than for suppressing discussions since in all probability opposition to a substantive question will remain permanent whereas questions that are too delicate to be discussed at one moment may well lose their delicacy with the passage of time.

It is interesting to note that Jefferson distinguished temporary suppression of a discussion from permanent suppression, assigning the former end to the previous question and the latter end to indefinite postponement. See Jefferson's Manual, op. cit., sec. XXXIII. However, we should also note that we cannot be certain that indefinite postponement was as effective a means of suppressing discussion as the previous question. Under the previous question mechanism discussion of the merits of the main question was absolutely forbidden. Whether this was also true when indefinite postponement was moved is not clear. Jefferson at no point states that the merits of the main question could not be discussed when indefinite postponement was moved, though this may be implicit in his statements regarding indefinite postponement.

[15] Hinds' Precedents, op. cit., sec. 5445.

[16] See Cushing's Manual, op. cit., pars. 1404 and 1421.

[17] For a discussion of all instances of the use or attempted use of the previous question in the Senate which this author has been able to discover see pt. III of this paper. For instances of the use or attempted use of the previous question in the House from 1789 to 1806 see "Annals," 1 Cong. 1, 324 (May 11, 1789); 1 Cong. 1, 758–759 (Aug. 18, 1789); 1 Cong. 3, 1960 (Feb. 8, 1791); 2 Cong. 1, 597; 2 Cong. 2, 823; 2 Cong. 2, 846–851; 3 Cong., 1, 595–596; 3 Cong. 1, 686; 3 Cong. 2, 960; 3 Cong. 2, 998–1000; 5 Cong. 2, 650–652; 5 Cong. 2, 1067; 6 Cong. 1, 508; 6 Cong. 2, 1042; 7 Cong. 1, 419; 7 Cong. 1, 439–441; 7 Cong. 1, 1045; and 9 Cong. 1, 1091–1092. See also "Journal of the House of Representatives of the United States," Washington, 1826, vol. III, p. 253.

the motion, and the nature of the limitations on the scope of the motion.

Once moved and seconded the motion for the previous question, as in the case of any other motion, could be subject to extensive debate.[18] In both the Senate and the House the rules governing limitation of debate before 1806 were exceedingly lax.[19] Whether debate on the motion for the previous question could have been halted in the House or the Senate before the generous conditions set forth in the rules of these bodies had been satisfied is a matter of conjecture. Senator DOUGLAS and Irving Brant argue that such a result was possible in the Senate and, at least in part, their argument can also be applied to the House. Their contention is that whenever debate became obstructive or repetitious it could have been ended by the presiding officer, and they seem to believe that this officer could have acted either on his own initiative or in response to a point of order raised from the floor.[20] They base their argument on the possibility in the early Senate of founding antifilibuster rulings on a general principle of parliamentary law, which Jefferson in his manual affirmed as follows: "No one is to speak impertinently or beside the question, superfluously or tediously." [21] Thus, DOUGLAS and Brant maintain that in the period from 1789 to 1806 the motion for the previous question was not one that could be debated indefinitely "without let or hindrance," and they emphasize the fact that until 1828 the presiding officer in the Senate was permitted to decide all questions of order without debate or appeal.[21a]

However, it is far from clear that the men who served in Congress in the period which concerns us saw themselves as having the powers that DOUGLAS and Brant think they had. On the occasions where records reveal that debate in the Senate actually became "tedious" and "superfluous," there is no evidence to suggest that the presiding officer ever intervened or that a point of order was ever raised.[22] The situation is similar with respect to the House and it is also worth noting that when the House in December of 1805 decided that stricter control of debate on the motion for the previous question was necessary, it felt forced to amend its rules so as to abolish debate on the motion entirely.[23]

Nor can we be certain that if a presiding officer had intervened or a point of order had been raised, the result would have been as DOUGLAS and Brant suggest. Freedom of debate was a principle which this period valued very highly. Thus, one cannot confidently predict that the House or the Senate would have sustained the intervention of its presiding officer. To be sure, if the presiding officer in the Senate had intervened to stop debate, his decision could not have been reversed by appeal to the floor, as could have been done in the House. But this does not mean that the Senate could not and would not have acted to reverse his ruling. This result could easily have been accomplished, if the Senate desired, simply by voting to amend or add to the rules. Similarly, if a point of order had been raised, one cannot confidently predict that the reaction of the presiding officer in either House would have been to uphold it. Given the fact that the rules of both the House and Senate directly concerned themselves with the conditions for limiting debate, any presiding officer would have been quite hesitant to impose by fiat restrictions that went so far beyond what the rules themselves prescribed.[24]

Lastly, the least that can be said is that even if DOUGLAS and Brant are correct in maintaining that it was possible to limit debate on the motion for the previous question, this facet of the rule's operation does not demonstrate that the previous question was designed as a cloture rule. On the contrary, the fact that debate on the motion could not be prevented until it became obstructive or repetitious made the previous question a very inefficient mechanism for cloture. It meant that a lengthy debate on the merits of the main question could be followed by a lengthy debate on the very propriety of putting the question.[25]

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[18] In the House of Representatives five Members were required to second a motion for the previous question and no Member was permitted to speak more than once without leave. The original previous question rule adopted by the House read as follows:

"The previous question shall be in this form: 'Shall the main question be now put?' It shall only be admitted when demanded by five Members: and until it is decided, shall preclude all amendment and further debate of the main question. On a previous question no Member shall speak more than once without leave."

See Hinds' Precedents, op. cit., sec. 5445.

[19] The main limitation on debate in the House prohibited any Member from speaking more than twice on the same question without leave of the House or more than once until every Member who wanted to speak had spoken. However, as we have already noted in footnote 18, on the motion for the previous question, Members were limited to speaking once unless leave was granted to speak again. See "Annals," 1 Cong. 1, 99 and 100 (Apr. 7, 1789). In the Senate the main limitation on debate prohibited any Member from speaking more than twice in any one debate on the same day without permission of the Senate. See "Annals," 1 Cong. 1, 20 (Apr. 16, 1789). Even this rule, however, was often not enforced. See Stidham, op. cit., p. 59 and Memoirs of John Quincy Adams, op., cit., vol. I, p. 324.

[20] From the manner in which Brant and Douglas argue their case it is not entirely clear whether they maintain that the presiding officer could have stopped tedious or superfluous debate on his own initiative. I have interpreted them as maintaining this because their argument seems to suggest it, because such an interpretation strengthens their case, and because practice in the early Senate in other areas, e.g., relevancy, may furnish a basis for maintaining such a position. In 1826, however, Vice President Calhoun refused to intervene on his own initiative in matters where the "latitude or freedom of debate" was involved. See CONGRESSIONAL RECORD, vol. 107, pt. 1, pp. 242, 247, 248, 253, 255, 256. See also Burdette, op. cit., pp. 16–19 and 220. In addition, see Haynes, op. cit., vol. I, p. 389 and Furber's Precedents, op. cit., p. 118.

[21] See CONGRESSIONAL RECORD, vol. 103, pt. 5, pp. 6669–6686 or CONGRESSIONAL RECORD, vol. 107, pt. 1, pp. 241–256. See also Jefferson's Manual, op. cit., sec. XVII.

[21a] CONGRESSIONAL RECORD, vol. 107, pt. 1, pp. 242 and 255–256. However, the Senate rules did provide that the presiding officer could submit a question of order to the Senate if he had doubt in his own mind as to what ruling was proper. See Jefferson's Manual, op. cit., sec. XVII.

[22] See Maclay's Journal, op. cit., p. 63 (June 4, 1789); p. 133 (Aug. 26, 1789); pp. 155–159 (Sept. 22–24, 1789); p. 181 (Jan. 25, 1790); and p. 305 (July 1, 1790). On two and possibly three of these occasions there was not only tedious debate, but also a deliberate attempt to obstruct decision by prolonging debate. See also Everett S. Brown (ed.); "William Plumer's Memorandum of Proceedings in the United States Senate, New York," 1923, pp. 72–73 (Dec. 2, 1803); pp. 133–134 (Feb. 1, 1804); and p. 483 (Apr. 12, 1806).

It is true that both in the early Senate and the early House, Members were called to order for not being germane or relevant in debate. Indeed, the House adopted a rule of relevancy as early as 1811. But action preventing Members from speaking "beside the question" is distinguishable from action preventing Members from speaking "tediously" or "superfluously." See "Annals," 11 Cong. 1, 462–463; Hinds' Precedents, op. cit., secs. 4979 and 5042; Burdette, op. cit., pp. 16–19 and 220; and Haynes, op. cit., vol. I, pp. 423–425.

[23] "Annals," 9 Cong. 1, 284, 286, and 287. This action, however, should not in any way be taken to mean that at this time the House understood the previous question as a cloture mechanism and was trying to make it a more efficient instrument for such purposes. On the contrary, from the first the House limited debate on the motion for the previous question more strictly than the Senate because of the special problems which its greater size created. See "Annals," 10 Cong. 1, 1183–1184.

[24] Senator DOUGLAS notes that from 1797 to 1801 Thomas Jefferson himself presided over the Senate and he asks would Jefferson have failed to uphold a point of order based on a principle which he affirmed in his manual. CONGRESSIONAL RECORD, vol. 107, pt. 1, p. 2480. Two points may be advanced in reply: First, Jefferson deliberately listed in his manual precedents and principles that were directly contravened by the rules and practice of the Senate. In short, he must not have expected that every pronouncement he made would necessarily be a governing one for the Senate. Second, if the previous question had been moved for the purpose of cloture and the point of order suggested by DOUGLAS raised to stop debate on the motion, it is quite possible that Jefferson either would have referred the point of order to the floor for decision, as he had discretion to do, or would himself have acted to nullify it. If he referred the point of order to the floor for decision, given the Senate's distaste for cloture, there is a good chance that it would have been defeated. If he decided to settle the point himself, it is conceivable that he might have ruled against it. For in such a case the point of order would have been used in support of an end which Jefferson would have thought grossly distorted the proper purpose of the previous question. In the least, Jefferson might have held that the motion for the previous question was out of order, thus negating the significance of the point of order even if he upheld it. See below, footnotes 25 and 38.

DOUGLAS also states that the fact that the presiding officer might have refused to stop debate on the basis of Jefferson's maxim does not mean that his power to do so did not exist. Ibid. This is a very questionable argument for, if the presiding officer had refused, it would have been because of the way he interpreted his power, and this is the very point in issue. All in all, both DOUGLAS and Brant err in making such an absolute authority out of Jefferson. Even in the early decades of the 19th century the Senate did not regard Jefferson's pronouncements on proper parliamentary procedure as being so sacred that they could not be added to, altered, contravened, or even forgotten. Hence, one cannot positively claim that a certain power existed in the early Senate simply on the basis of a single sentence in Jefferson when no evidence exists to show that the power was ever exercised.

[25] The rules of the House precluded debate or amendment of the main question when the motion for the previous question was under discussion. Thus, debate on the motion for the previous question had to confine itself to the propriety or desirability of putting the main question at that time. See footnote 18 above. The rules of the Senate did not explicitly mention this point. See footnote 1 above. Still, the general understanding of the times seems to have been that the merits of the main question could not be discussed when the motion for the

Equally, if not more important, as an indication of the purposes for which the previous question was designed is the manner in which the House and Senate understood the motion to operate after a decision had been rendered on it. With regard to negative determinations of the previous question, the view that appears to have been dominant in the period from 1789 to 1806 was that a negative decision postponed at least for a day, but did not permanently suppress, the proposition on which the previous question had been moved. In the House this view seems to have prevailed during the whole period from 1789 to 1806, though it is possible to place a contrary interpretation on the evidence which exists for the first few years of the House's existence.[26] As for the Senate, less evidence is available, but it is probable that its view was similar to that of the House. This conclusion can be based on Jefferson's statement that temporary rather than permanent suppression was the consequence of a negative result and the fact that on one occasion the Senate seems to have acted in accord with the temporary suspension view.[27]

However, it should also be noted that in a number of instances in which the previous question was used in both the House and Senate, the circumstances were such that permanent suppression was or would have been the unavoidable consequence of a negative result.[27a]

The fact that a negative determination of the previous question suppressed the main question supports our contention that the previous question was originally designed for avoiding undesired discussions and/or decisions, rather than as an instrument for cloture. That the previous question could not be employed without risking at least the temporary loss of the main question ill adapted it for use as a cloture mechanism. It is not surprising that one of the longrun consequences of the House's post-1806 decision to use the previous question for cloture was the elimination of this feature.[28] On the other hand, suppression was a key and a quite functional feature of the previous question, viewed as a mechanism for avoiding undesired discussions and/or decisions. Indeed, in the period from 1789 to 1806 suppression served as a defining feature of the mechanism. Men who intended to vote against the motion would remark that they supported the previous question and on one occasion the motion was recorded as carried when a majority of nays prevailed.[29]

With regard to affirmative determinations of the previous question, the evidence which exists again does not lend itself to simple, sweeping judgments of the state of parliamentary theory in either the House or the Senate. The House in the years from 1789 to 1806 on a number of occasions allowed proceedings on the main question to continue after an affirmative decision of the previous question.[30] Finally, in 1807 a dispute arose over whether such proceedings could legitimately be continued. The Speaker ruled that they could not, that approval of the motion for the previous question resulted in an end to debate and an immediate vote. This was Jefferson's opinion as well. But despite the fact that Jefferson's pronouncements on general parliamentary procedure were as valid for the House as for the Senate, the House overruled the Speaker and voted instead to sustain the legitimacy of continuing proceedings after an affirmative decision of the previous question.[31] It is not clear whether this decision should be explained by assuming that it reflected the House's long-term understanding of proper procedure or by assuming that it merely reflected the House's pragmatic desire to escape the consequences of the 1805 rules change which abolished debate on the motion for the previous question.[32]

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previous question was being debated. Jefferson affirmed this principle in his manual. However, Jefferson also believed that it was permissible to move to amend the main question and to discuss the amendment in the interim between the moving and the deciding of the previous question. It is worth noting, especially for the benefit of Brant and DOUGLAS who place so much credence in Jefferson, that had this view been accepted, it would have been very difficult, if not impossible, to use the previous question as a cloture mechanism. See Jefferson's "Manual," op. cit., sec. XXXIV.

[26] For evidence bearing on procedure in the earliest days of the House see "Annals," 1 Cong. 1, 758–759 (Aug. 18, 1789); 2 Cong. 1, 472; 2 Cong. 1, 594–597; and 2 Cong. 2, 846–851. See also "Hinds' Precedents," op. cit., sec. 5446. For additional evidence bearing on the whole period see "Annals," 3 Cong. 1, 595–596; 3 Cong. 2, 998–1000; 7 Cong. 1, 419 and 461–462; 7 Cong. 1, 439–441 and 458–461; and 9 Cong. 1, 284. Beginning in 1802, rulings of the Speakers affirmed and enforced the temporary suppression view. See "Annals," 7 Cong. 1, 1043–1047 and 12 Cong. 1, 1080–1082. In addition, see Joel B. Sutherland, "Congressional Manual," Philadelphia, 1841, pp. 45, 104, and 113.

[27] See Jefferson's "Manual," op. cit., sec. XXXIV. The occasion referred to is Aug. 18, 1789. See pt. III of this paper and related footnote 51 below. Here the substance of a resolution suppressed the preceding day was allowed to be moved again.

In the Continental Congress the previous question by rule was put in its negative rather than affirmative form: "Shall the main question be not now put?" Thus, in contrast to the House and Senate where the rules provided for the affirmative form of the previous question, a negative determination of the previous question was achieved when the yeas prevailed. In the Continental Congress the effect of such a determination was generally to permanently suppress the main question. See "Journals of the American Congress From 1774–1788," Washington, 1823, vol. III, Aug. 8, 1778, Aug. 15, 1778, Aug. 20, 1778, Sept. 8, 1778, Nov. 2, 1778, Nov. 19, 1778, Dec. 18, 1778, Feb. 19, 1779, June 8, 1779, June 10, 1779, Nov. 25, 1779, Nov. 27, 1779, Dec. 4, 1779, Oct. 16–17, 1781, Feb. 19, 1782, and Feb. 23, 1782; vol. IV, June 27, 1782, Dec. 12, 1782, Sept. 10, 1783, May 5, 1784, May 26, 1784, June 1, 1784, June 3, 1784, Oct. 13, 1785, and Aug. 14, 1786. On two other occasions, though there were more yeas than nays, there apparently were not enough yeas for the question to pass so that the motion was understood and treated as if it had been lost. Ibid., Mar. 15, 1784, and June 2, 1784. On Sept. 1, 1786, the following resolution was adopted:

"That when a question is set aside by the previous question, it shall not be in order afterwards formally or substantially to move the same, unless there shall be the same, or as many States represented in Congress."

[27a] For examples in the Senate see pt. III of this paper and related footnotes 56, 65, and 69 below. For examples in the House see "Annals," 1 Cong. 1, 324 (May 11, 1789); 5 Cong. 2, 650–651; and 6 Cong. 1, 508–509. It is also true that in a number of instances in which the previous question was used, the likely and practical result of a negative decision was or would have been permanent suppression, though theoretically it would still have been possible to bring the question up again. For examples in the House see "Annals," 3 Cong. 1, 686; 3 Cong. 2, 960–966; 5 Cong. 2, 1067; and 9 Cong. 1, 1090–1092. For an example in the Senate see pt. III of this paper and related footnote 57.

[28] Hinds' Presidents, op. cit., sec. 5446.

[29] See "Annals," 3 Cong. 2, 999; 5 Cong. 2, 651; and 5 Cong. 2, 1067. See also "Annals," 5 Cong. 2, 652, and compared with "Journal of the House of Representatives," vol. III, p. 92. In addition, see Luce, op. cit., p. 270. We may note that it is this kind of thinking and approach which explains the negative form of the previous question rule in the Continental Congress. See Hinds' Precedents, op. cit., sec. 5445 and Cushing's Manual, op. cit., par. 1422. The fact that the House and Senate changed the form of the previous question from negative to positive should not be taken to mean that use of the previous question as a cloture mechanism was understood or intended. See Alexander, op. cit., p. 187 and Samuel W. McCall, "The Business of Congress," New York, 1911, pp. 93–94.

[30] See "Annals," 1 Cong. 3, 1960; 3 Cong. 1, 595–603; and 3 Cong. 2, 1000–1002. See also "Journal of the House of Representatives" vol. III, pp. 253–254. In addition, see "Annals," 12 Cong. 1, 578–579 and 14 Cong. 1, 710–711. It is also true that on a number of occasions in the House a vote on the main question immediately followed an affirmative decision of the previous question. But there may have been no desire to prolong debate on these occasions. See "Annals," 2 Cong. 2, 823; 2 Cong. 2, 850–851; 3 Cong. 1, 686; 3 Cong. 2, 966; and 9 Cong. 1, 1092.

Senator DOUGLAS claims that, according to American parliamentary practice, "adoption of the motion for the previous question closed debate instantly and completely, regardless of the motive for invoking it and brought the question to an immediate vote." CONGRESSIONAL RECORD, vol. 107, pt. 1, p. 242. In terms of the evidence cited here we may note that in the House before 1806 the opposite was the case nearly 50 percent of the time.

[31] See Jefferson's Manual, op. cit., sec. XXXIV and "Annals," 10 Cong. 1, 1182–1184. The vote against the Speaker was 103–14. The precedent was reaffirmed directly in 1808 and indirectly in 1810. See "Annals," 10 Cong. 2, 630–632 and Hinds' Precedents, op. cit., sec. 5445.

In the Continental Congress, where the previous question by rule was put in negative form, a victory by the nays rather than the yeas constituted an affirmative determination of the previous question. For such a result amounted to a decision that, "No, the previous question should not be put" with the negatives canceling out. Before 1780 a victory for the negative seems always to have resulted in an immediate vote on the main question. Indeed, on Oct. 16, 1778, the Continental Congress insisted on such a result and refused to allow an intervening motion. See "Journals of the American Congress," vol. III, Oct. 16, 1778, Feb. 26, 1779, Apr. 20, 1779, May 24, 1779, June 10, 1779, Aug. 21, 1779, and Aug. 25, 1779. However, after 1780 intervening motions were allowed. See "Journals of the American Congress," vol. IV, May 31, 1784, and Aug. 31–Sept. 1, 1786. See also ibid., Mar. 15, 1784, Apr. 14, 1784, June 2, 1784, and July 25, 1788. It is interesting to note that when the Continental Congress revised its previous question rule in 1784 the wording of the new rule was much less definite than the old one had been with regard to what was to occur if the nays prevailed. See Hinds' Precedents, op. cit., sec. 5445, and Cushing's Manual, op. cit., par. 1422, or "Journals of the American Congress," vols. II and IV, May 26, 1778, and July 8, 1784.

[32] De Alva S. Alexander believes that this decision came as a reaction against the 1805 rules change. Samuel W. McCall feels that the decision, in truth, went against the meaning of the words of the rule and Asher Hinds seems to agree. See Alexander, op. cit., p. 185; McCall, op. cit., p. 94; and Hinds' Precedents, op. cit., sec. 5445. However, see also Gaston's interpretation of the meaning of the words of the rule. "Annals," 14 Cong. 1, 709.

As for the Senate, again less evidence is available, but the Senate appears to have accepted the view that the proper result of an affirmative decision was an end to debate and an immediate vote on the main question. This is what seems to have occurred in the three instances in which the previous question was determined affirmatively in the Senate.[33] Nonetheless, it should be noted that the issue never came to a test in the Senate and we cannot be certain what the result would have been if it had.[34]

Yet, even if we concede that the Senate understood the result of an affirmative decision as Jefferson did, what must be emphasized once more is that this facet of the rule's operation does not mean that the previous question was designed as a cloture mechanism. Jefferson did not regard it as such, but rather saw an immediate vote upon an affirmative decision as an integral part of a mechanism designed to suppress delicate questions. To be sure, it was this facet of the rule's operation, combined with the abolition of debate on the motion for the previous question, which helped make it possible for the House to turn the rule into a cloture mechanism. This occurred in 1811 when the House, fearful that filibustering tactics were going to result in the loss of a crucial bill, reversed its previous precedents and decided that henceforth an affirmative decision would close all debate on the main question finally and completely.[35]

[33] See "Annals," 3 Cong. 1, 94 and 5 Cong. 2, 538. See also "Journal of the Executive Proceedings of the Senate of the United States," Washington, 1828, vol. I, p. 318. In addition, see pt. III of the text of this paper and related footnote 58 below. It should be noted, however, that the records of the Senate for those years are so sparse in their description of debate that we cannot know with absolute certainty whether or not debate was allowed to continue on these occasions.

[34] This is especially true, assuming for the moment that debate on the motion for the previous question could actually have been limited, if the test involved the use of the previous question as a cloture mechanism. Even if we grant that the Senate did understand the result of an affirmative decision as an end to debate and an immediate vote, one cannot simply postulate that because the Senate understood the previous question to entail certain consequences when viewed as a mechanism for suppressing undesired decisions, it necessarily would have understood it to involve the same consequences if an attempt was made to transform the device into a cloture mechanism. Given the distaste the early Senate had for cloture, it is quite likely that the majority of Senators, no matter what their policy persuasions, would have regarded transformation of the previous question into a cloture mechanism as improper and would have modified their understanding of the proper operation of the rule accordingly. Nor would they have been helpless in the face of past precedents. The Presiding Officer could have been asked to rule in their favor or merely to submit the issue to the floor, as he had discretion to do. If the cooperation of the Presiding Officer could not have been secured, the rules themselves could have been amended. It is worth noting that the House only became convinced that it was necessary to allow the previous question to be used for cloture after a series of trials with obstructionists, the last of which threatened a very crucial bill. See footnote 35 below. It may well be argued that it would have taken at least as severe a set of experiences as the House underwent before the Senate would have allowed cloture to be imposed on its minorities through the forced closing of debate after affirmative decisions of the previous question.

[35] This event occurred on Feb. 27, 1811. See "Annals," 11 Cong. 3, 1091–1094. See also "Annals," 14 Cong. 1, 698–699 and Alexander, op. cit., pp. 185–188. It should be noted that on this occasion the previous question was applied to amendments as well as to the principal question at the third reading stage; i.e., the question on the passage of the bill. Thus, the main question involved in the motion for the previous question was at times a subsidiary question rather than the principal question. See footnotes 44 and 49a below.

The filibustering tactics employed on Feb. 27, 1811, were nothing new. In the years immediately preceding 1811 the House was subjected to obstructive tactics that sorely tried its great distaste for cloture. As late as 1810 the House, despite its difficulties with obstructionists, evinced its opposition to cloture by rejecting a proposal which sought to turn the previous question into a cloture mechanism. See "Hinds' Precedents," op. cit., sec. 5445 and "Annals," 11 Cong. 2, 1207–1215. However, on this occasion the importance of the bill, the nearness of the end of the session, and the series of abuses the House had sustained combined to exhaust even its great capacity for patience. See references cited in footnotes 37 and 38 below.

Irving Brant claims that the House in turning the previous question into a cloture mechanism "was actually following the precedent set in the Senate," CONGRESSIONAL RECORD, vol. 17, pt. 1, p. 255. However, even aside from the question of whether such a precedent did in fact exist which is considered in pt. III of this paper, it is worth noting that the men who favored turning the previous question into a cloture mechanism in the House were totally unaware of any such precedent. See "Annals," 11 Cong. 2, 1153–1157 and 1207–1215; 12 Cong. 1, 567–581; and 14 Cong. 1, 696–718.

[36] Scholars now generally accept the proposition that the previous question was used only four times in the 20 years that followed 1811. This estimate is based on a statement of Calhoun's made in 1841. See Alexander, op. cit., pp. 188–190 and Luce, op. cit., p. 272. This proposition, however, is not correct. An inspection of the indexes to the Journals from the 12th through the 17th Congresses (1811–23) indicates that in this 12-year period alone the previous question was used at least 30 times. Nonetheless, it is still true that such usage cannot be seen as frequent usage. In contrast, during the first session of the 28th Congress (1843–44) the previous question was used over 150 times. This increase in frequency can be related, at least in part, to the fact that the efficacy of the previous question as a cloture mechanism had been improved by a rules change adopted in 1840. See "Hinds' Precedents," op. cit., sec. 5446.

[37] Distaste for cloture per se was probably an even more important factor underlying the infrequency of the House's reliance on the previous question in the years that followed 1811. See Thomas H. Benton, "Thirty Years' View," New York, 1856, vol. II, pp. 256–257. Thus, the increase in the size and business of the House and its greater acceptance of the desirability of cloture are of utmost significance in explaining the increase that occurred in the use of the previous question. These factors not only stimulated the House to use the previous question more frequently; in addition, they stimulated it to transform the device into an efficient cloture mechanism which had the reciprocal effect of allowing it to be used more frequently. See Alexander, op. cit., app. F, for figures on the size of the House and the indexes of the relevant Journals for figures on the number of bills introduced.

Nonetheless, despite the fact that the previous question was available for use as a cloture mechanism from 1811 on, the House did not make frequent use of it for several decades.[36] One of the reasons for this was that the rule, not having been designed as a cloture rule, continued to retain or was interpreted to have features which made it both ineffective and unwieldly when used for the purpose of cloture.[37] Indeed, it took the House another 50 years of intermittent tinkering to eliminate most of these debilitating features.[38]

In part, the previous question continued to be handicapped as a cloture mechanism because a negative determination of the motion suppressed the main question at least for a day. In part, however, its efficacy was also impaired by a factor we have not yet discussed, though we began by identifying it as one of the key facets of the rule's operation—the nature of the limitations on the scope of the motion.

For one thing, the previous question could not be moved in Committee of the Whole, a form of proceeding which both the early House and early Senate valued highly as a locus for completely free debate.[39] Thus,

[38] Hinds' Precedents, op. cit., secs. 5443, 5445, and 5446. In addition, see Luce, op. cit., pp. 272–274. It is worth noting that Jefferson himself advised the House of Representatives against use of the previous question as a cloture mechanism. On Jan. 5, 1810, as a result of the filibustering tactics that had lately been employed in the House, a resolution was introduced which among other things proposed to amend the rules so as to cut off debate immediately after an affirmative decision of the previous question. This resolution was destined to fail. However, on Jan. 17, 1810, writing in reply to a letter addressed to him a week earlier by John W. Eppes, a leader in the House and also his son-in-law, Jefferson remarked that he observed that the House was trying to remedy the protraction of debate by sitting up all night or by use of the previous question. He further remarked that reliance on the previous question was a mistake since it would not only inconvenience the House but also furnish the minority with a weapon they could turn on the majority.

Whether Jefferson actually knew of the substance of the proposed rules change is unclear. It can be argued that the resolution contained provisions which would have met his objections. But the least that can be said is that Jefferson did not recommend changing the practice of the House which at that time allowed debate to continue after an affirmative decision of the previous question, even though this practice was contrary to the principles of his manual. What Jefferson did recommend to Eppes was a straight cloture rule which he had devised and which could have been used to force a vote at a certain time each day. In closing, it is also worth noting that Jefferson apparently did not feel that reliance could be put on points of order raised on the basis of the general parliamentary principle which ruled out "tedious" or "superfluous" debate, even though he himself affirmed this principle in his manual. See Paul L. Ford (ed.), "The Writings of Thomas Jefferson," New York, 1898, vol. IX, pp. 267–268 (Thomas Jefferson to John W. Eppes—Jan. 17, 1810); Annals, 11 Cong. 2, 1153–1157 and 1207–1215; James Schouler, "History of the United States of America," Washington, 1882, vol. II, p. 293; and Richard Hildreth, "History of the United States of America," New York, 1856, vol. III, p. 197.

[39] See Jefferson's Manual, op. cit., secs. XII and XXX; Hinds, op. cit., sec. 4705; and Haynes, op. cit., vol. I, pp. 317–320. Originally, every member could speak as often as he wished in Committee of the Whole and debate could only be ended by voting to rise and return to the floor. See also Paul L. Ford (ed.), "The Writings of Thomas Jefferson,"

when the House beginning in 1841 finally decided to limit debate in Committee of the Whole, it was forced to develop methods other than the previous question for accomplishing this result.[40] However, the early Senate relied to a large extent, not on the regular Committee of the Whole, but on a special form of it called quasi-Committee of the Whole, i.e., the Senate as if in Committee of the Whole; and apparently it was possible to move the previous question when the Senate operated under this form of proceeding.[41]

More important as a limitation on the scope of the previous question was its relation to secondary or subsidiary questions. At first, at least in the House, the previous question was treated as a mechanism that could be moved on subsidiary or secondary questions, e.g., motions to amend, motions to postpone, etc., as well as a mechanism that could be moved on original or principal questions, e.g., that the bill be engrossed and read a third time, that the bill or resolution pass, etc.[42] Thus, though this fact is often misunderstood, in the early House the main question contemplated by the motion for the previous question was sometimes a subsidiary question rather than the principal or original question. Whether the Senate permitted the previous question to be applied to secondary or subsidiary questions before 1800 is not clear.[42a] However, in that year Thomas Jefferson, as presiding officer of the Senate, ruled that the previous question could not be moved on a subsidiary question and his manual when it appeared reaffirmed this position.[43] The House followed suit in 1807, though as late as 1802 a ruling of the Speaker, concerned with the effect of a negative determination of the previous question, took no cognizance of the fact that the previous question had been moved on a subsidiary question and allowed such usage to go by unchallenged.[44]

The decision of the House to confine the previous question to principal questions created great difficulties for at once it began to use the device as a cloture mechanism. Neither the rules of the House or the Senate clearly gave the previous question precedence over other subsidiary questions, such as the motions to postpone, commit, or amend. Thomas Jefferson's opinion was that subsidiary questions moved before the previous question should be decided prior to a vote on the previous question.[45] However, such an approach became entirely unacceptable once it was desired to employ the previous question as a cloture mechanism. If subsidiary questions moved before the previous question took precedence over it and if the previous question could only be applied to the original or principal question, then obstructionists could move subsidiary questions before the previous question and prolong the discussion of these questions for great lengths of time. It was probably no accident that the House amended its rules to give the previous question precedence over other subsidiary questions less than a year after it first used the previous question for cloture.[46]

Nonetheless, this change did not transform the previous question into an efficient cloture mechanism. Beginning with the 12th Congress (1811–13), rulings of the Speakers strictly enforced and further developed the doctrine that the previous question applied only to the original or principal question.[47] This caused the House great inconvenience.[48] It meant that if the pending subsidiary questions and brought previous question was approved, it cut off all the House directly to a vote on the original or principal question. Thus, a vote might have to be taken on a form of the question undesired by the majority, e.g., that the bill without the amendments reported pass to a third reading instead of that the bill with the amendments reported be recommitted with instructions. Thus also, when a subsidiary question was moved early in debate the House might either have to endure a lengthy discussion on the motion or employ the previous question, which would force a vote on the principal question before it had been adequately considered. Ultimately, of course, the House did reshape the previous question mechanism so that it could efficiently be applied to the subsidiary questions involved in an issue. However, this reshaping occurred piecemeal over a number

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New York, 1896, vol. VII, p. 224 (Thomas Jefferson to James Madison—Mar. 29, 1798).

[40] Alexander, op. cit., p. 267 and Hinds' Precedents, op. cit., sec. 5221.

[41] Jefferson believed that the previous question could be moved when the body was in quasi-committee and in later years the House adopted this interpretation. See Jefferson's Manual, op. cit., sec. XXX and Hinds' Precedents, op. cit., sec. 4923. Jefferson's words in this instance derive added weight from the fact that the quasi-committee procedure was unknown in Parliament so that when he interprets it he apparently relies on what indeed was the practice of the Senate. Moreover, in two instances the previous question may actualy have been moved when the Senate was in quasi-Committee of the Whole. See Jefferson's Manual, op. cit., secs. XXIV–XXXI; "Journal of the Senate of the United States of America," Washington, 1820, vol. I, pp. 60 and 66; and Maclay's Journal, op. cit., pp. 136–138.

[42] For examples in the House see "Annals," 2 Cong. 1, 594–597; 6 Cong. 1, 508–509; and 7 Cong. 1, 1043–1045. In the Continental Congress the previous question was not confined to principal questions. At one point in its history (Jan. 7, 1779) this body did express itself as regarding the use of the previous question on amendments as improper. But use of the previous question on amendments as well as on other subsidiary questions continued. See "Journals of the American Congress," vol. III, Aug. 8, 1778, Sept. 8, 1778, Dec. 18, 1778, Jan. 7, 1779, and Nov. 27, 1779; vol. IV, Mar. 15, 1784, Apr. 14, 1784, May 5, 1784, May 26, 1784, May 31, 1784, June 1, 1784, June 2, 1784, and June 3, 1784.

[42a] See footnotes 54 and 69 below. The early Senate did permit the previous question to be applied to resolutions, even when moved in a context in which another question existed as the original or principal question. The reasons why this was so are not clear. See footnotes 51, 56, and 65 below.

[43] "Annals," 6 Cong. 1, 42–43 and Jefferson's Manual, op. cit., sec. XXXIII. Jefferson recognized the existence of six different kinds of subsidiary questions: the motion for the previous question, the motion to postpone indefinitely, the motion to adjourn a question to a definite day, the motion to lie on the table, the motion to commit, and the motion to amend. He also noted that the Senate used the motion to postpone to a day within the session for the motion to adjourn a question to a definite day and the motion to postpone to a day beyond the session for indefinite postponement. The motion to lie on the table was not recognized in the rules of the Senate, but apparently it was nonetheless used.

In general, Jefferson stated that subsidiary questions could not be moved on other subsidiary questions. However, he did make exceptions for an amendment to a motion to postpone, an amendment to a motion to commit, and an amendment to an amendment. For a definition of the nature of a subsidiary question see Cushing's Manual, op. cit., par. 1443.

[44] "Annals," 10 Cong. 1, 1048–1049, and 7 Cong. 1, 1043–1045. The use of the previous question on amendments on the historic night of Feb. 27, 1811, was seen as an aberration, not a precedent. See "Annals," 11 Cong. 3, 1091–1094 and 14 Cong. 1, 714. See also "Annals," 11 Cong. 3, 1106–1107. However, in one area the House did continue to allow the previous question to be confined to subsidiary questions, i.e., with regard to Senate amendments to bills returned to the House for concurrence. See, for example, "Journal of the House of Representatives of the United States," Washington, 1819, 16 Cong. 1, pp. 275–277 (Mar. 2, 1820) and "Journal of the House of Representatives of the United States," Washington, 1821, 17 Cong. 1, pp. 581–582 (May 6, 1822). This was true despite the implications of a ruling made in 1812 by Henry Clay. See Hinds' Precedents, op. cit., sec. 5446.

[45] Jefferson's Manual, op. cit., sec XXXIII.

[46] This event took place on Dec. 23, 1811. See Hinds' Precedents, op. cit., sec. 5301 and "Journal of the House of Representatives," vol. VIII, appendix, p. 528.

It should be noted that the importance of precedence relates not only to the matter of whether subsidiary questions moved before the previous question could be considered before it, but also to the matter of whether subsidiary questions moved after the previous question could be considered before it. This latter feature of the privilege contained in precedence could be an even more serious impediment to the use of the previous question for cloture than the fact that the previous question might have to wait its turn according to the order in which subsidiary questions were moved. Before 1811 the House seems in practice to have given the previous question precedence over other subsidiary questions, if it was moved prior to them. It was, however, not given precedence over the motion to adjourn. See Annals, 3 Cong. 1, 596; 7 Cong. 1, 440; and 9 Cong. 1, 288. Still, the situation was an ambiguous one. If a conflict had ever arisen, much would have depended on the inclination of the presiding officer. See John M. Barclay; "Rules and Orders of the House of Representatives," Washington, 1867, footnote to rule 42 on p. 166. When the House did revise its rules in 1811, the previous question was given precedence over all subsidiary questions except the motion to table. In addition, the motion to adjourn was given precedence over the previous question. On one occasion, however, the presiding officer refused to give the motion to table precedence over the previous question. See "Annals," 13 Cong. 3, 994–995. See also Sutherland's Manual, op. cit., p. 46.

The Senate did not clearly define the precedence of subsidiary questions in its rules until after 1806. Indeed, it may not have done so until 9 years after the House did, i.e., not until 1820. Thus, the rules of the Senate were vague and ambiguous on this point during the whole period in which the previous question existed as part of its procedure. Though a conflict situation involving the previous question never seems to have arisen, we do have some evidence that the Senate did not feel bound to give the previous question precedence over subsidiary questions moved after it. On one occasion in 1792 a motion to postpone was put to a vote before the previous question, even though the previous question had been moved before that motion. See Annals, 1 Cong. 1, 20–21 (Apr. 16, 1789) and 9 Cong. 1, 201. See also Senate Executive Journal, vol. I, pp. 96–98.

[47] See Hinds' Precedents, op. cit., sec. 5446. See also "Annals," 12 Cong. 1, 1352–1353; 12 Cong. 2, 1028; 13 Cong. 1, 398; 13 Cong. 3, 900–901; 13 Cong. 3, 994–995; 13 Cong. 3, 1010–1011; 13 Cong. 3, 1270–1271; and 14 Cong. 1, 714–715. Occasions on which the previous question was used in succeeding Congresses can be found in the indexes to the relevant Journals.

[48] Hinds' Precedents, op. cit., secs. 5443 and 5446.

of years in response to the difficulties we have described and it was in a sense dependent on them.

We may conclude, then, that in the period from 1789 to 1806 the previous question mechanism was designed to operate in a manner that was suited only to its utilization as an instrument for avoiding undesired discussions and/or decisions. In the Senate and in the House until December of 1805 debate on the motion was permitted. In both bodies a negative determination of the previous question postponed or permanently suppressed the main question and in the House, at least, debate and amendment were permitted after an affirmative decision. In the eyes of those who saw the previous question as a means of avoiding undesired decisions this could easily be justified by assuming that the vote on the previous question only determined whether the body wanted to face the issue. Finally, the nature of the limits on the scope of the motion greatly handicapped its efficacy as a cloture mechanism. It is true that in the beginning the House and possibly the Senate allowed the previous question to be applied to subsidiary questions. It is also true that, once both bodies accepted the proposition that the device could not be so applied, this restriction could and in the Senate actually did handicap those who wanted to use the previous question as a mechanism for avoiding certain decisions. Still, as the experience of the House after 1811 demonstrates, the nature of the handicap was one that was much less a limit on the negative objective of suppressing a whole question than on the positive objective of forcing a whole question to a vote. In short, we may conclude that in both the early House and early Senate not only was the purpose of the previous question conceived of as relating to the prevention of undesired discussions and/or decisions; in addition, the device itself was clearly designed operationally to serve such ends rather than the ends of cloture. In later years the previous question was turned into an efficient cloture mechanism in the House. But this required considerable tinkering, and what is more, tinkering that resulted ultimately in a basic transformation of the operational nature of the mechanism.[48a]

III. THE PREVIOUS QUESTION IN PRACTICE IN THE SENATE, 1789–1806

The conclusions we have reached thus far are significant; but they are not conclusive. The purposes for which the previous question was actually used in the period from 1789 to 1806 must also be examined since the possibility of a discrepancy between theory and practice cannot be disregarded. As far as the House of Representatives is concerned, it is clear from the evidence and acknowledged by all that the previous question was not employed as a cloture mechanism in the years before 1806. However, with regard to the Senate, Senator DOUGLAS and Irving Brant claim that the previous question was in fact used for cloture during the 17 years in which it existed as part of the procedure of the upper House. If this is true, Brant and DOUGLAS can well argue that on the basis of this experience a precedent exists for the imposition of majority cloture in the Senate today, though the strength of the precedent would still depend on how isolated or irregular such usage was.

Yet there is still another reason for examining the actual instances in which the previous question was used in the Senate. Interestingly enough, the actual use of the previous question as a cloture mechanism is crucial to Brant and DOUGLAS' claim that the Senate had the "power" to use the previous question for cloture whenever it desired. This is something of a paradox since Brant and DOUGLAS imply that the Senate's power in this regard existed whether or not the Senate ever actually exercised it. However, this view cannot be accepted. The reasons why it cannot have already been touched on in various parts of this paper, but for purposes of exposition it is necessary to bring them together here. First, the possibility that the Senate could have limited debate on the motion for the previous question through rulings which prohibited tedious or superfluous debate is subject to doubt. Nothing exists to support this contention except a sentence in Jefferson's manual.[49] Second, the early Senate never gave the previous question a position of precedence over other subsidiary questions in its rules. Third, it is clear that the Senate did not allow the previous question to be applied to subsidiary questions in the latter part of the period from 1789 to 1806 and it may well be the case that this prohibition existed in the earlier part of the period as well.[49a] Fourth, we cannot even be certain that in the Senate the inevitable, irreversible result of an affirmative determination of the previous question was an immediate vote.[50] Given these difficulties, the only way in which Brant and DOUGLAS' connection that the Senate had the "power" to use the previous question for cloture can be substantiated is by evidence of its actual exercise, i.e., by evidence that the difficulties we have mentioned could be overcome. Moreover, if such evidence cannot be furnished, we may push our argument even further than we have up to this point. For, then, we may strongly suspect that, in the face of the obstacles which existed, the Senate could not have used the previous question for cloture unless it first modified its rules and practices in the same way the House did starting in 1805.

This author has been able to find 10 instances of the use or attempted use of the previous question in the Senate during the years from 1789 to 1806. They are as follows.

(A) *August 17 and 18, 1789*[50a]

On August 17, 1789, a committee report on a House bill concerned with providing expenses for negotiating a treaty with the Creek Indians was taken up for consideration. The bill as referred from the House made no mention of measures to be taken to protect the people of Georgia in the event efforts for a treaty failed. After the resolution embodied in the committee report and a second resolution originating on the floor were moved and defeated, a third resolution was moved which proposed to authorize the President to protect the citizens of Georgia and to draw on the Treasury for defraying the expenses incurred. At this point in the proceedings the previous question was moved. A majority of nays prevailed and the Senate adjourned. The next day the bill was again brought up for consideration. After a number of motions pertaining to particular clauses in the bill were proposed and, save one, defeated, a resolution was moved making it the duty of Congress to provide for expenses incurred by the President in defense of the citizens of Georgia. At this point the previous question was again moved. It was defeated and the bill, with the solitary amendment previously adopted, was then put to a vote and approved.[51]

In the first instance, i.e., Aug. 17, 1789, we cannot be certain that the resolution moved

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[48a] Ibid., sec. 5446.

[49] See footnotes 22, 24, and 25 above. It is worth noting that if obstructive debate could have been stopped through rulings based on the general parliamentary principle which prohibited tedious or superfluous debate, there would have been much less need to use the previous question as a cloture mechanism than Brant and DOUGLAS recognize. Assuming that the previous question could have been used for cloture, it only would have been required in situations where an absolute prohibition of discussion on the merits of a question was desired or where the possibility of moving obstructive subsidiary questions, e.g., amendments, was unlimited.

[49a] See footnotes 54 and 69 below. If it is true that in its earliest years the Senate allowed the previous question to be applied to subsidiary questions, then for these years the significance of the fact that the previous question was not given precedence in the Senate rules is limited. See footnote 46 above. Assuming that the Senate would not have greatly restricted the kinds of subsidiary questions the previous question could be applied to and assuming that the Senate would not have further expanded the possibility of moving subsidiary questions on other subsidiary questions, the previous question would have furnished an efficient instrument for handling pending subsidiary questions which stood in the way of a vote on the original or principal question. Moreover, if necessary, the mechanism also could have been applied to secure a vote on the principal question itself.

It is worth noting that the first time the previous question was used for cloture in the House the rules of the House had not yet been amended to give the previous question precedence over other subsidiary questions. One of the reasons the House was nonetheless able to use the previous question for cloture was that on this occasion the House permitted it to be applied to subsidiary questions. However, it should be remembered that this was not the only reason, nor would it have been sufficient if it had been. Also important was the fact that debate on the motion for the previous question was prohibited, the fact that past precedents were reversed so that debate was not allowed to continue after the motion had been decided, and the fact that the understanding of the House seems to have been that other subsidiary questions could not be used to obstruct the application of the previous question to the questions on which it was moved. See Annals, 11 Cong. 3, 1091–1094.

The House, of course, retreated almost immediately from the position that the previous question could be applied to subsidiary questions. That it was allowed on this occasion was regarded as an aberration. See footnote 44 above. Instead, the House gave the previous question precedence in its rules. This combined with the prohibition of debate both before and after the vote on the previous question meant that the mechanism could be used for cloture, though only at the cost of removing all pending subsidiary questions.

[50] See footnote 34 above.

[50a] See "Annals," 1 Cong. 1, 62–63 and 1 Cong. 3, app., 2161. See also Senate Journal, vol. I, pp. 60–61 and CONGRESSIONAL RECORD, vol. 107, pt. 1, pp. 243 and 244. Brant and DOUGLAS as well as all the other secondary sources which treat the previous question, are aware at most of only five instances of its use or attempted use in the Senate. This author has been able to find an additional five. It is quite possible that an exhaustive page-by-page search of the records of the Senate and the letters of contemporary figures would yield additional examples.

[51] In the second instance, i.e., Aug. 18, 1789, it is clear that the resolution moved immediately before the previous question was not the original or principal question. It is also clear that in this instance the previous question was moved on the resolution since the negative determination of the previous question did not prevent the Senate from passing immediately to a vote on the original or principal question—Shall the bill with the amendment pass?

immediately before the previous question was not in fact the principal question at that point in the proceedings. It depends on whether a hiatus was possible between the defeat of the report and the resumption of the second reading stage. See Jefferson's Manual, op. cit., sec. XXIX and Senate Journal, vol. I, pp. 59–60. If the resolution did exist as the principal question, there can be no doubt that the previous question was moved on it. However, even if the resolution did not exist as the principal question, it is still probable that the previous question was moved on the resolution rather than on what would have then been the principal question—Shall the bill pass to a third reading? Assuming that the resolution did not exist as the principal question, the fact that the Senate seems to have adjourned immediately after voting down the previous question does not necessarily mean that the previous question was moved on the principal question. To assert this is to presume that since the Senate adjourned, it must have been forced to adjourn because the whole bill had been suppressed. Yet adjournment could have come as a separate, voluntary act. Given the manner in which the previous question was used on the following day, it is more likely that even if the resolution did not exist as the principal question, the previous question was nonetheless applied to it rather than to the question on the bill. Senator DOUGLAS seems to misunderstand this point. See CONGRESSIONAL RECORD, volume 107, part 1, page 243.

That the Senate on Aug. 18, 1789, and possibly also on Aug. 17, 1789, allowed the previous question to be applied to a question that did not exist as the original or principal question raises the issue of whether the Senate initially permitted the previous question to be applied to subsidiary questions. As far as the evidence furnished by these two instances is concerned, determination of the issue depends on whether the Senate regarded resolutions, moved in a context in which another question existed as the original or principal question, as subsidiary questions. Unfortunately, the answer to this question is not clear.

On the one hand, it can be maintained that the Senate distinguished resolutions, which stated a principle within a context in which another question existed as the original or principal question, from motions which amended, postponed, or committed the original or principal question. See Jefferson's Manual, op. cit., secs. XX and XXI. Thus, it can be maintained that a resolution, such as was moved on Aug. 18, 1789, was not technically regarded as a subsidiary question but rather as a kind of principal question. On the other hand, it can be argued that the Senate allowed the previous question to be applied to resolutions which did not exist as the original or principal question because it, as well as the House, initially permitted the previous question to be applied to subsidiary questions. In support of this contention the fact that resolutions were referred to by the Senate as "motions" can be cited. See Senate Executive Journal, vol. I, pp. 96–98. See also Senate rule VIII, Annals, 1st Cong., 1 20–21 (Apr. 16, 1789). For additional evidence bearing on the status of resolutions see footnotes 54 and 65 below.

Brant and Douglas concede that in these two instances the previous question was moved for the purpose of avoiding or suppressing an undesired decision. Brant notes that this maneuver enabled "the economy bloc * * * to avoid an indefinite grant of spending power to the President and yet escape the odium of a vote against the defense of the frontier." [52]

[52] CONGRESSIONAL RECORD, vol. 107, pt. 1, p. 254.

(B) August 28, 1789 [53]

On August 28, 1789, during the discussion of a bill fixing the pay of Senators and Representatives William Maclay offered an amendment which sought to reduce the pay of Senators from six to five dollars per day. Maclay records in his Journal that his proposed amendment evoked a "storm of abuse" and that Izard, a Senator from South Carolina, "moved for the previous question." He further notes that Izard "was replied to that this would not smother the motion" and that when it was learned that "abuse and insult would not do, then followed entreaty." Maclay, however, remained undaunted. He knew that his amendment would be defeated; his object was simply to get a record vote on the amendment in the minutes. In this he was successful. The amendment was put to a vote and was defeated, but the yeas and nays were recorded. The motion for the previous question was either not seconded or withdrawn since there is no mention of it in the Senate Journal.

In this instance, as in the last two, it is clear that use of the previous question was attempted for the purpose of avoiding or suppressing an undesired decision. However, the reasons why the motion for the previous question was not persisted in are not clear. The critical factor to be resolved is whether the motion was killed voluntarily because it was undesired or forcibly because power was lacking to insist on it.[54]

(C) January 12 and 16, 1792 [55]

On January 12, 1792, consideration of the nomination of William Short to be Minister resident at The Hague was resumed. After a committee had reported certain information concerning Short's fitness to be appointed a resolution was moved which stated that no Minister should at that time be sent to The Hague. The previous question was then moved in its negative form, i.e., "That the main question be not now put," despite the fact that the rules provided only for the positive form of the mechanism. At this point, however, the Senate decided that "the nomination last mentioned, and the subsequent motion thereon, be postponed to Monday next." On that day, January 16, 1792, the Senate resumed its consideration of the nomination and the resolution moved on the nomination. The previous question was put in negative form and carried with the help of a tie-breaking vote by the Vice President. This removed the resolution which would have prohibited sending a resident Minister to The Hague. The Senate then proceeded to the Short nomination and approved it.[56]

Here again Brant and DOUGLAS concede that the previous question was not used for the purpose of cloture, i.e., for the purpose of closing debate in order to force a vote. Instead, they recognize that it was used to avoid or suppress an undesired decision and they also argue that it was used to suppress a discussion of certain conditions at the Hague which might have jeopardized Short's appointment.

(D) May 6, 1794 [57]

On May 6, 1794, James Monroe, then a Senator from Virginia, asked the permission of the Senate to bring in a bill "providing, under certain limitations, for the suspension of the fourth article of the Treaty of Peace between the United States and Great Britain. The previous question in its normal, affirmative form was moved on Monroe's motion and it was approved by a vote of 12 to 7. The main question was then put and permission to bring in the bill was denied by a vote of 14 to 2. Monroe and John Taylor, his fellow Senator from Virginia, were the only Senators in favor.

Once more we may conclude that the previous question was moved in an attempt to avoid or suppress an undesired decision. This can be deduced from the fact that neither the proponents nor the opponents of Monroe's motion had any reason to attempt to obstruct decision by prolonging debate. This certainly was not in Monroe and Taylor's interest; they wanted a decision on the motion, preferably an affirmative one. As for the opponents, their numbers were such that they had no need to obstruct decision. The only Senators, then, who had a motive for moving the previous question were those seven Senators who voted against the previous question. For these men the previous question offered a means of suppressing a decision they wished to avoid.

Unfortunately, the "Annals" do not record the name of the Senator who moved the previous question. Nonetheless, convincing evidence exists to support our deduction that the previous question was moved by a Senator who voted nay on that motion. John C. Hamilton's account indicates that such a Senator, James Jackson, of Georgia, was the man who moved the previous question. He reports that Jackson made the following announcement to the Senate:

"I deem the proposition ill-timed * * * I wish for peace, and am opposed to every

[53] See Maclay's Journal, op. cit., p. 138 and Senate Journal, vol. I, pp. 66–67. The Senate rules provided for a record vote at the request of one-fifth of the Members present. Annals, 1 Cong. 1, 21 (Apr. 16, 1789).

[54] Resolution of this issue hinges on whether the Senate at this time permitted the previous question to be applied to a question that was technically regarded as an amendment or subsidiary question. One can argue that the Senate, as well as the House, initially permitted the previous question to be applied to questions that were technically regarded as amendments or subsidiary questions no matter what stand one takes on the issue of the status of resolutions. In contrast, one cannot argue that the previous question was not applied in this instance because power was lacking to do so unless one also argues that the Senate distinguished resolutions from motions. This is true because the manner in which the previous question was used on Aug. 18, 1789, can be distinguished, it would indicate that the mechanism could have been used 10 days later in this instance as well.

It is worth noting that, though Izard was informed that the previous question would not "smother" Maclay's motion, these words do not necessarily imply that the previous question could not have been used. They can be interpreted as signifying only that Maclay's motion, even if suppressed, could have been raised again when the bill came up for its third reading. See footnote 69 below.

[55] See Senate Executive Journal, vol. I, pp. 96–98 and CONGRESSIONAL RECORD, vol. 107, pt. 1, pp. 244–245, and 254.

[56] This case presents another instance in which the previous question was applied and confined to a resolution that did not exist as the original or principal question. That the resolution did not exist as the original or principal question can be inferred, among other things, from the fact that it was referred to as a "subsequent motion." That the previous question was applied and confined to the resolution can be inferred from the fact that its defeat did not suppress the question on the nomination but only the resolution itself.

[57] See Annals, 3 Cong. 1, 94 and Henry H. Simms, "Life of John Taylor," Richmond, 1932, p. 61.

harsh measure under the present circumstances. I will move the previous question." [58]

Debate continued after this statement, presumably because Jackson held back on his motion to allow the other Senators to have their say. Undoubtedly, the reasons why Jackson considered Monroe's motion as "ill-timed" related to the fact that only a few weeks before John Jay had been appointed special envoy to Great Britain and was at that very moment making preparations to depart on his historic mission.[59]

(E) April 9, 1798 [60]

On April 9, 1798, after the Senate had gone into closed session, James Lloyd, a stanch Federalist Senator from Maryland, moved that the instructions to the envoys to the French Republic be printed for the use of the Senate. Six days previous on the 3d the President had submitted to Congress the instructions to and the dispatches from these envoys. Four days previous on the 5th the Senate had agreed to publish the dispatches for the use of the Senate. These papers were the famous ones in which Talleyrand's agents were identified as X, Y, and Z and the whole affair was seen by the Federalists as a great vindication and triumph for their party.

Lloyd first moved his motion on the 5th when the Senate agreed to publish 500 copies of the dispatches, but it was postponed on that day. When he moved it again on April 9, 1798, John Hunter, a Senator from South Carolina, moved the previous question.[61] The motion for the previous question was approved by a vote of 15 to 11, with Hunter voting nay. The main question, i.e., that the instructions be printed, was also approved by a vote of 16 to 11, Hunter again voting nay.

In this instance, once again, it is clear that the previous question was not used as a mechanism for cloture. Rather, it was brought forward as a means of avoiding or suppressing an undesired decision. This is attested to by the fact that the Senate was in closed session when the previous question was moved and by the fact that Hunter, the mover of the previous question, voted nay both on his own motion and on the main question. It is also supported by the fact that 10 of the 11 Senators who voted nay on the motion for the previous question also voted nay on the main question.[62]

(F) February 26, 1799 [63]

On February 18, 1799, President Adams proposed to the Senate that William Vans Murray be appointed minister plenipotentiary to the French Republic for the purpose of making another attempt to settle our differences with France by negotiation. This proposal caused dismay and consternation in the ranks of the Federalists. For one thing, Adams acted suddenly on the basis of confidential communications he had received from abroad without informing anyone in the Cabinet or the Senate as to his intentions. For another thing, a strong pro-war faction existed among the Federalist Members of Congress and the party as a whole had been engaged in driving a number of war preparedness measures through Congress. Moreover, ever since the X.Y.Z. affair the Federalists had been using the presumed wickedness and hostility of France as a weapon for humiliating and destroying the strength of the Jeffersonian Republicans. Lastly, a number of prominent Federalists distrusted Murray and thought him too weak.

The nomination of Murray was referred to a committee headed by Theodore Sedgwick, a Federalist Senator from Massachusetts. Meanwhile, pressure was brought to bear on Adams and he was threatened with a party revolt if he did not agree to modify his request for the appointment of Murray. The result was that on February 25, 1799, Adams sent a second message to the Senate asking that a commission, composed of Murray, Patrick Henry, and Oliver Ellsworth, be appointed in lieu of his original request.[64] The next day, February 26, 1799, a resolution was moved which proposed that the President's original message of the 18th be superseded by his message of the 25th. The previous question was moved and it passed in the affirmative. The effect of this decision was to bring about a vote on the resolution and it also was approved. The Senate then proceeded to consider the nominations of Murray, Henry, and Ellsworth to office and all three were approved on the following day.[65]

Brant and Douglas contend that this is clearly an instance in which the previous question was moved for the purpose of cloture. Unfortunately, the Executive Journal does not record the name of the Senator who moved the previous question or the names of the Senators who voted for and against the motion.[66] However, the evidence that is available strongly suggests that Brant's and Douglas' conclusions are incorrect.

Brant and Douglas have no evidence on which to base their argument except the presumption that since the previous question was affirmatively decided and since an immediate vote seems to have followed, the previous question must have been used for cloture. However, as we have seen in the instances of May 6, 1794, and April 9, 1798, an affirmative decision of the previous question does not necessarily mean that the previous question was moved for the purpose of cloture. It may only mean that the men who desired the previous question for the purpose of avoiding or suppressing a decision could not command a majority. What occurs in such instances is not the forced closing of debate for the purpose of bringing a matter to a vote, but the closing of debate as a feature of a mechanism employed for the purpose of allowing a parliamentary body to decide whether it desires to face a particular matter. Indeed, as the behavior of Senator Jackson on May 6, 1794, suggests, such closing can well be postponed until a point is reached where it is generally agreed that the time for decision has arrived.

Thus, in order to determine how the previous question was used in this instance

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[58] John C. Hamilton, "History of the Republic of the United States of America," New York, 1860, vol. V, p. 570. Hamilton was the son of Alexander Hamilton.

[59] Hildreth, op. cit., vol. IV, pp. 488–490.

[60] Annals, 5 Cong., 2, 535–538 and Schouler, op. cit., vol. I, pp. 396–398.

[61] Hunter was a Republican but apparently such a moderate one that the Federalists had hopes of capturing him. See "South Carolina Federalist Correspondence," American Historical Review, vol. XIV, No. 4, pp. 783 and 789 (July 1909). Moreover, there is some evidence to indicate that by April 1798, the Federalists had, at least to some extent, succeeded in their objective. See Charles R. King (ed). "The Life and Correspondence of Rufus King," New York, 1895, vol, II, p. 311.

[62] The reasons why Hunter and his supporters desired to apply the previous question in this instance are not clear. Given the party status of Hunter and the mixed nature of his support, sheer political expediency does not seem to be an adequate explanation. Instead, the desire for the previous question may have been motivated by opposition to the publication of confidential communications and/or hopes for continued negotiations. See *Annals*, 5 Cong. 2, 535–538 and 1375–1380; Correspondence of Rufus King, op. cit., vol. II, pp. 310–313; and Writings of Thomas Jefferson, op. cit., vol. VII, pp. 225–246 (letters to James Madison, James Monroe, Edmund Pendleton, and Peter Carr in the period from Mar. 29, 1798, to Apr. 26, 1798).

[63] Senate Executive Journal, vol. I, pp. 313–319. See also Schouler, op. cit., vol. I, pp. 441–444; Hildreth, op. cit., vol. V, pp. 284–291; and CONGRESSIONAL RECORD, vol. 107, pt. 1, pp. 245, 254–255.

[64] Sedgwick and his committee asked for and were granted a meeting with President Adams. Whether he agreed to substitute a commission for his original proposal at this meeting or later when he learned that the Federalists in the Senate has caucused and decided to reject the nomination of Murray is a matter that varies from account to account. See John C. Hamilton, "The Works of Alexander Hamilton, New York, 1851, vol. VI, pp. 396–400 (letters of Sedgwick and Pickering to Hamilton and of Hamilton to Sedgwick in the period from Feb. 19, 1799, to Feb. 25, 1799); Charles F. Adams, "The Life and Works of John Adams," Boston, 1856, vol. I, pp. 547–549; George Gibbs, "The Administrations of Washington and John Adams," New York, 1846, vol. II, pp. 203–205; and "Correspondence of the Late President Adams Originally Published in the Boston Patriot," Boston, 1809, letters IV–V, pp. 20–26.

[65] This seems to be another instance in which the previous question was applied to a resolution which did not exist as the original or principal question. The original or principal question on this occasion appears to have been the nomination of Murray. The committee to whom this subject had been referred was discharged on Feb. 25, 1799, when Adams' second message nominating a commission of three men was received. See Senate Executive Journal, vol. I, p. 317.

If the resolution involved in this instance did not exist as the original or principal question, events on this occasion can be interpreted to contain significant evidence bearing on the status of resolutions in the Senate. Less than a year later, on Feb. 5, 1800, the Senate refused to permit the previous question to be applied to a motion that directly sought to amend an original or principal question. See discussion of this instance in text and footnote 69. These facts might lead one to conclude that at least in 1799 the Senate did distinguish between resolutions and motions with the result that resolutions were not seen as subsidiary questions, even when moved in a context in which another question existed as the original or principal question.

However, it is quite probable that the resolution moved on Feb. 26, 1799, had a distinct parliamentary status that in and of itself explains why the previous question could have been moved on it. That is to say, this resolution may well have been seen as an incidental question. According to Jefferson and Cushing, an incidental question is a question which arises out of another question; but, unlike a subsidiary question, its decision does not necessarily dispose of that question, e.g., a question of order. Moreover, whereas an incidental question is not equivalent to an original or principal question, once it is brought up it supersedes the question on the floor and becomes open to subsidiary motions. See Jefferson's Manual, op. cit., secs. XXXIII and XXXVII and Cushing's Manual, op. cit., par. S. 1443, 1456, and 1476 (footnote).

Thus, the use of the previous question on Feb. 26, 1799, can be explained by noting that the Senate probably saw the resolution as an incidental question. If this was the case, a comparison of events on Feb. 26, 1799, and Feb. 5, 1800, does not in any way indicate that the Senate distinguished between resolutions and motions.

[66] An examination of unprinted material in the National Archives undertaken for this writer by the staff of the General Records Division also failed to reveal the name of the Senator who moved the previous question or the names of the Senators who voted for and against the motion.

we must consider the motives that seem to have prompted it. If the previous question was used for cloture, the Federalists would have been the ones to move it. However, there is no reason to believe that the Federalists were motivated to act in this manner. The Jeffersonians do not appear to have staged a filibuster on the resolution. In truth, this would have played into the hands of the war Federalists by giving them an excuse to refuse any kind of peace mission while throwing all blame on the Jeffersonians. Nor is there any reason to believe that the Federalists moved the previous question because they feared the consequences of a discussion on the resolution. The anti-Adams Federalists well realized that it was essential to unite on the commission idea as the only possible compromise under the circumstances and the problem of defection or embarrassment through debate was a slight one, if it existed at all.[67]

In contrast, there are a number of reasons for believing that the Jeffersonians moved the previous question in an attempt to suppress the resolution. First, the Jeffersonians feared that the commission alternative might just be a subterfuge for torpedoing the negotiations.[68] They much preferred the appointment of Murray alone. Second, tactically much was to be gained by confining the choice to simply approving or disapproving Murray. If he was approved, the Jeffersonians would have gotten exactly the kind of peace mission they desired; if he was disapproved, a party split in the ranks of the Federalists was likely and, what is more, the Federalists would stand before the public as a group of truculent warmongers.

Now it is true that the very reasons that would have led the Jeffersonians to attempt the previous question also helped to insure the defeat of the maneuver by solidifying the Federalists. Nonetheless, the Jeffersonians, not knowing exactly how united the Federalists were, could very well have thought the previous question worth a try. We may conclude, then, that in all probability this case is no different than the others we have considered. Despite the interpretations placed on it by Brant and Douglas, it seems to be simply another instance in which the previous question was attempted for the purpose of suppressing an undesired decision.

(G) *February 5, 1800* [69]

On February 5, 1800, a bill for the relief of John Vaughn was brought up for its third reading. A motion was made to amend the preamble of the bill. On this motion the previous question was moved, but ruled out of order on the grounds that the mechanism could not be applied to an amendment. A motion was next made to postpone the question on the final passage of the bill until the coming Monday. This motion was defeated. Having disposed of the attempt to postpone, the majority then proceeded to vote down the amendment and approve the bill.

The purpose for which the previous question was used in this instance seems in no way to depart from the usual pattern. In this case the opponents of the amendment appear to have attempted to suppress it by applying the previous question. They failed in this but still succeeded in defeating the amendment in a direct vote.

(H) *March 10, 1804* [70]

The impeachment trial of Judge John Pickering of the New Hampshire district court commenced on March 2, 1804. The Representatives selected by the House to manage the impeachment completed their case against Pickering on March 8, 1804. Two days later Samuel White, a Federalist Senator from Delaware, rose and offered a resolution which stated that the Senate was not at that time prepared to make a final decision on the Pickering impeachment.[71] The resolution also stated a number of reasons in support of its contention: that Pickering had not been able to appear but could be brought to Washington at a later date, that Pickering had not been represented by counsel, and that evidence indicating that Pickering was insane had been introduced.

The Jeffersonian leadership in the Senate received this resolution with hostility. Their first reaction was to try to suppress it by having it declared out of order, but this maneuver failed.[72] That the Jeffersonians would have preferred not to face the resolution directly is quite understandable since it advanced potent legal grounds for inducing the Senate to refuse to convict Pickering, e.g., that the trial had not been impartial and that Pickering as an insane man could not legally be held responsible for his acts. However, the hostility of the Jeffersonians was based on more than the fact that the resolution endangered the success of the Pickering impeachment. By implication it also threatened the success of the upcoming impeachment of the hated Judge Chase. To lose the Pickering impeachment on the grounds stated in the White resolution would create a precedent which denied the Senate broad, quasi-political discretion in impeachment and limited it to the determination of whether "high crimes and misdemeanors" in a quasi-criminal sense had actually been committed.

Unfortunately, the three accounts we have of Senate proceedings on March 10, 1804, differ significantly.[73] One area of important difference concerns the exact order of events on this day. Both the Annals and the diary of William Plumer report that the previous question was moved by Senator Jackson, Republican, of Georgia, after Senator Nicholas, Republican, of Virginia, urged that the White resolution not be recorded, if defeated. Both these accounts report that Jackson's motion was followed by a statement of Senator White and by an amendment offered by Senator Anderson, Republican, of Tennesee, which proposed to strike out of the resolution all material relating to Pickering's insanity and lack of counsel. In addition, both of these accounts report that after the moving of the Anderson amendment the Senate proceeded to vote down the White resolution. Despite these similarities an important difference does distinguish these two accounts. In the Plumer account Nicholas' statement, Jackson's motion, White's statement, and Anderson's motion are all made when the Senate is in closed session. In the Annals they are all made before the Senate is reported to have gone into closed session. We should also note that neither the Annals nor Plumer supply any further information regarding the previous question aside from the fact that it was moved. The

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[67] See John A. Carroll and Mary W. Ashworth, George Washington, New York, 1957, vol. VII, p. 572; Henry Cabot Lodge, "Life of George Cabot," Boston, 1877, pp. 223 and 235; and John T. Morse, Jr., "John Adams," Boston, 1889, pp. 303–303. See also references cited in footnote 64 above. Senator Humphrey Marshall of Kentucky seems to be the only Federalist who may have refused to go along with the commission compromise. See footnote 68 below. It should also be remembered that the Senate was in closed session on this occasion.

[68] Writings of Thomas Jefferson, op. cit., vol. VII, p. 372 (letter to Bishop James Madison—Feb. 27, 1799). Additional evidence bearing on the identity and motive of the Senator who moved the previous question is contained in the record of the vote on the nominations of Murray, Ellsworth, and Henry. No dissenting vote was cast on the question to agree to the nomination of Murray. This supports the view that the Jeffersonian Republicans favored him and the view that the war Federalists were willing to swallow him in the interests of party harmony. Six dissenting votes were cast on the question to agree to the nomination of Ellsworth. Five of these vote were cast by Jeffersonian Republicans. Three dissenting votes were cast on the question to agree to the nomination of Henry. All three of these votes were cast by Jeffersonian Republicans who had also voted against Ellsworth. Given these facts, it is quite likely that the mover of the previous question was one of the three Jeffersonian Republicans who felt so strongly about the issue that he voted against the nominations of both Ellsworth and Henry. These three Republican Senators, Bloodworth, Langdon, and Pinckney, also voted against referring Adams' original nomination of Murray to a committee, the purpose of this maneuver being to gain time for the Federalist leaders to bring pressure to bear on Adams.

A single Federalist Senator, Humphrey Marshall, of Kentucky, voted against the nomination of Ellsworth. Marshall also was the only Federalist who voted against referring Adams' original nomination of Murray to a committee. Thus, it is possible that Marshall was the Senator who moved the previous question. He might have done so either because he remained an intransigent war Federalist or because on this occasion he happened to agree with the Jeffersonians. Nonetheless, Marshall is a much less likely candidate than any one of the three Jeffersonians who voted against both Ellsworth and Henry. Indeed, Marshall's votes in favor of Henry and Murray may indicate that he voted against Ellsworth on personal grounds rather than because he rejected the commission compromise accepted by all the other Federalists. Moreover, even if Marshall, a Federalist, did move the previous question in this instance, his purpose would not have been cloture. Given his votes against reference to a committee and against Ellsworth, his purpose would have been similar to that we have postulated for the Jeffersonians, i.e., to suppress the resolution to supersede and confine the issue to the simple acceptance or rejection of Murray. See Senate Executive Journal, vol. I, pp. 315, 318, and 319.

[69] Annals, 6 Cong. 1, 42–43. The fact that an attempt was made on this occasion to apply the previous question to an amendment may indicate that prior to 1800 the Senate, as well as the House, understood such usage as proper. On the other hand, it may only mean that the position of the Senate in its earliest days had been forgotten so that the point had to be settled again.

[70] For account of events on this day see Annals, 8 Cong. 1, 362–363; Memoirs of John Quincy Adams, op. cit., vol. I, pp. 302–303; and Everett S. Brown (ed.), William Plumer's "Memorandum of Proceedings in the U.S. Senate," New York, 1923, pp. 173–176. See also Haynes, op. cit., vol. II, p. 850 and Henry Adams, "History of the United States During the First Administration of Thomas Jefferson," New York, 1889, vol. II, pp. 153–159.

[71] Whether this resolution existed as a principal or incidental question is not entirely clear. However, it is clear that it did not exist as a subsidiary question. This can be inferred from the fact that it was open to subsidiary motions other than the previous question, e.g., the motion to amend. See Annals, 8 Cong. 1, 363.

[72] Annals, 8 Cong. 1, 263. For accounts of events from the beginning of the trial on Mar. 2, 1804, up through Mar. 9, 1804, see Annals, 8 Cong. 1, 326–362; Memoirs of John Quincy Adams, op. cit., vol. I, pp. 297–302; and Plumer Memorandum, op. cit., pp. 147–174.

[73] Once again an examination of unprinted material in the National Archives, conducted for this writer by the staff of the General Records Division, failed to reveal any information not already contained in the Annals.

Annals are similarly obscure with respect to the fate of Anderson's amendment, but Plumer records that this motion failed to secure a second which would explain why it was never brought to a vote.

Further complications are introduced when we add the report of events given in the diary of John Quincy Adams. Adams and Plumer were both Members of the Senate at this time. In the Adams account no mention is made of the previous question or of White's statement. Anderson's amendment is reported to have been moved when the Senate was in open session. Nichola's remarks are reported as occurring later when the Senate was in closed session. In addition, in contrast to Plumer, Anderson's amendment is reported to have secured a second but to have been withdrawn when the Senate was in closed session.

A second important area of difference concerns the nature of the rules governing the Senate during the Pickering impeachment.[74] According to Adams, the rules restricted debate to closed session and required all decisions to be taken in open session by a yea and nay vote. Thus, he reports that when the Senate was in closed session on the White resolution the Jeffersonians were very impatient to return to open sesisons so as to end debate and bring the resolution to a vote. Adams further explains that the reason Anderson withdrew his amendment was to end debate on it in order that the time the Senate was in closed session need not be prolonged.

The Annals and Plumer's diary do not directly contradict Adams' interpretation of the rules. Indeed, on the whole, the record of events in these accounts does not depart from Adams' rendition of what the rules required. However, on occasion they do present examples of action which suggest either that the Senate did not necessarily follow its own rules or that Adams' interpretation is not entirely correct. In the Plumer account of events on March 5, 1804, the Senate is reported to have voted on two motions when it was still in closed session. In the Annals' account of events on March 10, 1804, and Plumer's account of events on March 9, 1804, the Senate is reported to have entered into debate when it was in open session.

Senator Douglas and Irving Brant claim that the events of March 10, 1804, represent an instance in which the purpose and effect of moving the previous question was cloture.[75] They argue, on the basis of the Plumer account, that the Senate was in closed session when the previous question was moved.[76] They argue, on the basis of the Adams account, that the rules restricted debate to closed session and decisions to open session and that the Jeffersonians were impatient to end debate on the White resolution and bring it to a vote. Thus, they conclude that the previous question was moved to force an end to debate and a vote on the White resolution and that it actually had this effect since according to the rules decisions had to be taken in open session. The fact that neither Adams, Plumer, nor the Annals indicate that the motion for the previous question was actually put to a vote in open session does not disturb them. They point out that once the Senate had returned to open session, debate was prohibited, with the result that the previous question achieved its purpose of forcing a vote on the White resolution without having to be brought to a vote itself.

The validity of Brant and Douglas interpretation of the order of events and the nature of the rules on March 10, 1804, cannot be determined conclusively one way or the other. Nonetheless, even if we accept the propositions they advance in these regards, we can still reject their conclusion that in this instance the purpose and effect of the previous question was cloture. First, merely moving the previous question would not and could not have ended debate and forced the Senate to return to open session. As long as the previous question was not voted on and determined affirmatively, the only way debate could be cut off and a vote on the White resolution forced would have been by passing a motion to open the doors. It is true that, if the motion for the previous question received a second, it would have cut off debate on the main question, i.e., on the White resolution. But debate could have and undoubtedly would have continued on the motion for the previous question itself. The Federalists would have objected strenuously to any Republican maneuver designed to avoid the necessity of directly facing the embarrassing issues contained in the White resolution. Given the fact that the previous question was moved after the White resolution had already been subject to discussion, we may conclude, in contrast to Brant and Douglas, that instead of serving to end debate the motion for the previous question threatened to prolong it.

Second, both the Annals and Plumer record that Anderson's amendment was moved after the previous question while the Senate was still in closed session. This indicates that the previous question either failed to secure a second or was withdrawn soon after it was moved. Otherwise, an amendment of the main question would not have been in order. Thus, Brant and Douglas cannot argue that the Senate returned to open session to vote on the motion for the previous question since the motion itself seems to have been killed while the Senate was still in closed session. The fact that Adams does not even mention the previous question in his account supports our contention that the previous question was killed before it could play a significant role in the events of the day. Given the care with which Adams documents each and every Jeffersonian move to avoid facing or discussing the White resolution, it is highly unlikely that he would have failed to mention the previous question if it had been used as Brant and Douglas suggest.

If we may dismiss the claims of Brant and Douglas, can we also assert that the events of March 10, 1804, merely furnish another illustration of the use of the previous question for the purpose of suppressing an undesired discussion and/or decision? The answer is "Yes." We may note that on March 5, 1804, Jackson spoke and voted against allowing evidence bearing on Pickering's sanity to be introduced. We may note that on March 10, 1804, when the Senate returned to open session, he voted against the White resolution which listed insanity as a ground for not voting to convict Pickering. We may also note that Jackson moved the previous question immediately after Nicholas urged that the resolution not be recorded, if defeated. It is probable, therefore, that Jackson moved the previous question for the purpose of suppressing the White resolution rather than for the purpose of forcing a vote on it. If cloture were his aim and such an aim only would have been feasible if debate was in fact prohibited in open session, either that end could have been achieved more easily by simply moving to return to open session, or alternatively, if the Senate was already in open session, there would have been no reason not to press the previous question to its ultimate conclusion.

Why, then, would the previous question have been refused a second or withdrawn? The answer is that under the circumstances which existed the best way to get rid of the White resolution and clear the way for a vote on the impeachment was to face the resolution directly. The timing and the substance of Nicholas' words indicate that the Senate was just about ready to proceed to a vote on the White resolution. To introduce the previous question at such a point would be to complicate and prolong the proceedings. This is true whether or not the Senate could have actually voted on the previous question in closed session. In either event debate on the motion would still have been possible. It is also true whether the previous question was moved in open or closed session. Both the Annals and Plumer indicate that debate took place immediately before and after the previous question was moved. This means that, if the previous question was moved in

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[74] On Mar. 2, 1804, the Senate passed the following resolution:

"*Resolved*, * * * All motions made by the parties or their counsel shall be addressed to the President of the Senate, and, if he shall require it, shall be committed to writing, and read at the Secretary's table; and, after the parties shall be heard upon such motion, the Senate shall retire to the adjoining committee room for consideration, if one-third of the Members present shall require it; but all decisions shall be had in open court, by ayes and noes, and without debate, which shall be entered on the records."

On March 5, 1804, the Senate passed another resolution which stated, "That on the motion made and seconded, the Court shall retire to the adjoining committee room, if one-third of the Senators present shall require it." See Annals, 8 Cong. 1, 327 and 333.

The first resolution can be interpreted as restricting all debate to closed session and requiring all decisions to be made in open session. The significance of the second resolution would then be that it gave the Senate the privilege of going into closed session by a one-third vote on motions made by its own Members as well as on motions made by the parties to the impeachment.

On the other hand, the first resolution can be interpreted as applying only to motions made by the parties to the impeachment. The significance of the second resolution would then be that it gave the Senate the option of going into closed session by a one-third vote on motions made by its own Members. In terms of this interpretation the Senate could debate and decide motions by its own Members in open or closed session, but it had the option of going into closed session if it desired by a one-third vote.

As is pointed out in the text, John Quincy Adams saw the first interpretation as the governing one. See Memoirs of John Quincy Adams, op. cit., vol I, pp. 302–303. However, as is also indicated in the text, the claims of the first interpretation are impaired by the existence of a number of instances in which the Senate can be seen to have acted contrary to it. For a view which differs from that of Adams and supports the other possible interpretation, see Stidham, op. cit., pp. 170–171.

[75] See Congressional Record, vol. 107, pt. 1, pp. 245–247, 255–256.

[76] Irving Brant argues that the Annals give a mistaken impression in suggesting that the previous question was moved in open session. His point is that the Annals indicate that debate took place immediately before the previous question was moved, but that the rules prohibited debate in open session. See Congressional Record, vol. 107, pt. 1, p. 255. However, it is possible to interpret the rules to mean that debate was possible in open session, if the motion involved was moved by a Member of the Senate. See footnote 74 above. Moreover, one can argue that the Annals would not have recorded any debate which took place in closed session. The fact that debate was recorded, then, would indicate that the Senate was in open session. See Annals, 8 Cong. 1, 326–367 and Stidham, op. cit., pp. 170–171.

open session, debate was possible in open as well as closed session.[77]

Thus, the reasons Adams suggests for the killing of Anderson's amendment probably apply to the previous question as well. The Jeffersonians desired to get rid of the White resolution and push on to a vote on the impeachment as fast as possible. They knew they had the votes to defeat the resolution. Moreover, though they might have preferred to suppress or amend the resolution, they also knew that they could not really save themselves from embarrassment by adopting either alternative. That Pickering had not appeared, that he had not been represented by counsel, and that evidence had been introduced indicating that he was insane were part of the record of the trial. Hence, it is not surprising that the Republicans elected to face the White resolution without delay. This was the course that promised the swiftest and surest attainment of their basic objective—the conviction of Pickering.[78]

(I) December 24, 1804[79]

On December 24, 1804, the Senate resumed consideration of a set of rules proposed to govern the Senate during the Chase impeachment. These rules had been recommended by a select committee whose chairman was William Giles, a Virginia Republican who led the anti-Chase forces in the Senate. Four days earlier, when the Senate was involved in a discussion of these rules, Stephen Bradley, an independent Republican from Vermont, had moved an amendment to one of the rules proposed by the Giles committee. Bradley, however, was ill on the 24th and was not present in the chamber. John Quincy Adams reports in his diary that he therefore moved that the whole subject be postponed until Bradley could attend. This bid for postponement of consideration was defeated. Adams relates that "Giles then offered to postpone or put the previous question upon Mr. Bradley's amendment; but this the Vice President declared to be not in order."[80]

Following Burr's ruling, the Senate proceeded to vote down the amendment and before the day was ended it agreed to adopt all or most of the rules recommended by the Giles committee, including the rule on which Bradley's amendment had been moved.[81]

This case presents another instance in which the previous question was attempted to suppress an undesired decision. Giles' intention was obviously to remove the amendment either through postponement or through the previous question as a preliminary to voting to adopt the rule. The practical effect of this would have been to kill the amendment, even though technically neither postponement nor the previous question would have permanently suppressed the amendment.[82]

IV. CONCLUSION

We may conclude that the Haynes-Stidham-Russell position is the correct one. The fact that a previous question mechanism existed and was used in the early Senate furnishes no precedent for the imposition of majority cloture in the Senate today. As we have shown in part I, the previous question was not understood functionally as a cloture mechanism. As we have shown in part II, it was not designed to operate as a cloture mechanism. As we have shown in part III, it was not in practice used as a cloture mechanism. Indeed, it is even improbable that the Senate could have used the previous question for cloture, given the obstacles which existed and the lack of any evidence to show that these obstacles could in fact be overcome.

Mr. ERVIN. Mr. President, I wish to call attention to a statement which is in harmony with what the Senator from Georgia has just said. In the Saturday Evening Post of June 27, 1925, former Senator George H. Moses, of New Hampshire, who was then the President pro tempore of the Senate and a great authority on Senate traditions and precedents and rules, had this to say about the previous question as it existed in the early days of the Senate:

> Debate in the Senate in its early days had few restraints. The previous question existed, but in a rudimentary form only as modern parliamentarians would regard it. It was itself debatable; it could not be used upon amendments; nor could it be applied while sitting in Committee of the Whole. In this form it stood in the Senate rules for 17 years, during which it was moved only four times and only three times carried. The revision of the rules in 1806 did not specifically provide against the previous question; it simply was not mentioned at all, and the sanction of 119 years of usage is that it does not exist.

In the light of that statement by one of the greatest authorities on the question of Senate precedents and traditions and rules who has ever lived, there is no basis whatever for any contention that the previous question rule in its modern significance has ever been recognized by the Senate.

I am delighted to see on the floor of the Senate the able successor of Senator Moses, the distinguished student of Senate history. I refer to Senator NORRIS COTTON.

HON. VANCE HARTKE

Mr. BAYH. Mr. President, on January 19, 1963, the Democratic National Committee adopted a resolution expressing the gratitude of that committee to the distinguished senior Senator from Indiana, Senator VANCE HARTKE. The resolution was in appreciation for the zealous and arduous efforts expended by the Senator as chairman of the Democratic senatorial campaign committee.

Mr. President, I join with the Democratic National Committee in its expression of gratitude to Senator HARTKE on a job well done. I ask unanimous consent to have the resolution, as adopted by the Democratic National Committee, printed in the RECORD at this point.

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

RESOLUTION ADOPTED AT MEETING OF THE DEMOCRATIC NATIONAL COMMITTEE, JANUARY 19, 1963

Whereas the Democratic senatorial campaign committee, under the leadership of Senator VANCE HARTKE, has worked in close cooperation with the Democratic National Committee in every phase of the successful campaign of 1962—in the raising and distribution of funds, the assignment of speakers, the development of issues, the strengthening of organization, and in the schools for candidates: Therefore be it

Resolved, That the Democratic National Committee expresses its gratitude to Senator VANCE HARTKE and the members and staff of the Democratic senatorial campaign committee and looks forward to 2 more years and cooperation and success under the pattern set by Senator HARTKE's leadership.

DR. RANSOM, UNIVERSITY OF TEXAS CHANCELLOR, CITES HIGH GOALS FOR HIGHER EDUCATION

Mr. YARBOROUGH. Mr. President, the distinguished chancellor of the University of Texas, Dr. Harry Ransom, recently delivered a brilliant speech on excellence in education, in an address at Alvin in Brazoria County, Tex.

While his speech was concerned in this instance primarily with educational goals in Texas, the points he makes have national application. I ask unanimous consent that the article from the Houston Chronicle of Sunday, January 27, captioned "Education? Talk Isn't Enough: Excellence Has a Price We Can Afford, but With It We Must Join Determination We Have Not Yet Shown," be printed in the RECORD.

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

EDUCATION? TALK ISN'T ENOUGH—EXCELLENCE HAS A PRICE WE CAN AFFORD, BUT WITH IT WE MUST JOIN DETERMINATION WE HAVE NOT YET SHOWN

(By Harry Ransom)

Excellence in education is like virtue in private life and patriotism in public life.

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[77] See footnotes 74 and 76 above.

[78] Adams is reported by the Annals and Plumer, but not by his own diary, to have argued that amendments to the White resolution were out of order because "a gentleman had a right to a vote upon any specific proposition he might please to submit." Whether this was actually required by the rules is conjectural. If it was, it offers an alternative explanation of why the previous question was killed. Yet Adams in his own diary notes that the Senate permitted amendments on the White resolution. Moreover, his only recorded objection was that these motions constituted "debate" and therefore should not have been allowed when the Senate was in open session. See Annals, 8 Cong. 1, 363; Memoirs of John Quincy Adams, op. cit., vol I, p. 302; and Plumer memorandum, op cit., p. 174.

[79] See Memoirs of John Qunicy Adams, op. cit., vol. I, pp. 318–326; Annals, 8 Cong. 2, 89–92; Plumer memorandum, op. cit., pp. 228–233; and Henry Adams, op. cit., vol. II, pp. 218–228.

[80] Memoirs of John Quincy Adams, op. cit., vol. I, p. 324. The grounds of the ruling undoubtedly were that subsidiary questions could not be moved on another subsidiary question. This ruling, made by Burr, reaffirmed Jefferson's ruling of Feb. 5, 1800. See footnote 69 above. It is interesting to note that Giles had just entered the Senate that session. Previous to his entrance into the Senate, he had for over a decade been a leading Republican Member of the House and the House, as late as 1802, permitted the previous question to be applied to subsidiary questions. See footnote 44 above.

[81] That the rule on which Bradley's amendment had been moved, as well as all or most of the other rules proposed by the Giles committee, were adopted on this occasion can be inferred by comparing Adams' report of the discussion on Dec. 24 and 31, 1804, with the list of rules recorded in the Annals. See Memoirs of John Quincy Adams, op. cit., vol. I, pp. 324–326 and Annals, 8 Cong. 2, 89–92.

[82] This point is based on the fact that the Senate rules did not require resolutions which applied only to the Senate to undergo three readings. See Jefferson's Manual, op. cit., secs. XXI and XXII and Annals, 9 Cong. 1, 201.

Talking about it is not enough. It has to be proved in practice.

Judging the attainment of an institution, a State or a region must be still more rigorously conducted and much more broadly based. There is no such science as Texas physics. A discovery in the laboratories of Cambridge, England, is instantly relevant to curriculums in Alvin, Tex.

BREADTH OF PERSPECTIVE

The breadth of this perspective does not decrease our concern about the freedom and the integrity of the individual student. It lessens not one whit our State and regional pride in local accomplishment. At the same time it forbids us to resort to comfortable merely local or regional goals for research and educational opportunity. It reminds us daily and remorselessly that there has always been a common market of world intellect.

Texans will ask us to be practical even in our introductions to the problem of educational excellence. Let's be practical. No Texas oil company can ignore petroleum development in Saudi Arabia, no Texas cattleman can shut his eyes on genetic and economic experiments in Argentina, no Texas lumberman can turn his back on what is going on in Brazil, no electronics company can be indifferent to what physicists and electrical engineers are doing today in Tokyo.

FIVE-CENT PH. D.

Remembering Vice President Marshall's epigram about cigars, many earnest, economy-minded and unrealistic Texans insist that what this State needs is a good 5-cent Ph. D.

There may have been a time when this bargain-basement approach was not dangerous to the economy of a State. Once it was excused by an economy supported largely by local products of Texas soil. Today, agriculture itself is among those industries that depends upon scientific advancement.

For our new prospect we do not need to conduct an elaborate talent search in Texas. In short order, every town or city school system, every junior college, every senior college, every university in this State can muster names, addresses, program definitions and dollar requirements for topflight education.

To such concrete facts we must link clear-headed policies. Here are some of the considerations which must enter into the making of those policies.

First, wild extravagance is as harmful to education development as pennypinching. Every educator (that is, every schoolman and schoolwoman working toward better education from kindergarten to graduate school) should undertake to cut out the frills, fads, and futilities that drain off resources. Every trustee should make that kind of economy prerequisite to approval of every plan for necessary improvement and expansion. Every citizen espousing the cause of education should be able to assume that he is not being asked to support either irrelevance or waste.

With these provisos we can make wise and undeniable claims on public taxes and private philanthropy. Without these provisos, educators can rightly be accused of professional doubletalk and financial irresponsibility. In short, we need excellence in our purposes, plans, and standards as well as in our budgets.

NO ARBITRARY PRIVILEGE

We cannot expect to produce either high standards or effective programs by any system of arbitrary privilege. We cannot assume that our church-related colleges can improve simply because they are long on doctrinal influence if they are short on libraries and laboratories. We cannot assume that miscellaneousness and popular obligations should damn State institutions to intellectual mediocrity.

Whole educational populations—students in less fortunate economic sectors of the State, students of Mexican origin, Negro students, physically handicapped students—should not be excluded from reaching the top educational bent which their native ability and their motivation allows.

We should quit discriminating against any able young Texan by having to tell him that for the very best education he had better leave the State for the east coast or west coast. We should quit discriminating against the future of the State by concluding that what is necessary for Carolina or Massachusetts or Indiana or Minnesota or California is not also necessary for Texas. In short, we should quit trying to hitch our high ambition to low levels of opportunity.

We should recognize the fact that after high school, most students are extremely mobile. Simple arithmetic demonstrates that for a fraction of the cost of an underdeveloped program, generous scholarships can be provided undergraduate and graduate students to undertake such a program where the State can guarantee quality.

Amid many new dynamics, intellectual and economic and social, we must expect and welcome dynamic changes in education.

Curriculum balances will be changed. Many of us can remember the time when physics, chemistry, biology and geology were neatly compartmented and stiffly departmentalized. Today hundreds of institutes and graduate programs are founded on the inescapable relationships among these and other sciences.

Balances among educational programs and methods will be changed. Larger and larger portions of the budget in some institutions will go to research. It will be necessary to remember that these programs are also for teaching—for the means of teaching new researchers, just as elementary classes are the means of instructing beginners in a discipline.

In elementary instruction itself there will be new and revolutionary shifts of emphasis among lectureship, independent study, and the uses of mechanical devices. It is no longer a cartoon jest, it is a historic fact that some machines can do a better job of conveying certain information and inculcating certain skills than the most devoted teachers working with a group.

Excellence in education means a good deal more, of course, than getting ahead of the past or getting ahead of somebody else. It means getting every potential of the student and the institution into effect, and getting both ready for the future. In one place or another, at one time or another, it will mean that certain individuals and institutions will surpass the immediate performance and attainment of others.

What we have not yet seen quite clearly in this connection, however, is that excellence is infectious. If a Nobel Prize winner comes out of Alvin in this next generation, his accomplishment will encourage, not discourage, his contemporaries and his successors here.

A LONELY BUSINESS

We could, of course, conclude that history has proved excellence or eminence a lonely business. That would be a mistake for any general educational program of this century. Cooperation, among individuals and especially among institutions, is essential.

There is no field of human endeavor less dependent upon chance than education. There is no goal of human aspiration more likely to be won by concerted effort, long-range planning and courageous realism than educational excellence. For a long time Texas has expected it to happen. By the slow processes of evolution it might happen, just happen, in another hundred years. Who wants to wait that long?

B'NAI B'RITH IS PRAISED BY THE HOUSTON CHRONICLE, ON ITS GOLDEN ANNIVERSARY

Mr. YARBOROUGH. Mr. President, the Anti-Defamation League of B'nai B'rith observes on January 31, 1963, the anniversary of half a century of dedication to the causes of liberty and equality.

It has been a valiant champion of human rights, a fighter against defamation of peoples, both groups and individuals. It would be well if there were no further need for this organization. But this is not the case.

I congratulate the Anti-Defamation League of B'nai B'rith as it moves courageously into another year when much of the world is in some stage of revolution against man's inhumanity to man. The league has many allies in its continuing battle for justice to all.

Because of the respect the League has won internationally, I ask unanimous consent to have printed in the RECORD an editorial of praise from the Houston Chronicle of Sunday, January 27, captioned "Anti-Defamation League's Birthday."

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

ANTI-DEFAMATION LEAGUE'S BIRTHDAY

January 31 will hail the golden anniversary of the Anti-Defamation League of B'nai B'rith, educational arm of the largest Jewish service organization in the world.

Anti-Defamation League, founded in 1913, has pressed rationally and fearlessly for 50 years to combat the vulgarities of antisemitism and "to secure justice and fair treatment to all citizens alike." Taking dead aim against bigotry in any subtle form, this highly respected league has proven its friendship to the friendless—as protector of civil rights, guardian of religious freedom, and legal-armored foe of racial or religious discrimination.

While this country has leaped far toward "freedom's holy light," the full promise of our national humanity has more mileage to go. Anti-Defamation League will continue to walk this path—uprooting weeds of hate with tools of research, education, legal, and social action—to close the gap between America's ideals and reality.

Bigotry, prejudice, and discrimination are the enemies of Anti-Defamation League. Ours, too. We find them a bore, and a not-so-subtle threat.

More noteworthy are some of Anti-Defamation League's distinguished friends. Serving as members of an honorory committee to celebrate the league's 50th birthday are many eminent Americans; among them: Gen. Lucius D. Clay, J. Edgar Hoover, Father Theodore M. Hesburgh, Brooks Hays, Lyndon B. Johnson, Dr. Daniel A. Poling, Victor G. Reuther, Arthur H. Sulzberger, and Robert C. Weaver.

Our best wish to Anti-Defamation League for every candle on a well-earned birthday cake. Fifty. And one more to grow on.

THE INDIANA DUNES AND PRESSURE POLITICS

Mr. DOUGLAS. Mr. President, I am greatly pleased to call to the attention of the Senate and all Members of Congress to the new article about the Indiana Dunes—Burns Ditch harbor dispute which has just appeared on the newsstands in the February 1963, issue of the Atlantic Monthly. Mr. William

Peeples, a fine writer and a member of the editorial board of the Louisville Courier-Journal is the author of this article which is entitled "The Indiana Dunes and Pressure Politics."

The effort to preserve the remarkable and irreplaceable Indiana Dunes is one of the classic conservation struggles of midcentury America and Mr. Peeples has given a fine account of its outlines.

He enlightens us on the part taken by various politicians in the near-conspiracy to construct the Burns Ditch harbor in the midst of the dunes for the almost sole benefit of two steel companies.

He describes the land speculation and profiteering which has been an integral part of this attack on the dunes.

He brings us up to date on the nationwide and worldwide protest which has arisen in defense of the dunes, and he writes of the heroic efforts of a small but effective group of conservation-minded citizens, the Save the Dunes Council.

In a few days I shall reintroduce along with a number of my colleagues the bill to create the Indiana Dunes National Lakeshore, and at that time I shall tell the Senate in detail of the recent developments in this matter. Developments, incidentally, which lend substantial hope of success in saving the dunes. But Mr. Peeples' excellent article is a good and moving story, as well as sharp political analysis, and I know many Members will find it of interest.

I therefore ask unanimous consent that this article be printed in the body of the CONGRESSIONAL RECORD along with my remarks.

Mr. President, I commend the Atlantic Monthly and its editor, Mr. Edward Weeks, for the courage and public-spirited attitude which led to the publishing of this article.

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

THE INDIANA DUNES AND PRESSURE POLITICS

(By William Peeples)

After making a quick change into walking shorts, Senator PAUL DOUGLAS, of Illinois, joined the other dignitaries before the cameras and reporters in the hot, crowded room in the superintendent's house at Indiana Dunes State Park. The Senator spoke briefly and to the point. He would not falter, he said, in his fight to save what is left of the Indiana Dunes on the shore of Lake Michigan from destruction, for they are a priceless natural and recreational asset, serving an area of some 7½ million people, and serving also as a magnet for natural scientists from the Nation as a whole. His sympathetic audience cheered. They knew he meant it, knew that for 3 years he had stood against the efforts of Indiana officials, both Democratic and Republican, to build a deepwater harbor in the midst of the very finest dunes, primarily for the benefit of two steel companies—or three, if you count Inland's holdings some distance from the proposed port site.

DOUGLAS was no longer fighting alone. Joining him in the tour of the dunes that day were Secretary of the Interior Stewart Udall; Mayor Daly, of Chicago, and the mayors of Gary, Whiting, East Chicago, and Hammond, Ind.; U.S. Representative Ray Madden, the only Congressman from Indiana working to save the dunes; as well as some uncommitted Congressmen from other States open to persuasion. It was an impressive display of political muscle. With DOUGLAS and Udall, both enthusiastic hikers, leading the way, the assorted officials and their respective entourages walked the shining beach, climbed the sandhills, saw firsthand the remarkable natural phenomenon of the Indiana Dunes, all to the astonishment and delight of vacationing constituents. This was July 1961.

Subsequently, the Department of the Interior endorsed the Douglas bill to make the dunes area in dispute a national preserve. In his conservation message to Congress, President Kennedy also called for congressional approval of a national lakeshore area in northern Indiana. Other Congressmen, representing States in every section of the country, have said they will fight down the line to save the dunes.

Yet this incomparable area, with its excellent beaches, is still in imminent danger of being ravished, and behind this threat lies a tangled tale of land speculation, of the cozy relationship between certain business interests and public officials, of big names in the Democratic and Republican Parties working for a common objective, of wheels spinning within wheels—a classic illustration of why, even more than a half century after Theodore Roosevelt and Gifford Pinchot, it is so difficult to reserve in the public interest our dwindling natural resources.

At one time the Indiana Dunes marched in dazzling array for 25 miles along Lake Michigan between East Chicago and Michigan City. Today only about 7 miles of lakefront dunes remain unspoiled—2½ miles of them in the Indiana Dunes State Park (whose beaches, according to the National Park Service, would probably be polluted if any industrial port complex were built nearby), and 4-odd miles in the Burns Ditch area just to the west of the park. The remaining stretch of Indiana dunesland is prized not only by vacationers but by biologists, botanists, ecologists, geologists, zoologists, and ornithologists. Wildlife and more than 1,000 species of plants and trees, including 26 members of the orchid family, thrive there.

"There are few places on our continent where so many species of plants are found in so small a compass," wrote the late Prof. Henry C. Cowles of the University of Chicago, a pioneer ecologist. "Here one may even find the prickly pear cactus of the southwestern desert hobnobbing with the barberry of the Arctic."

Why is such a widely recognized natural asset threatened with destruction? The story begins in 1929, when Midwest Steel purchased 750 acres astride Burns Ditch, which drains the Little Calumet River into Lake Michigan. From that day to this, Midwest Steel has been a driving force behind the attempt to build a deepwater port near Burns Ditch in the heart of the finest dunesland left on the shore.

In 1931, the Army Corps of Engineers made a preliminary examination of the practicality of a proposal that the Federal Government build breakwaters for the harbor sought by Midwest Steel. The report was a disappointment to the company. The engineers pointed out that the benefits from such a port would be limited to Midwest Steel and, therefore, they would not recommend its construction with tax money. The steel firm tried again in 1935, but once more the Army engineers refused to endorse the proposal. In 1937, Congress authorized a preliminary examination of the entire Indiana shoreline to pick the best harbor site. However, without waiting for the results of the examination, the Indiana State Planning Board rushed in and singled out the Burns Ditch area as "the only desirable and available location." It was not until 1944 that the Army engineers reported on the study authorized by Congress in 1937, and they recommended against exploring the matter further because, they concluded, existing harbor facilities at Chicago, Calumet, and Michigan City were adequate for the area.

In 1949, the Army Engineers' district office in Chicago came up with a preliminary report favorable to the Burns Ditch Harbor. Though the way was now clear for a survey in depth of the site, this was delayed by the Korean war. Finally, in 1960, Col. J. A. Smedile, the Army district engineer, announced that a port at Burns Ditch could be justified economically, and later issued a detailed report to support this conclusion. Still, the report made no judgment on whether the Burns Ditch project was more in the public interest than the preservation of the dunes, or whether another site might also be suitable. Seizing upon the report, backers of the Burns Ditch site implied that it ruled out any other location and settled the issue once and for all. Gordon Englehart, the Indiana capital correspondent for the Louisville Courier-Journal, asked Colonel Smedile if the Army Engineers had ever studied alternative sites for a deepwater port in Indiana. "The Burns waterway area," the colonel replied, "is the only site on the Indiana shore of Lake Michigan sponsored by a public (Indiana) agency as suitable for a public harbor development. Studies of alternative sites by other agencies have not been brought to the attention of this office."

Small wonder, considering this sequence of events.

Shortly after he took office in 1953, Republican Gov. George Craig threw his political influence behind the Burns Ditch project. That year, at Craig's request, the legislative advisory commission recommended that the legislature appropriate $3.5 million to buy 1,500 acres for a harbor near Burns Ditch. A bill incorporating this request was introduced at the 1955 legislative session, but it died after critics attacked the speculative nature of the proposal. Stymied in his move for public funds, Craig turned to private sources to underwrite the construction of the port. Perhaps coincidentally, this move came at the same time a favorable engineering report was issued by a private firm. This private report was financed jointly by Midwest Steel's parent company, National Steel, whose boss is George Humphrey, Secretary of the Treasury in the Eisenhower administration; the New York Central Railroad, whose main New York-Chicago line borders the disputed dunes area; and the Murchison family of Texas, who owned lakefront land just east of Midwest Steel's holdings.

The Murchisons are an integral part of the story. In 1954, Clint W. Murchison, the Dallas multimillionaire, controlled the Consumers Co. of Chicago, which was sand-mining land it owned in the Burns Ditch area. About this time the firm became interested in real estate, and especially dunes real estate.

In order to sell land in Indiana, a company must be incorporated in the State. Thus, on September 23, 1954, Consumers Co. officials duly incorporated the Consumers Dunes Corp. in Indianapolis with the stated purpose of speculating in dunes land. This was 2 months before Indiana's legislative advisory commission and Governor Craig started beating the drums for the Burns Ditch harbor appropriation.

Now the wheels began spinning faster. The Consumers Co. traded 1,100 acres of its land near Burns Ditch to Consumers Dunes in exchange for 31,000 shares of Consumers Dunes common stock with a par value of $10 a share. Consumers Co. stockholders got one share of Consumers Dunes stock for each Consumers Co. share they held. Consumers Dunes also borrowed $77,500 from a bank and bought another 100 acres of dunes land. To repay the loan it issued 7,750 more shares at $10 par and offered them to Consumers Co. stockholders. It is interesting to note who was handling these series of

financial transactions between the Consumers Co. and its newly incorporated subsidiary, Consumers Dunes. The C. T. Corp. was acting as a financial agent for Consumers Dunes, and the C. T. Corp. was located in the office of Governor Craig's former law firm of White, Raub, Craig & Forrey. Craig had resigned from the firm when he became Governor.

Governor Craig's efforts to get private financing for the Burns Ditch project also were frustrated, and soon afterward Consumers Dunes moved to sell its dunesland, by approaching the Lake Shore Development Corp. of Indianapolis. Lake Shore had been incorporated May 6, 1956, as a land-buying agency for Bethlehem Steel. Thus, another steel company entered the dunes picture, and before long Bethlehem owned 4,000 acres of dunesland, including tracks between the Midwest Steel acreage and the State park to the east. On June 3, 1956, Consumers Dunes sold its 1,200 acres, valued on its books at about $300 an acre, to Lake Shore (Bethlehem) for $3,326,500, or about $2,770 an acre. Its job now done, Consumers Dunes was liquidated on June 21, 1957. Holders of its $10 per shares reaped the tidy profit of $85 a share.

At this point, the financial threads branch off in several directions, but they all are tied, directly and indirectly, to the Burns Ditch project.

In Indiana, the largest holder of Consumer Dunes shares was Thomas W. Moses, executive vice president of Consumers Dunes and president of the Indianapolis Water Co.; his 1,000 shares brought him $85,000. In 1956, Clint W. Murchison, Jr., and John W. Murchison owned 336,448 of the 556,490 shares of the water company's stock. As for Moses, he wore yet another hat. He also was a director of the American Fletcher National Bank, of Indianapolis. The bank's board chairman is Frank McKinney, former national chairman of the Democratic Party and patron of Indiana's present Governor, Matthew Welsh, who has worked as hard as his Republican predecessors for the Burns Ditch project. McKinney, furthermore, is associated with the Murchisons. He was a Murchison lieutenant in that family's successful campaign to capture control of the Alleghany Corp., a mammoth holding company whose assets included the New York Central Railroad. The New York Central has tracks skirting the Burns Ditch area and is interested in leasing warehouses within the proposed port complex. McKinney was named a director of the New York Central. His bank also acted as transfer agent for the St. Lawrence Seaway Corp. This firm, headed by former Indiana Senator William Jenner, was incorporated in Indianapolis in 1959 to speculate in real estate in areas influenced by the completion of the St. Lawrence Seaway. The new corporation's prospectus referred to the proposed Burns Ditch port, "which is almost certain to be built."

In August of 1959, 2 months after the Seaway Corporation got approval for its stock sale from the State, the Republican Governor, Harold Handley, named Seaway's stock dealer, Durward E. McDonald, to a newly formed Northern Indiana Lakefront Study Committee. For chairman, Handley picked John Van Ness, who had been appointed assistant to the president of Midwest Steel several months earlier. As a former State senator, Van Ness had worked assiduously in the general assembly in behalf of the Burns Ditch project. He did yeoman service for the cause in 1957, the year that Bethlehem gave Indiana an option to buy about 260 acres it owned at $2,062 an acre. Together with 68 acres to be purchased from Midwest and 110 acres from other landowners, this would comprise the harbor site. Van Ness was instrumental in getting a $2 million appropriation through the legislature that year for land purchases. There was one string attached—the Army Engineers must give final approval to the project. This stipulation could be viewed as evidence of a proper concern for protecting the public interest; but there also was an element of self-interest, for the port combine knew that the approval of the Army Engineers was a vital first step toward acquiring Federal funds.

The year 1959 was, all in all, a banner one for the port promoters. Midwest began building a $103 million plant to process semifinished steel into finished products alongside the proposed harbor site; and the St. Lawrence Seaway opened, prompting port backers to wax eloquent about a great industrial and commercial explosion at Burns Ditch, where the port would serve as a terminal for ocean vessels.

All the stops were pulled out. Indiana would issue revenue bonds to pay for its share of the $70 million port project, and Congress would appropriate at least $25 million in Federal funds. Nothing, it seemed, could now save the dunes. For the conservationists, the prospect was gloomy, but they took some heart in 1960 when Democrat Welsh won the governorship. He had straddled the issue in the campaign, promising to defer a decision on the location of the port until a thorough study could be made of the entire shoreline. Any hopes entertained by the conservationists were quickly dashed. After Welsh became Governor, no thorough study was made. Instead, he promptly began pressing for action on the Burns Ditch project. First he created an Indiana Port Commission, whose stated objective was to build the port at Burns Ditch. Its function was threefold: to issue revenue bonds, to acquire land for the port, and to lobby for Federal funds. It also tried to persuade Midwest and Bethlehem to make firm commitments about future plans and to agree to foot some of the cost of building a public harbor. The steel firms, however, could not be pinned down to definite pledges.

While all this was going on, those who wanted to save the dunes were not idle. In 1952, the Save-the-Dunes Council, a citizens' group, was organized. It in turn encouraged the support of the Izaak Walton League and other conservation forces. Even so, by 1958 their cause seemed hopeless, and they appealed in desperation to Senator DOUGLAS to intercede in their behalf.

The Senator was familar with the dunes, having vacationed there frequently. In short order he introduced legislation that would take 5,000 acres, including the proposed port site and the flanking Midwest and Bethlehem tracts, for a national preserve. This countervailing pressure had its effect. The drive for the Burns Ditch port lost some of its momentum, and gradually the conflict came to a stalemate. At each session of Congress, the port backers pushed for approval of their project and their opponents countered with the Douglas bill.

For his pains, Senator DOUGLAS has been pilloried by Indiana officials and their allies in the port combine. He has been accused of meddling in the affairs of another State and of trying to block the Burns Ditch harbor to protect Chicago port interests. The first charge has a hollow ring in view of the fact that the Burns Ditch backers are seeking Federal funds. The other charge glosses over the repeated assertions of Senator DOUGLAS and others working for preservation of the dunes that they are not opposed to a deepwater harbor for Indiana. It is a question of where, not whether. DOUGLAS has said he would favor a port in already industrialized Gary or Michigan City, or anywhere else along the Indiana shore that is suitable. Nevertheless, the Burns Ditch forces still proclaim publicly that those opposed to their plan are either bird watchers or enemies of Indiana's economic development.

Governor Welsh is so committed to the Burns Ditch site that he rejects out of hand any suggestion that alternative sites be considered, and he is extremely sensitive to references to land speculation and ties between public officials and industrial interests working for the Burns Ditch port.

Despite the Governor's demurrers, certain facts are devastatingly clear. No real studies of other sites have ever been made, although port backers imply they have been. What they cite are preliminary surveys, to use the language of the Army Corps of Engineers, or cursory inspections of the Indiana shoreline. The Senate Interior Subcommittee, which held hearings on Senator DOUGLAS' bill in 1962, asked backers of the Burns Ditch project to produce detailed surveys of alternate sites. They were not forthcoming.

Now, at long last, we may get one. An appropriation passed the House last year, with the support of Representative RAY MADDEN, to finance a detailed study of the Lake County area as a possible site for a deepwater port. This area is away from the dunes and has been industrialized for years. The move, however, may be coming too late. For it seems that if the combine cannot have the port at Burns Ditch, it is willing to destroy the dunes out of sheer spite. Take the case of the Northwestern University landfill.

Last spring, Clinton Green, the secretary-treasurer of the Indiana Port Commission, announced that Bethlehem Steel had contracted for the removal of 2,500,000 cubic yards of sand from the dunes area in dispute. A dredging company was to take the sand from Bethlehem's holdings near Burns Ditch across the tip of Lake Michigan to Evanston, Ill., where it would be used as fill in Northwestern's campus expansion. Senator DOUGLAS charged that Northwestern was conspiring with Bethlehem to destroy the dunes. Northwestern officials replied that the Douglas charge was directed at the wrong target, that his fight was with Bethlehem instead. DOUGLAS insisted that Northwestern could not escape moral responsibility for the deed. University spokesmen then said they had looked into the possibility of getting out of the contract but were held to it by the dredging company.

Indiana politicians quickly sprang to the defense of the contract. Representative CHARLES HALLECK, in whose district Burns Ditch lies, declared: "If we get a harbor there, the sand has to be dredged up anyway." HALLECK, and Green of the Port Commission, took the line that the dredging would save the State money. What they did not say was that it is by no means settled that the port will be built at Burns Ditch. Senator DOUGLAS was convinced that the transaction was a thinly disguised pressure play to influence Congress to kill his legislation setting aside the dunes as a national preserve, and to push through Federal approval of the port project. If this was the intent, it failed at the last session of Congress. This will be the year of decision.

Governor Welsh and Indiana's Senator VANCE HARTKE have been using the same sort of technique in insisting that no matter what Congress does, a port will be built at Burns Ditch. The only choice, they say, is between a public and private port. They claim that Midwest Steel will build its own port in any event. However, neither Midwest nor Bethlehem has made any firm commitments to do so. After all, railroad facilities now serve Midwest's finishing plant and can serve the similar plant Bethlehem may construct. The need for a deepwater port would not be pressing unless these plants are expanded and converted to fully integrated (basic) steel-producing operations. Both are vague about when they plan to do this. Of course, if the taxpayers will build a deepwater port for them, that would be something else again.

Furthermore, the Governor's assertion that a port will be built at Burns Ditch under

any circumstances ignores the fact that if the dunes area were made a national preserve, it would be impossible to build a deep-water port at Burns Ditch.

Anyone who has seen the nearly 7 miles of beach front, with the dunes ridges fading inland behind it, knows that this area is well worth preserving. The greatest pity is that this is all that is left to preserve. The recreational and scientific value of the Indiana Dunes has been long recognized. In 1916, Stephen Mather, the first director of the National Park Service, recommended their preservation as a national park which would have taken in the entire 25-mile shoreline from East Chicago to Michigan City at an estimated cost of $3 million for the land.

No other coastline in the country boasts dunes so remarkable. They are migrating dunes, kneaded like gigantic piles of dough by the prevailing westerlies that blow off the lake, and they shift as much as 60 feet in a year. Dunes on other shores are often mere hills of earth covered with a veneer of sand, but the Indiana Dunes are all sand. They are the creation of the lake's currents and waves, which erode shores far to the north, then grind the residue into sand, and in time deposit it on the Indiana shore, making a low ridge, or storm beach, along the water's edge. The wind's action carries on the construction by swirling sand from the storm beach inland. Some of this flying sand is snared by the vegetation just beyond the beach, and foredunes are formed. These give wind protection to the older pine dunes behind them. On the pine dunes, decaying plants fertilize the accumulated soil, and jack pines and other plants thrive. Next comes the older oak dunes, with more soil, plants, and trees. At the inland extremity of the dunes, about a mile and a half from the lake, the beech-maple belt stands. This is the richest of all, heavily forested with trees and vegetation that may be as much as 10,000 years old. Between the dune ridges, water has been trapped, forming ponds, lakes, and bogs where plants, trees, and a variety of wildlife abound.

From spring through fall the dunesland is a prism of beauty. The naturalist Donald Culross Peattie described the magic the season work on these dunes in loving fashion: "There spring, stepping tardily and shyly, brings hepaticas, anemones, violets, lupine, and phlox; after them troop buttercups, Jack-in-the-pulpit, and blue flag. Crab-apple and dogwood flower, and with the coming of early summer an abundance of wild roses bloom, and the strangely beautiful dune cactus appears. Autumn is a triumph of foxglove, of more than a dozen kinds of sunflower, of the stately purple blazing star, of the wild asters that some call farewell summer."

This gift of nature is within an hour's drive of the homes of 7½ million city dwellers. Last year the Outdoor Recreation Review Commission of the Rockefeller Foundation reported to Congress on the Nation's recreational resources and needs. In its report, the commission declared: "Highest priority should be given to acquisition of areas located closest to major population centers and other areas that are immediately threatened. The need is critical—opportunity to place these areas in public ownership is fading each year as other uses encroach.

No area in the country fits this description more precisely than the Indiana Dunes.

URBAN RENEWAL—NEW FORCE IN THE MORTGAGE MARKET

Mr. DOUGLAS. Mr. President, I ask unanimous consent that an article by Mr. Andrew R. Mandala, entitled "Urban Renewal: New Force in the Mortgage Market," from the January 14, 1963, issue of the Weekly Bond Buyer, be printed in the RECORD.

This is a good roundup on urban renewal and its prospects and I believe it will be of interest to many Members of Congress.

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

URBAN RENEWAL: NEW FORCE IN THE MORTGAGE MARKET

(By Andrew R. Mandala)

Lending institutions are beginning to realize the full meaning of urban renewal as it relates to the mortgage and housing business.

In fact, one commercial banker noted last week that urban renewal is going to represent a major part of this country's urban construction for the next 25 years.

From a small beginning in 1949—the year Congress passed legislation for an urban renewal program—this nationwide program has come to the fore in the plans of many of the country's major mortgage lending institutions.

And, as the final quarter of 1962 began, 1,070 urban renewal projects were underway in 578 cities all around the country. In these projects, construction was either planned, in progress, or was completed.

Goodbody & Co., investment bankers, in its "1962–1963 Year End Review and Outlook," notes that urban renewal is one Government program which should make great strides in the coming year. The report adds that a list of the private supporters of urban renewal reads like a "Who's Who."

Of course, Goodbody's main interest in urban renewal has to do with the bonds local government agencies issue to help finance such projects.

But, urban renewal is making itself felt in every sector of the financial community, and in nearly every major city in the United States.

To date, every type of major mortgage lender has had a hand in the financing of urban renewal projects. For instance:

The John Hancock Mutual Life Insurance Co. has spent $44 million to finance the Watergate housing development project in Washington, D.C.

Travelers Insurance Co. has put up $35 million to renovate the downtown Hartford shopping area.

Prudential Insurance Co. of America is helping to restore the Backbay section in Boston.

The International Ladies' Garment Workers' Union financed the construction of Corlears Hook housing development in New York City.

The Lithographers Union will soon start work on Litho City—a complex of apartments, commercial facilities and an international students' housing center adjoining Lincoln Center in New York City.

Aside from these individual cases of lender enthusiasm for urban renewal, the savings banks are active in the program as are mortgage bankers and savings and loan associations. In fact, a savings and loan association was organized in Chicago for the purpose of aiding an urban renewal area.

It all seems to add up to one coming conclusion. That is, as Kurt F. Flexner, chairman of the mortgage finance committee of the American Bankers Association, said last week: "Urban renewal has nowhere to go but up."

It's going to take an increasing share of mortgage lenders' investible funds in future years, and has already begun to make itself felt as a force in the mortgage market.

FINANCING COMES LATER

While urban renewal is quite profitable for private lenders—especially in times of easy money—mortgage financing doesn't enter into the picture until a good deal of spadework is completed.

Edward S. Watts, president, E. S. Watts & Co., Inc., Montgomery, Ala., mortgage bankers, has explained the way urban renewal works in a report on the program for the Mortgage Bankers Association.

"The first and most important step in removing decay from the central city is for its citizens to recognize that a bad condition exists and that this condition must be corrected," he says.

As this is a local problem, plans to correct it must begin and be carried out mainly by the local government. Once local interest is aroused assistance can be had from the Federal Government.

After that, the local governments must set up a local public agency to administer the program and be empowered to contract with the Housing and Home Finance Agency.

Then, Federal grants are available to the local public agency to defray up to 50 percent of the costs involved in the preparation of a community plan. The local government must raise the other 50 percent.

Once the boundaries of an urban renewal project have been set, and areas for rehabilitation and redevelopment determined, individual properties have to be acquired. This can be accomplished through negotiation or by the law of eminent domain.

The Federal Government will assist in this phase of the operation by absorbing two-thirds of the actual net loss resulting from obtaining individual properties.

NET LOSS DEFINED

Net loss is defined as the difference between the cost of acquiring the land, demolition of the structures, and installation of the site improvements, less the resale value of the land, according to the Urban Renewal Administration, which administers the entire program.

The city must sustain the remaining loss which can be shaved considerably if the local government contributes part or all of its share in the form of site improvements.

Says Mr. Watts:

"The difference in the tax income from the old property and the new property built on cleared land should amortize the city's part of this indebtedness within a short time and then provide the city a much larger flow of tax revenue, and a broader tax base for many years."

The local government, after it has its grant, can take bids to determine who will redevelop the land so earmarked.

After that, it's a straight mortgage deal between the redeveloper and the mortgage lender.

FHA PROGRAMS

While many mortgage loans in urban renewal areas are conventional, the Federal Housing Administration, in two programs, can insure loans made for urban renewal purposes.

Within these sections, 220 and 221 of the National Housing Act of 1961, the FHA makes insurance available for construction of housing—both low and high rise; rehabilitation and repair of housing, and housing for persons displaced by urban renewal programs.

In section 220, the FHA provides the following:

Loans up to 90 percent of replacement cost and 40-year amortization for new multifamily housing.

Loans up to 90 percent on existing multifamily structures, of the total of FHA's estimate of value before rehabilitation plus the cost of the rehabilitation.

Loans for new construction or rehabilitation of one- to four-family structures in amounts comparable to those provided in section 203(b)—$25,000 to $35,000, depending on the type of house—with amortization

periods up to three-fourths of FHA's estimate of the economic life of the building.

Loans up to $10,000 per dwelling unit at 6 percent, with 20-year amortization for rehabilitation, with a second mortgage or other security that is approved by the Agency, without requirement of refinancing any existing first mortgage debt.

The principal provisions in section 221 are:

Loans up to 40-year maturity on one- to four-family dwellings for displaced persons. Down payments on these are as low as $200.

Loans up to 100 percent of replacement cost at low interest cost for housing for displaced persons and other low and moderate income families, on rental housing, if the mortgagor is a private nonprofit corporation, association, cooperative, or other public body. If the mortgagor is a limited dividend corporation, FHA will insure loans up to 90 percent.

The FHA now has 147 project loans outstanding, totaling $534.4 million. Of this total, the Federal National Mortgage Association holds 85. Banks hold 34 of these loans, life insurance companies 5, and mortgage companies 14. The remaining 9 loans outstanding are not identified by FHA.

As for the default status of these loans, a spokesman for the FHA told the Weekly Bond Buyer that "of $11 million assigned, $6 million will be worked out." In other words, the Agency expects to foreclose on only one project, with a $5 million loan. FHA declined to say which one.

The Agency now has about $75 million of commitments outstanding on section 221 loans.

SPECIAL ASSISTANCE

Naturally, this program falls under the "special assistance" label given to several projects the Government has taken a particular interest in. As such, all loans can be sold immediately by the lending institution to the Federal National Mortgage Association.

Fannie Mae will buy all urban renewal loans at par, with the exception of the 5¼'s on one- to four-family dwellings. The latter can be sold by lenders for 99.

Since FNMA began trading urban renewal loans in 1955, it has bought 34,456 mortgages covering 53,428 units. The total worth of these mortgages is $542.9 million.

The Agency would rather see these loans held by the lending institution, however, and since February has been attempting to induce mortgage holders to keep loans.

Before February 1962, Fannie Mae charged lenders a 1-percent commitment fee on all urban renewal loans. If the lender decided to sell the loan elsewhere, or to keep it, the 1-percent fee still had to be paid.

Now, however, if a lender changes its mind about selling, to Fannie Mae, the Agency refunds three-fourths of the 1-percent fee. Therefore, the lender is only charged one-fourth of 1 percent.

According to a Fannie Mae spokesman, the plan has worked. Since it was initiated last February, lenders have canceled about $100 million of commitments. This compares with total cancellations since 1955 of $197 million.

LENDERS CAN BOOST PLAN

Institutional lenders, although starting to wake up to the profit potential in urban renewal—particularly now, when they have so much money to invest—haven't fully explored all facets of the program.

This can be seen by the fact that of the $4 billion authorized for use by the Congress for urban renewal, less than half actually has been reserved for projects in execution.

Of course, it can be said that the local governments have to lead the way in any urban renewal project. But, it's also been pointed out, institutional lenders carry a lot of weight in their home areas.

It is estimated that by the time the grant authorization of $2 billion in the 1961 Housing Act for local urban renewal purposes has been used up, about 90,000 acres of land will be involved.

On the basis of past experience, the Urban Renewal Administration estimates, some 30,000 to 35,000 of the total acreage will be used for residential development.

What does this mean for home mortgage lenders? According to the URA, this acreage should generate a minimum of 300,000 dwelling units.

CHICAGO IS LEADER

Exactly how many people will benefit from urban renewal activity isn't known. But in Chicago alone, the urban renewal program currently spans 19 square miles—which includes housing for a million persons.

Chicago is one of the leading urban renewal cities. It has 27 redevelopment areas that take in about 1,000 acres. Ten other conservation areas span 11,000 acres. Private investment in Chicago's urban renewal will amount to some $600 million.

Naturally, aside from being a profitable investment for private mortgage lenders, urban renewal gives the redevelopment city a lift—both esthetically and in the pocketbook.

For example, in Chicago's Carl Sandburg Village, which is currently under construction, the city anticipates an increase in property taxes of 400 percent over what the city and county received from the area before the urban renewal project was planned.

The assessed valuation of land and buildings in this development alone will increase from about $2.7 million to $14.75 million. Furthermore, industrial projects on land cleared by the department of urban renewal of the city will yield about three times as much in taxes as is now collected in these areas. And, of course, the city gets rid of unwanted slums.

PUBLIC IMAGE BOLSTERED

Of particular interest to mortgage lenders, however, is the fact that by investing in urban renewal projects they effectively improve their public relations in the area as well as making sure their other investments in the city don't become rundown and, consequently, lose value.

To a certain degree, then, urban renewal takes on a local color. And lenders can improve their public image in their hometowns by cooperating in urban renewal projects.

This has made urban renewal particularly attractive to mortgage bankers, according to a spokesman for the Mortgage Bankers Association of America.

Of course, improving his public image is not the only concern of the mortgage banker. One Chicago urban renewal project is netting a mortgage company $130,000 a year in management fees.

PRAIRIE SHORES APARTMENTS

In a report prepared for the Mortgage Bankers Association, Fred Kramer, president of Draper & Kramer, Inc., said that his firm "is now managing 1,678 apartments located in 5 multistory buildings in Chicago."

"This urban-renewal project resulted in mortgages totaling $17,030,600 and annual management fees of $130,000," he added.

Mr. Kramer reported on the development of Prairie Shores Apartments, a highly successful urban renewal project. It is typical of projects in all parts of the country.

He said the inception of the urban renewal program in this area was based on the need for survival of two major institutions—a hospital and a university.

"Both of these institutions had huge investments in physical plants, then found themselves surrounded by an area of increasing slum and blight," Mr. Kramer said.

The two institutions instituted a planning program with the cooperation of municipal planning bodies to prepare a program of redevelopment of large parts of the entire area.

The plan included expansion of the facilities of the two institutions, and also about 126 acres for high-rise residential development.

"The New York Life Insurance Co. agreed to take on the first development: a 100-acre 2,000 apartment project. Draper & Kramer served as consultant to the insurance company and assisted in the leasing of the shopping center which was developed as a part of the program.

"The planning for the second site of approximately 26 acres was undertaken by Draper & Kramer," he continued. This includes Prairie Shores Apartments.

The mortgage firm had, of course, previously purchased the land from the Chicago Land Clearance Corp., the official agency of the city.

Draper & Kramer then retained an architect to prepare the site plans and to design the building—five 19-story structures containing 1,678 apartments.

Application was made to the FHA for a section 220 loan on the first building in the amount of $2,872,800 with 40-year amortization.

SYNDICATE ORGANIZED

"Draper & Kramer organized a syndicate on the basis of an estimated 6 percent return. Bids were taken by the architect for the construction of the buildings by a general contractor," Mr. Kramer reported.

He continued, "The bids were examined by Draper & Kramer, who made the final selection of the general contractor. A performance bond was required. The FHA commitment was issued and the FHA agreed to insure advances during construction. A major life insurance company bought this mortgage. Draper & Kramer is servicing it.

"The construction was completed within 14 months, and the building was 100 percent rented at completion."

The other four buildings in the development were handled in much the same manner as the first one, Mr. Kramer said. He added that "private investors have furnished all of the equity capital for these buildings and, as a matter of fact, the demand for participation in the equity position of these buildings has far outnumbered the available investment."

Mortgage bankers, naturally, aren't the only lenders who have put urban renewal on top of their future plans. Other lenders also have participated in urban renewal projects—for much the same reasons.

For example, in Rochester, N.Y., the displacement of families from an urban renewal project area required 120 mortgages, totaling $1,080,000. Four commercial banks, three savings banks and two savings and loan associations participated in making the loans, each taking a proportionate number of mortgages.

In Atlanta, Ga., the Atlanta Life Insurance Co. is providing the mortgage financing for Church Homes, Inc., which will build 520 dwelling units in the Butler Street urban renewal project area. This undertaking is the largest urban renewal effort by Negroes in the United States.

North Dakota has a statewide citizens program. Banks, utility companies, insurance firms, savings and loan associations and many other firms are active participants in the effort.

With all the urban renewal projects now underway or in the planning stages, however, the program is just beginning to scratch the surface.

According to the 1960 census of housing, in fact, nearly 14 million American families occupy housing which is lacking in some or all plumbing facilities, or is deteriorating or dilapidated.

Furthermore, according to the URA, "notwithstanding the $94 billion for mainte-

nance, repair, improvement, and alterations to nonfarm residential buildings the Census Bureau estimates was spent in the decade from 1950–59, approximately one American family in every four lives in housing that is deficient."

TRIBUTE TO REPRESENTATIVE HOWARD SMITH, OF VIRGINIA

Mr. BYRD of Virginia. Mr. President, I suspect no man—certainly in modern times—has done more to protect the integrity of the United States than Representative HOWARD W. SMITH, of Virginia's Eighth District.

He is a stalwart for sound government, efficient performance, and decent behavior. His present efforts to end the abuses in the use of so-called counterpart funds by congressional committees and others traveling overseas are strictly within character.

Like so many others, I have admired the great work of Judge SMITH for years. I am hopefully shocked today to find that we have been joined by the Washington Post which commends him, at least on this "score."

Whatever the reason may be, for the Washington Post to commend Congressman SMITH is a milestone in history worthy of permanent notation in the CONGRESSIONAL RECORD.

For this reason, I ask unanimous consent for the Washington Post editorial of January 30, 1963, entitled "Score for HOWARD SMITH" to be made a part of my remarks in the body of the RECORD.

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

SCORE FOR HOWARD SMITH

Chairman HOWARD W. SMITH, of the House Rules Committee, has earned the commendation of the Congress and the country by his forthright proposal to end the counterpart-fund racket. Many Members of Congress have been chagrined by what some of their colleagues have done with counterpart funds while presumably traveling abroad on authorized junkets. Their loose spending of such funds has tended to bring congressional travel in general into disrepute. It remained for Mr. SMITH to come up with positive rules to end the abuses.

The first restriction in the Smith plan would provide that counterpart funds may be used only by members of committees authorized by the House to conduct oversea investigations. This would eliminate the use of such funds for junkets arranged by individual members through mere clearance with their committee chairmen and by the chairmen themselves on their own authorization. The relatively few members entitled to use counterpart funds, which are foreign currencies credited to the United States in return for aid and which can be spent only in the country of origin, could spend only sums equivalent to the allowances to other Government officials for similar travel.

Probably more important is the requirement that returning junketeers make itemized reports of the length and purpose of each visit and of the public funds spent in each country. These reports would be made public. Strict adherence to such rules would doubtless bring to an end the high living of Congressmen abroad at public expense.

Representative SMITH's proposal merits the hearty approval of the full Rules Committee and of the House. The Senate too may well take a cue from what the House Rules chairman is doing. However much the public may deplore the restrictions that Mr. SMITH has sometimes clamped on legislation moving to the floor, we anticipate no dissent whatever (at least outside of Congress) to his crackdown on the junketeers.

QUALIFICATIONS FOR FILLING RESPONSIBLE FISCAL POSITIONS

Mr. BYRD of Virginia. Mr. President, I have been forced with regret in the past to suggest the removal of two Directors of the Federal Budget. Both were removed. The latest was David E. Bell, who was relieved in December. Mr. Bell is now in charge of the foreign aid program, probably the most wasteful of all Federal spending programs.

According to the Washington Post, Kermit Gordon, the new Budget Director, "told a congressional committee yesterday on January 29 that a balanced budget would lead to increased unemployment, higher taxes, and a general economic decline."

If the Washington Post report is correct, I want to make the suggestion again that a Budget Director be removed. I submit that a man who thinks a balanced budget would be a catastrophe does not have the frame of mind to direct the budget of the U.S. Government. It is the Budget Director's function to protect the budget, and not to destroy it.

Such ideas as Mr. Gordon expresses sound like John Maynard Keynes and Gunnar Myrdal rolled into one. Responsible fiscal positions should be filled with sound men. If we do not get crackpot economists out of these positions, the American system will be lost.

People who talk like Gordon testified before the Joint Economic Committee do not sound like men looking for new frontiers. They sound like Rip van Winkle. We have been on a deficit financing basis for 26 of the last 32 years.

The debt is $305 billion. We have had a net deficit of $28 billion since the Korean war. There was a $3.9 billion deficit in fiscal year 1961; another deficit of $6.4 billion last year; and there will be another deficit of $9 billion or more this year.

GREEK LETTER WEEK

Mr. SCOTT. Mr. President, the last week of January each year is designated as Greek Letters, Press, and Radio Week by the Greek Archdiocese of North and South America and is commemorated by the Greek Orthodox communities in conjunction with many of the American Hellenic societies throughout the United States.

The importance of this week is to stress the role played by Greek language, culture, philosophy, and the overall Greek civilization on our modern civilization. For many years, tributes have been made in both Chambers of Congress to such men as Socrates, Aristotle, Plato, Solon, Pericles, and others, of the Golden Age of Greece, who created the Hellenic heritage of basic precepts of government and civilization which has been adopted in the United States.

His Eminence, Archbishop Iakovos, head of the Greek Orthodox Church of North and South America, and one of the six world presidents of the World Council of Churches, has set January 27 through February 2 as the Greek Letters, Press, and Radio Week. During this week many of the Greek Orthodox communities in conjunction with the Order of Ahepa, the Greek American Progressive Association, and others of the more than 20 major Hellenic organizations will join together in a public forum where prominent speakers from all walks of life will participate.

It is a known fact that the Greek and Latin languages are the two basic languages of the Western civilization and a knowledge of both was considered imperative in our colleges and public schools of 100 years ago. In this era both languages are not as prominent as a course of study in our colleges and private and public schools at various levels, however, there is a trend toward a renaissance in both of these languages. The Federal Government through the Department of Health, Education, and Welfare has a program designed to encourage the teaching of foreign languages in this country.

Mr. President, the Greek Archdiocese of North and South America has for many years conducted parochial afternoon schools, teaching the Greek language to the youth of their communities, and in some areas have inaugurated a parochial school approved by the board of education of that city in which a full accreditation for the students enrolled therein. In the furtherance of the Greek language and culture as an important subject for study, the Greek Archdiocese, the Order of Ahepa, and the Greek American Progressive Association have conducted a nationwide program to encourage the teaching of the Greek language and Greek culture in the colleges and private and public schools of America.

It is the hope of those who commemorate Greek Letters Week that the enriched Greek language and culture which has found an added significance in this atomic and space age can be perpetuated in the future to aid our civilization as it has done in the past.

Mr. KEATING. Mr. President, in commemoration of the importance of Greek letters, language, culture, and civilization in our modern civilization, the last week of January each year is designated as Greek Letters, Press, and Radio Week by the Greek Archdiocese of North and South America. During this week the American Hellenic societies throughout the United States join with the Greek Orthodox churches in each city in a public forum where prominent speakers from all walks of life will participate.

Mr. President, we are all aware that the Hellenic heritage of basic precepts of government and civilization form the foundation of our own system. The Greek language is one of the two basic languages of our Western civilization. I would hope that in conjunction with the recent upsurge of interest in encouraging the teaching of foreign languages in this country, that the study of the Greek language would again play a

prominent role in our colleges and high schools.

The Greek Orthodox archdiocese and the major Greek-American organizations have worked for several years to achieve this goal. A teachers school for the study of the Greek language has been established at St. Basil's Academy at Garrison, N.Y., and a theological seminary at Brookline, Mass., will soon be expanded into the Hellenic University of America. The Order of Ahepa has begun a national drive to donate a seven-volume set of Greek classics to high schools and colleges to encourage the study of Greek language and culture. The Greek-American Progressive Association has requested the boards of education in most major cities to include the study of the Greek language in their public schools. Furthermore, the Greek archdiocese has for many years conducted afternoon schools, teaching the Greek language to the youth of their communities.

Mr. President, during this week I wish to take special note of the achievements of the archdiocese and Greek-American organizations in encouraging the study of the Greek language and culture. I commend and gladly join them in commemorating Greek Letters, Press, and Radio Week.

THE MANLY DEBT WE OWE BRITAIN

Mr. PELL. Mr. President, there are probably few Members of this body who have not been sorely distressed and frustrated in recent days by the spectacle of stubborn obstructionism and dissension which has afflicted our allies in Europe.

The potential victims of this dissension are many. The whole fabric of the European Common Market—one of the most imaginative plans for adjusting ancient nations to modern realities—is badly shaken. All our carefully laid plans for expansion of foreign markets are threatened. Perhaps hardest hit of all is our old ally and friend, Great Britain. Poised on the brink of a brave and historic new chapter in her long and proud history she is now denied and repelled by those for whom she has sacrificed so much in the past.

A distinguished American columnist has written eloquently on Britain's plight and our obligation to her. I ask unanimous consent that William White's column, entitled "The Manly Debt We Owe Britain," be printed in the RECORD.

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

THE MANLY DEBT WE OWE BRITAIN

(By William S. White)

A hard-used cousin of the United States has fallen ill, and wearily so, and now requires our help and understanding, for the sake of ordinary decency but most of all for the sake of ourselves.

This cousin is Great Britain. And this national illness is like that personal illness which comes as a chilling vision upon a middle-aged war veteran long, long after the guns have rusted in the silence of the yesterdays. Suddenly, as though in the middle of the night, he sees clearly that all his old exertions and perils have ended in dust and ashes for him and that his late rivals and even enemies are doing far better than he in the world they lately sought to destroy.

He wears, along with his wound stripes and the invisible medals that bring no profit in the marketplace, the gray badge of economic fear while more fortunate men are living it up on top of that world which only his valor and honor had helped to make for them.

This parallel between an ex-soldier now suffering postcombat fatigue and a nation suffering the same, through no fault whatever of its own, is not inexact. It is plain, given the smallest perception and understanding, that today's Britain has had altogether too much to bear for altogether too long. (And it is petty undertone to the tragedy that the most brittle of England's young entertainers now wow them on this side of the Atlantic by venomous commentaries on the land of their birth.)

BARRED BY FRANCE

The nation which so long stood alone against Hitlerism—a Hitlerism backed for a time by Stalinist Russia, too—now finds itself barred from its best hope to recover its wasted strength, the European Common Market. And by whom? By the country, France, which went to its knees before Hitler's very first blows and left that island kingdom across the channel, that England which was once forever green, naked to a storm which blew not merely against England but against all freemen everywhere.

The nation whose civilians uncomplainingly underwent not days and weeks but months and years of bombing from the skies and freely spent its substance and its lives awoke at last from the nightmare of war. And to what? To an implacable pressure (at which the United States of America stood at the very forefront) to strip from her all that she had in colonial wealth; to tear from the living body of the old Commonwealth every oversea resource she might have had to repair her ravaged strength.

But not even all this ends the tale of the hero of war who was to fare so ill in the peace which so indispensably he had helped to win.

The harsh realities forced the United States to pour out treasure, not upon tired and broken old England but upon those other lands—whether ex-enemy, as in Germany, or ineffectual ally, as in France—which it was now necessary to bolster against the sick appeal of communism.

BRITAIN GOT SYMPATHY

We could always depend upon the British, tired and broken or not. So to Britain we gave, perforce, our sympathy; to the others we gave our billions. So at length these others, notwithstanding their past guilt and failures, became, not Britain's fair equals but Britain's subsidized superiors in the economic rat race which was one of the legacies of the war.

The British are stout fellows, and very proud, too. But, to repeat, they have had altogether too much to bear for altogether too long. They would reject pity; but manly help in mutual respect they need from us. Help in the economic rat race—a determination here that no Charles de Gaulle and no dozen Charles de Gaulles shall further push Britain down, economically or otherwise—that storied first home of an American Republic which was, after all, raised up by British men.

What, then, is required of us? Why, simply, all that may be required by them to keep that honored place which by blood and valor and brains and historic decency they have a hundred times over earned. If they are no longer quite a top power in this world, they have irreplaceable values to offer still. And that world without them would be poor beyond belief—for us as well as for them.

TRIBUTE TO THE LATE ROBERT FROST

Mr. PELL. Mr. President, I rise to add another New England voice to the chorus of praise for Robert Frost. He was our poet first and foremost because he bore true witness to New England—not only to her landscape but to her conscience and soul. He will be remembered always for making the image of New England a rich and palpable part of our literature. It is a homely, familiar image of swinging birches, crumbling walls and cows at apple time. But, as comfortable and familiar as is this image of New England, Robert Frost will never be set down as a simple versifier.

He spoke to the intellect often, so subtly that the beholder of Frost's rich New England panorama did not realize that the poet was giving him a lecture. And it was Frost the intellect who became truly the Nation's poet and not just New England's bard. In this age when America is enjoying a new awareness of its culture, it is happy indeed that her most loved and most familiar poet spoke to the conscience of the Nation.

He once spoke of his own trade in a way that betrayed this concern for conscience and at the same time displayed his capacity for intellectual precision:

Every single poem written regular is a symbol small or great of the way the will has to pitch into commitments deeper and deeper to a rounded conclusion and then be judged for whether any original intention it had has been strongly spent or weakly lost; be it in art, politics, school, church, business, love, or marriage—in a piece of work or in a career. Strongly spent is synonymous with kept.

Mr. President, Robert Frost himself would probably be the first to declare in the homely language of New England that he has left the best part of him behind, and that therefore we should not lament too loudly his passing.

I would only say, therefore, that although we happily have his wisdom forever, we pay him farewell with a reluctance which, as he himself knew, comes with parting from familiar things:

Out through the fields and the woods
And over the walls I have wended;
I have climbed the hills of view
And have looked at the world, and descended;
I have come by the highway home,
And lo, it is ended.

Ah, when to the heart of man
Was it ever less than a treason
To go with the drift of things,
To yield with a grace to reason,
And bow and accept the end
Of a love or a season?

PROPOSAL TO MAKE COLUMBUS DAY A NATIONAL HOLIDAY

Mr. PELL. Mr. President, I am happy to join my distinguished senior colleague [Mr. PASTORE] is cosponsoring the bill introduced by the distinguished Senator from Delaware [Mr. BOGGS] and the distinguished Senator from New Jersey [Mr. WILLIAMS] to make Columbus Day a national holiday.

Already 38 States have designated Columbus Day as a State holiday and it seems to me most appropriate and most equitable that the birthday of Columbus

should now be made a national holiday. It is most fitting, especially for my State of Rhode Island; where the proud traditions of the land which gave Christopher Columbus to the world are now so rich a part of our own culture.

Rhode Island has been happy indeed to honor the memory of Columbus by celebrating October 12 as an official holiday within her borders ever since the holiday was established while my distinguished colleague, the Senator from Rhode Island [Mr. PASTORE] was Governor. But, as a small State seeking to compete favorably in the economic life of our Nation, it is of great importance to us that our holidays coincide with those of other States. It seems to me that the Congress should take every possible step to introduce uniformity into the Nation's calendar. This bill to commemorate Columbus Day nationally is a healthy step in that direction, particularly since more than one-half of the States already have established the holiday.

Mr. President, I respectfully urge that the Congress give favorable consideration to this bill.

AMENDMENT OF RULE XXII—CLOTURE

The Senate resumed the consideration of the question submitted to the Senate by the Vice President, with respect to the motion of the Senator from New Mexico [Mr. ANDERSON], Does a majority of the Senate have the right under the Constitution to terminate debate at the beginning of a session and proceed to an immediate vote on a rule change notwithstanding the provisions of the existing Senate rules?

The PRESIDING OFFICER (Mr. METCALF in the chair). Is there further morning business? If not, morning business is closed.

The pending question before the Senate is: Does a majority of the Senate have the right under the Constitution to terminate debate at the beginning of a session and proceed to an immediate vote on a rule change notwithstanding the provisions of the existing Senate rules?

Mr. HUMPHREY. Mr. President, do I correctly understand that under the unanimous-consent agreement there is to be a call for a live quorum before limitation of debate is applied to the pending question?

The PRESIDING OFFICER. The Senator from Minnesota is correct.

Under the order of yesterday, the Chair will now, prior to the beginning of debate on the issue of tabling the pending question submitted by the Chair to the Senate on Monday for decision, direct the Secretary to call the roll for a live quorum, after which debate will proceed pursuant to the provisions of the order.

The Secretary will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names.

[No. 13 Leg.]

Aiken	Bartlett	Bennett
Allott	Bayh	Bible
Anderson	Beall	Boggs
Brewster	Holland	Mundt
Burdick	Hruska	Muskie
Byrd, Va.	Humphrey	Nelson
Byrd, W. Va.	Inouye	Neuberger
Cannon	Jackson	Pastore
Carlson	Javits	Pell
Case	Johnston	Prouty
Church	Jordan, Idaho	Proxmire
Clark	Keating	Randolph
Cooper	Kefauver	Ribicoff
Cotton	Kennedy	Robertson
Curtis	Kuchel	Russell
Dirksen	Lausche	Saltonstall
Dodd	Long, Mo.	Scott
Dominick	Long, La.	Simpson
Douglas	Magnuson	Smathers
Eastland	Mansfield	Smith
Edmondson	McCarthy	Sparkman
Ellender	McClellan	Stennis
Engle	McGee	Symington
Ervin	McGovern	Talmadge
Fong	McIntyre	Thurmond
Fulbright	McNamara	Tower
Goldwater	Mechem	Williams, N.J.
Gruening	Metcalf	Williams, Del.
Hart	Miller	Yarborough
Hartke	Monroney	Young, N. Dak.
Hayden	Morse	Young, Ohio
Hickenlooper	Morton	
Hill	Moss	

Mr. HUMPHREY. I announce that the Senator from Tennessee [Mr. GORE] is absent on official business.

I further announce that the Senator from North Carolina [Mr. JORDAN] is necessarily absent.

Mr. KUCHEL. I announce that the Senator from Kansas [Mr. PEARSON] is necessarily absent.

The PRESIDING OFFICER (Mr. KENNEDY in the chair). A quorum is present.

The clerk will read the part of the unanimous-consent agreement which is applicable at this time.

The legislative clerk read the following:

Ordered, * * * and that after debate of 3 hours, to be equally divided and controlled, respectively, by Mr. RUSSELL and Mr. HUMPHREY, the Senate proceed to vote on the issue of tabling the said question. Furthermore, that there be a live quorum before the debate limitation starts and after it ends.

Mr. HUMPHREY. Mr. President, I yield 5 minutes to the Senator from Oregon [Mr. MORSE].

The PRESIDING OFFICER. The Senator from Oregon is recognized for 5 minutes.

COMMENDATION OF SOUTH'S ATTITUDE TOWARD QUESTIONS OF CIVIL RIGHTS

Mr. MORSE. Mr. President, in my opinion three events have occurred in the South in recent days which are much more significant to the question of civil rights and a statesmanlike solution of the many facets of the race problem of our country than anything that has occurred in our time in the Senate. They are certainly more significant and symbolic than anything that has occurred in the Senate since we convened on January 9.

I wish briefly to comment on those three great events in the South, because, as I have said, I think they are significant and prophetic.

First, I refer to the great statement of the Governor of North Carolina which the majority leader, the Senator from Montana [Mr. MANSFIELD], had printed in the RECORD yesterday. In my judgment, that statement is prophetic. It shows us the new South. In my judgment, many places in the North can take to heart the great statement of the Governor of North Carolina. I wish to read only two or three paragraphs from it, because I think it is particularly fitting that we keep in mind the statesmanship of the Governor of North Carolina as we try to deal in the Senate with the whole question of civil rights, which, of course, is basic to the debate which is taking place in this Chamber. The Governor of North Carolina said:

> Now is a time not merely to look back to freedom, but forward to the fulfillment of its meaning. Despite great progress, the Negro's opportunity to obtain a good job has not been achieved in most places across the country. Reluctance to accept the Negro in employment is the greatest single block to his continued progress and to the full use of the human potential of the Nation and its States.
>
> The time has come for American citizens to give up this reluctance, to quit unfair discriminations, and to give the Negro a full chance to earn a decent living for his family and to contribute to higher standards for himself and all men.
>
> We cannot rely on law alone in this matter because much depends upon its administration and upon each individual's sense of fairplay. North Carolina and its people have come to the point of recognizing the urgent need for opening new economic opportunities for Negro citizens. We also recognize that in doing so we shall be adding new economic growth for everybody.

I congratulate the Governor of North Carolina, and I venture a prediction today that he is pointing the way to the inevitability of the elimination of discrimination against the colored people of our country, not only in the economic field, but also in education and in all the fields of American life, leading finally to true first-class citizenship for the colored people of our country.

Another event has occurred in the South which I think is not only symbolic, but prophetic. I congratulate the great State of South Carolina, because we are witnessing in this hour the admission to Clemson College of a Negro student. All the reports indicate that he is being admitted without the great strife, struggle and conflict that characterized the admission of Mr. Meredith in Mississippi. That is progress. It is prophetic progress. I should like to hear what will be said on the floor of the Senate 10 years from today on the great problem of civil rights and the race problem in the United States, because in my judgment there will be a great progress, led by the South, in the elimination of discrimination against the colored man, both north and south, east and west, across our Republic.

The third event I wish to mention is the report that James Meredith is returning to Mississippi for another semester. As time passes, and people understand the real essence of the constitutional program that is being inaugurated in the South, there will be granted to the colored people of our country the freedom and the first-class citizenship which are long overdue.

But again let me point out that it is not only in the South where there is a need for elimination of discrimination against the colored man; there are many

places in the North where discrimination also exists.

As we come to vote today on the issue that is before the Senate, I would that we might reflect upon and keep pace with North Carolina and South Carolina and the new generation of farseeing leaders in the South who recognize that our Republic ought to stand for first-class citizenship for all its citizens irrespective of race, color or creed.

The Nation is far ahead of the Senate in this matter. Even the Deep South is making more progress than the Senate has been able to make in bringing first-class citizenship to colored Americans.

I think it is about time for the Senate to catch up with America.

AMENDMENT OF RULE XXII—CLOTURE

The Senate resumed the consideration of the question submitted to the Senate by the Vice President, with respect to the motion of the Senator from New Mexico [Mr. ANDERSON], Does a majority of the Senate have the right under the Constitution to terminate debate at the beginning of a session and proceed to an immediate vote on a rule change notwithstanding the provisions of the existing Senate rules?

Mr. RUSSELL. Mr. President, I yield 10 minutes to the distinguished Senator from Virginia [Mr. ROBERTSON].

Mr. ROBERTSON. Mr. President, at 3 p.m. the Senate will vote on the question of laying on the table the pending motion which is, in effect, a vote on whether or not the Senate is a continuing body. That vote will temporarily end this unnecessary discussion, but it will not end the issues that have been raised.

In my earlier discussion, I referred to the 1936 decision of the Supreme Court in United States against Butler, which declared the Agricultural Adjustment Act of 1933 to be unconstitutional. I said that the Butler case was the last decision of our Supreme Court which was free from political pressure. I went on to call attention to the decision in the case of Helvering against Davis in the next year, which, for the first time, held that, in spite of the 10th amendment, the general welfare clause gave our Nation unlimited spending powers.

In order that there may be better understanding of the taxing powers, I ask unanimous consent to have printed at this point in the RECORD a summary of the Pollock case of 1895, as a result of which we amended the Constitution, as we had the right to do, and gave the Congress unlimited taxing power.

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

POLLOCK *v.* FARMERS LOAN AND TRUST COMPANY, 157 U.S. 429, 158 U.S. 601 (REHEARING)

In the Pollock case the Supreme Court determined that taxes on rent or income from real estate or personal property are direct taxes. Such taxes are unconstitutional unless levied in accordance with article I, section 9, clause 4, of the Constitution which provides "no capitation, or other direct, tax shall be laid, unless in proportion to the census or innumeration herein before directed to be taken."

Mr. Chief Justice Fuller declared at page 637 of the rehearing that:

"We adhere to the opinion already announced, that, taxes on real estate being indisputably direct taxes, taxes on the rents or income of real estate are equally direct taxes [and further]—

"That taxes on personal property, or on the income of personal property, are likewise direct taxes."

In declaring unconstitutional the sections of the act of 1894 levying taxes on the income from real estate and personal property, the Court chose to invalidate the entire act on the ground that it constituted a single scheme of taxation. The Court left the clear implication, however, that those provisions of the act levying unapportioned direct taxes on the income from "professions, trades, employments, or vocations" would have been held constitutional if they had been enacted by Congress separate from the provisions relating to income from real estate and personal property.

The Court stated at page 635: "We have considered the act only in respect of the tax on income derived from real estate, and from invested personal property, and have not commented on so much of it as bears on gains or profits from business, privileges, or employments, in view of the instances in which taxation on business, privileges, or employments has assumed the guise of an excise tax and been sustained as such."

Mr. Chief Justice Fuller continues at page 636: "It is evident that the income from realty formed a vital part of the scheme for taxation embodied therein. If that be stricken out, and also the income from all invested personal property, bonds, stocks, investments of all kinds, it is obvious that by far the largest part of the anticipated revenue would be eliminated, and this would leave the burden of the tax to be borne by professions, trades, employments, or vocations; and in that way what was intended as a tax on capital would remain in substance a tax on occupation and labor. We cannot believe that such was the intention of Congress. We do not mean to say that an act laying by apportionment a direct tax on all real estate and personal property, or the income thereof, might not also lay excise taxes on business, privileges, employments, and vocations. But this is not such an act; and the scheme must be considered as a whole."

HISTORY AND PURPOSE OF THE 16TH AMENDMENT

The 16th amendment was ratified on February 3, 1913. It provides: "the Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or innumeration."

"Corwin on the Constitution" discusses the history and purpose of this amendment as follows: "The ratification of this amendment was the direct consequence of the decision in 1895 whereby the attempt of Congress the previous year to tax incomes uniformly throughout the United States was held by a divided court to be unconstitutional. A tax on incomes derived from property, the Court declared, was a 'direct tax' which Congress under the terms of article I, section 2, clause 3, and section 9, clause 4, could impose only by the rule of apportionment according to population; although scarcely 15 years prior the Justices had unanimously sustained the collection of a similar tax during the Civil War, the only other occasion preceding amendment 16 in which Congress had ventured to utilize this method of raising revenue."

Mr. ROBERTSON. The Supreme Court bestowed upon the Congress unlimited spending powers. I claim that action misinterpreted the meaning of the general welfare clause. The Senator from Illinois [Mr. DOUGLAS] disagreed. During my speech he first said:

Do you not know that Thomas Jefferson approved a motion that would arbitrarily end debate?

I said:

No; I do not.

I later learned that the Senator from Illinois got that information from Mr. Irving Brant, who also furnished him information concerning Madison's position on the general welfare clause. The Senator from Georgia [Mr. RUSSELL] has just inserted in the RECORD a scholarly statement showing how wrong both Brant and the distinguished Senator from Illinois were that there was ever used in the Senate a motion, as we know it today, of the previous question that would arbitrarily cut off debate.

Then when I argued that the Supreme Court had misinterpreted the welfare clause, the distinguished Senator from Illinois said words to the effect that, as construed by the Court in Helvering against Davis:

Do you not know that James Madison advocated the welfare clause in the Constitutional Convention, and then did a flip-flop?

I said:

No, I do not know it, and I do not believe it is true.

Mr. President, I ask unanimous consent to have printed in the RECORD the proof that the charge was not true, and that the Senator from Illinois got his information concerning the alleged flip-flop from the same New Deal writer, Irving Brant, who gave him the misinformation about the previous question.

I ask unanimous consent to have printed at this point in the RECORD a statement by Brant on the welfare clause.

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

The general welfare clause involved no contention between large and small States, and, when cut down to money matters, probably stirred no opposition.

Nevertheless, it is with reference to the general welfare clause that the record of what was before the committee becomes important. After his shift to strict construction, Madison challenged Hamilton's contention (afterward approved by the Supreme Court) that the power to spend for the general welfare covered everything that was for the general welfare. The phrase, he said, was copied from the Articles of Confederation, where it was always understood as nothing more than a general caption to the specified powers. Many years later, combating a contention that the clause carried an indefinite power of legislation, he undertook to trace the use of the words in the Constitutional Convention. Writing in 1830 to Andrew Stevenson, Speaker of the House of Representatives, he said they first appeared in the Virginia resolve (written by himself) calling for a revision of government adequate to the objects of "common defense, security of liberty, and general welfare." They reappeared on August 21 in a committee report

for payment of debts incurred "for the common defense and general welfare." Four days later they cropped up in a defeated motion for payment of debts and "defraying the expenses that shall be incurred for the common defense and general welfare."

After this, said Madison, came the report of the Committee on Unfinished Parts, giving Congress power to lay taxes, "to pay the debts and provide for the common defense and general welfare." His conclusion was that these latter words never would have gone into the Constitution, except for their connection with the debt-paying clause of the Articles of Confederation. Inattention to phraseology probably accounted for the failure to make it plain that spending for the general welfare was limited by the other enumerated powers.

This chronicle omits the whole chain of general welfare legislative clauses in the 1787 Convention. It omits the dynamic part of his own proposal that, to make the Government adequate to "common defense, security of liberty and general welfare," Congress have power "to legislate in all cases to which the separate States are incompetent." It omits the Sherman proposal of power to make laws "in all cases which may concern the common interests of the Union." It omits the Bedford request for power "to legislate in all cases for the general interests of the Union." It omits the Committee of Detail's revolutionary reversal of August 22, when it proposed a power to provide "for the well managing and securing the common property and general interests and welfare of the United States." Finally, it omits the fact that this last proposal, formally recommended for inclusion in the Constitution, was the one and only clause relating to the general welfare that was referred to the committee which drafted the final clause.

Madison's 1830 account totally ignores the fact that the principal decision to be made by the Committee on Unfinished Parts was whether to complete the powers of Congress by means of an enumeration, or by means of the sweeping general welfare clause reported by the Committee of Detail. The decision was for an enumeration. But the fact that this choice had to be made renders it utterly impossible to dismiss the narrower clause as the accidental product of language drawn from the Articles of Confederation without thought of its meaning. Furthermore, a convention which hovered so close to a general power to legislate for the general welfare would not have been likely to set sharp limits, or to think of sharp limits, on the less inclusive power to spend for this purpose. During all but 2 weeks (August 6 to 22) of its more than 3 months' session, an unrestricted power to spend for the general welfare was included in the vastly broader legislative proposals lying before the Convention, two of them approved by it. The final spending power was submitted to the Convention in the very act of dropping the broader power.

Madison did not go into the subject until his original nationalism had been swept out of existence by concern over misuse of Federal power. Having sincerity of purpose, he felt no insincerity of position. For more than a hundred years his inaccurate account of the general welfare clause lived on, furnishing fallacious arguments against the Supreme Court's interpretation of it—an interpretation required by the necessities of the Nation, but squarely in line with the history of a provision whose true paternity runs back to Madison himself.

Mr. ROBERTSON. Mr. President, I wish to emphasize this statement:

For more than 100 years—

Speaking of James Madison—

his inaccurate account of the general welfare clause lived on, furnishing fallacious arguments against the Supreme Court's interpretation of it—an interpretation required by the necessities of the Nation.

When I read that statement about the "necessities of the Nation" to have unlimited spending powers, I knew it was the earmark of a New Dealer. I did not know who Brant was, so I went back to find out about his background. I learned that he was a great friend and ardent supporter of Mr. Roosevelt—Franklin D. He was a great friend of Harold Ickes, who gave him a PWA job. He was a New Deal writer for a newspaper in St. Louis which went out of business. He was a New Deal writer for the Chicago Sun, which, under the leadership of Marshall Fields, was as far to the left as the Chicago Tribune, under Colonel McCormick, was to the right. Ickes gave him a new job with the PWA.

I admit he had a B.A. degree, from a midwestern university, but I know of no claim to scholarship, until it was made in his behalf because of his 5-volume work on James Madison, which he hopes will become a standard reference book in all libraries—colleges and public libraries of the country.

He claims Madison deliberately misrepresented his position on the welfare clause. So I say about **Brant** as a historian, I regard him in the same light as a man from Mississippi who told the Senator from Mississippi [Mr. STENNIS] he intended to write a fair and impartial history of the War Between the States from the southern viewpoint.

Mr. President, I ask unanimous consent to have printed in the RECORD what Madison said in Federalist Paper No. 41. Brant knew about Federalist Paper No. 41 and deliberately ignored it. He charged that Madison, years afterward, wrote a letter in which he changed his position. That charge was untrue. Madison stated his position in 1788 in Federalist Paper No. 41, and I ask that it be printed in the RECORD.

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

Madison in the 41st issue of the Federalist Papers said:

"But what would have been thought of that assembly [Congress of the Confederation] if, attaching themselves to those general expressions and disregarding the specifications which ascertain and limit their import, they had exercised an unlimited power of providing for the common defense and general welfare? I appeal to the objectors themselves, whether they would in that case have employed the same reasoning in justification of Congress as they now make use of against the Convention. How difficult it is for error to escape its own condemnation."

Mr. ROBERTSON. Mr. President, Edward McNall Burns, in a small but scholarly book entitled "James Madison: Philosopher of the Constitution," quoted Madison as saying that not a single reference was ever made in the Philadelphia Convention of 1787 to the general welfare clause as a grant of power.

I ask unanimous consent that the excerpt relating to "Madison's Conception of the Foundation of the Constitution" may be printed in the RECORD at this point.

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

Madison's conception of the foundation of the Constitution virtually necessitated a theory of strict construction of that instrument. He believed that in adopting the constitutional compact the people in the States divided the sovereignty that they possessed. Since sovereignty in its entirety has no precise limits, this division could have been made in only one of two ways. Either the people in the States must have allotted to themselves a few specific powers, leaving the undefined remainder to the General Government; or else they must have made the General Government a government of enumerated powers with all the rest of the sovereignty reserved to the States. That the division was not made in the former mode, he maintained, is perfectly obvious from the Constitution itself, for the powers granted to Congress are specifically enumerated. It follows that the General Government can exercise only those powers that are actually granted to it, and such others as may be absolutely necessary to carry them into execution. This was the theory which Madison adhered to throughout his life as we shall see from a discussion of his doctrines of inherent powers, the necessary and proper clause, the general welfare clause, and the power to enact protective tariffs. Although he allowed to the General Government several prerogatives which other strict constructionists like John Taylor would never have tolerated, he always insisted that he was not doing violence to his theory, that these powers were really conferred upon Congress either directly or by necessary implication.

* * * * *

Madison would not even admit that the necessary and proper clause could be made to justify Federal expenditures for internal improvements—unless we can find an exception in certain of his statements in the Federalist. In No. 42 of that series he wrote: "The power of establishing post roads must in every view be a harmless power, and may perhaps by judicious management become productive of great public conveniency. Nothing which tends to facilitate the intercourse between the States can be deemed unworthy of the public care." But if he intended to imply by these assertions anything more than a Federal power to provide for the transmission of the mails, he changed his mind later on; for as President he denied that Congress had any authority to appropriate money for roads and canals save those having a bona fide postal or military object. Ardently as he desired a national network of communications, he insisted that only a constitutional amendment, or some adequate substitute therefor, could give Congress the power to provide for them. It is rather difficult, though, to see why he could not have found about as much constitutional warrant for internal improvements as for the seizure of west Florida, which appeared not to trouble his political conscience in the slightest.

If Madison refused to countenance a loose construction of the necessary and proper clause, even less did he approve of a liberal interpretation of the general welfare clause. The insertion of the words "common defense and general welfare" in article I, section 8, of the Constitution, so as to provide that "The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States" was the result, he maintained, of a kind of freak of history. The taxing power clause as it originally stood expressed simply

a power "to lay taxes, duties, imposts, and excises" without indicating any objects, and of course intended that the revenues derived should be applicable to the other specified powers of Congress.

A solicitude to prevent any possible danger to the validity of the debts contracted by the Confederation led the Convention to add the phrase, "to pay the debts of the United States." Then, inasmuch as this might be taken to limit the taxing power to a single object, a familiar phrase of the Articles of Confederation, "to provide for the common defense and the general welfare," was annexed, but without any purpose of giving additional power to Congress. In the new instrument as in the old this phrase was intended merely as a general and introductory statement to be qualified by the specific grants of power contained elsewhere.

Furthermore, according to Madison, not a single reference was ever made in the Convention to the general welfare clause as a grant of power, unless a proposal offered on the 25th of August should be considered as such. An amendment was introduced on that day to give Congress power to provide for payment of the public debts, "and for defraying the expenses that shall be incurred for the common defense and general welfare." The amendment was rejected, only one State voting for it. It is impossible to believe, Madison insisted, that the jealous defenders of States rights in the Convention and the advocates of a strict limitation of Federal powers should have silently permitted the introduction of a phrase nullifying the very restrictions they demanded. The only explanation that is in any degree plausible, he maintained, is that the words "common defense and general welfare" were taken for granted as harmless since they were being used in precisely the same way as in the Articles of Confederation.

Madison pointed out also that when the Constitution was submitted for ratification, a majority of the States proposed amendments to safeguard their own rights and the liberties of their people. Thirty-three were demanded by New York, twenty-six by North Carolina, twenty by Virginia, and smaller numbers by the other—all of them designed to circumscribe the powers of the Federal Government by restrictions, explanations, and prohibitions. Yet not a single one of these amendments referred to the words "general welfare," which, if understood to convey a substantive power, would have been more dangerous than all of the other powers objected to combined. That the terms with any such meaning attached to them could have passed unnoticed by the State conventions, characterized as they were by strong suspicions against the whole project of a national government, was more than Madison could believe, and he did not see how anyone else could believe it.

In view of these facts of history Madison argued that only one conclusion was possible, namely, that the general welfare clause was never intended to be a grant of power. Its meaning, he insisted, must be sought in the succeeding enumeration of powers, or else the General Government of this country is a government without any limits whatever. If Congress as the supreme and sole judge of that subject can apply money to the general welfare, then it may assume control over religion or education or any other object of State legislation down to the most trivial police measure. The only correct interpretation is to permit taxation for some particular purpose embraced within one of the enumerated powers and conducive to the general welfare.

If a proposal for collecting and expending Federal revenues meets these qualifications, it is constitutional; otherwise it is not. Acceptance of the opposite interpretation would destroy the import and effect of the enumeration of powers. For, he declared, it must be patent to anyone who chooses to think on the subject that there is not a single power which may not be considered as related to the common defense or the general welfare; nor a power of any consequence which does not involve, or make possible, an expenditure of money. A government, therefore, which enjoyed the right to exercise power in either one or both of these premises would not be the limited government contemplated by the fathers of the Constitution, but a consolidated government of absolute power.

When he came to the subject of protective tariffs Madison seemed to waver a bit as a strict constructionist. To be sure he always maintained that the tariff power was a necessary derivative of the authority to regulate foreign commerce, but he came perilously close at times to asserting an inherent power of the Federal Government to foster and protect the economic interests of the country. For example, he argued that the right to protect its manufacturing, commercial, and agricultural interests against discriminating policies of other countries belongs to every nation. Previous to the adoption of the Constitution this right existed in the governments of the individual States. The want of such an authority in the Central Government was deeply felt and deplored, and to supply that want was one of the chief purposes of the establishment of the new system.

If the power was not transferred, then it no longer exists anywhere; for obviously it could not now be exercised by the States. He contended that sovereign powers in the United States, although divided between the States in their united capacity and in their individual capacities, must nevertheless be equal to all the objects of government, except those prohibited for special reasons, such as duties on exports, and those inconsistent with the principles of republicanism. Why this doctrine could not also have been applied to other powers, for example the power to construct internal improvements beyond the capacity or jurisdiction of the States, is certainly not readily apparent.

On various occasions Madison submitted other arguments to justify the constitutionality of protective duties. He maintained that power over foreign commerce had been generally understood at the time the Constitution was adopted to embrace a protective authority, that it had been so applied for many years by Great Britain, "whose commercial vocabulary is the parent of ours." He alleged that as a result of this understanding of the subject, the States, many of which had already provided encouragement for manufactures, clearly intended that Congress should have authority to impose protective tariffs when they relinquished control over foreign commerce. He cited the fact that in the First Congress not a doubt was raised as to the constitutionality of protectionism although a number of protective measures were actually introduced: several by Members from Virginia in favor of coal, hemp, and beef, and one by a Member from South Carolina in favor of hemp. None of them had revenue for its primary object, and one of them would have excluded revenue altogether since it prohibited imports of the commodity named. Besides, the preamble to the tariff bill as a whole contained the express avowal that protection was an object. If any doubt on the point of constitutionality had existed, these declarations could not have failed to evoke it, Madison argued. He seemed to attach considerable importance also to the fact that the constitutionality of protectionism "had been agreed to, or at least acquiesced in," by all branches of the Government, by the States, and by the people at large, "with a few exceptions," for a period of 40 years.

Mr. ROBERTSON. Mr. President, one of the foremost scholars of this Nation is Dr. William T. Hutchinson, of the University of Chicago, a senior editor of the papers of James Madison—a joint undertaking between the University of Virginia and the University of Chicago.

I asked my friend, Mr. Clinton M. Hester, who has a lovely home at Bath Alum, Va., to write to his friend, Dr. Hutchinson, about Madison's position on the general welfare clause in the Constitutional Convention.

I ask unanimous consent, Mr. President, to have printed in the RECORD the viewpoint of Dr. Hutchinson, who has been assembling the Madison Papers, who is an eminent scholar, who challenges the statement made by the New Dealer Brant that while Madison's intentions were good, he had been inconsistent and subsequently had misrepresented the facts.

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

THE PAPERS OF JAMES MADISON,
Chicago, Ill., January 29, 1963.

Mr. CLINTON M. HESTER,
James Madison Memorial Commission, Washington, D.C.

DEAR MR. HESTER: As so often in the past, I again wish to acknowledge your kindness in sending me copies of your correspondence with Dr. Dodds and others, so that I may keep up to date with your skillful efforts on behalf of James Madison. Of course I greatly hope that House Joint Resolution 69 will be accepted by both Houses of Congress.

"Madison's attitude on the welfare clause" has been a controversial issue among statesmen and scholars almost from the time of the Constitutional Convention. Therefore, my view, summarized below, is by no means beyond challenge, especially since I differ somewhat with Irving Brant, who has worked much more thoroughly than I have in the manuscript sources of 1787–89 (we in this office are still back in 1781–82 and will send our volume III to press this week). Senator DOUGLAS apparently subscribes to Brant's "James Madison: Father of the Constitution, 1787–1800," pages 137–139. But on the other hand, I am unable to agree unqualifiedly with Senator ROBERTSON. Probably, after over 40 years as an academic, I have become firmly and permanently anchored within the gray area of opinion about any controversial issue.

For this reason, I believe that Madison's position on the general welfare problem cannot be stated accurately in a brief sentence or two. As early as March 12, 1781, upon recommending an amendment to the Articles of Confederation which would have empowered Congress to use "the force of the United States as well by sea as by land to compel" a State or States "to fulfill their Federal engagements," he commented that although Congress has a general and implied power to do this without any amendment, it would be well to add one because it would be "most consonant to the spirit of a free constitution that on the one hand all exercise of power should be explicitly and precisely warranted, and on the other that the penal consequences of a violation of duty should be clearly promulg[at]ed and understood." Besides being Madison's first use—at least in his extant papers—of the term "implied power," he here sets forth a general position or slant of mind to which, I believe, he adhered thereafter, and which conditioned his more explicit stand on the general welfare clause.

This clause appears twice in the Articles of Confederation—first, in article III, which defines the broad purposes of the Articles of Confederation (and which would be transferred to the Preamble of the Constitution of

the United States), and, second, in article VIII, where common defence or general welfare is used to define or limit the purposes for which Congress might spend money.

The Virginia plan, written by Madison and introduced in the Constitutional Convention of 1787 by Edmund Randolph on May 29, consists of 15 paragraphs. The first of these declares that the Articles of Confederation should be corrected and enlarged so as to achieve its purpose, viz, "common defence, security of liberty, and general welfare." The sixth paragraph states that "the National Legislature ought to be empowered to enjoy the legislative rights vested in Congress by the Confederation and moreover to legislate in all cases to which the separate States are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation; to negative all laws passed by the several States contravening in the opinion of the National Legislature the articles of Union; and to call forth the force of the Union against any member of the Union failing to fulfill its duty under the articles thereof."

Six weeks earlier (April 16, 1787) Madison had written to Washington, "I would propose next that in addition to the present Federal powers, the National Government should be armed with positive and complete authority in all cases which require uniformity; such as the regulation of trade, including the right of taxing both exports and imports, the fixing the terms and forms of naturalization, etc., etc." Judging from the record which he kept of the debates in the Convention, he sometimes appears in the heat of the discussions to advance to a more nationalistic position, but, in the main, I believe that he stood firmly on the position taken in his letter to Washington and in the Virginia plan. (See Madison's notes for May 31, June 13, August 22 and 23, and September 14, 1787.) Above all, see the last four paragraphs of his Federalist Paper No. 41. Here, in my opinion, even though he obviously was seeking to allay fear that the proposed Constitution would result in too strong a Central Government, he was presenting his sincere interpretation of what the general welfare clause in the Articles of Confederation had meant, what it meant in the Constitution, of which he was the principal architect, and, as would become clear, what he would continue to hold during the rest of his life. (See, for example, his long letter of November 27, 1830, on the subject to Andrew Stevenson, Speaker of the House of Representatives, in G. Hunt, editorial, "Writings of Madison, IX," pp. 411–424.)

In summary, Madison's view of the general welfare clause cannot be understood apart from the use of that clause in the Articles of Confederation, apart from his interpretation of the meaning of "implied powers," or apart from the specific grants of power to Congress in article I, section 8 of the Constitution—especially the first paragraph of that article, which confers the power to tax and mentions the general welfare and the common defense as the justification for, or end to be sought by, Federal taxes. The general welfare was whatever welfares of the States united could not be attained except by the legislation of a central Congress. Particular matters of this sort were listed in all except the last paragraph of article I, section 8. James Madison interpreted the ambiguous word "proper" in the final paragraph as, not contrary to the well-known common law safeguards of individual liberties (Bill of Rights), mainly inherited from Britain, while Hamilton chose to interpret "proper" as meaning merely the equally indefinite "appropriate," and of course eventually had his way. Madison and Jefferson naturally had to believe in implied power but would confine its range to those means which were absolutely necessary, rather than merely appropriate to carry into effect the specific grants of power in article I, section 8. The parting of the ways on this subject between Madison and Hamilton came, as is well known, on the issue of the First National Bank of the United States—an institution deemed by Madison to be neither essential to the general welfare nor necessary as a means to lay and collect taxes, pay the debts, and borrow money. As the years passed, Madison saw, or thought he saw, more and more instances of stretching the general welfare clause and implied powers beyond all reason—as illustrated by his ably argued attacks on the Alien and Sedition Acts and his Presidential veto on March 3, 1817, of an internal improvement bill. In his view, these encroachments had begun when a majority in Congress mistakenly interpreted the general welfare clause to be a substantive grant of indefinite power rather than merely a restraint on the taxing power or a caption to describe and justify the specific grants of power in the later paragraphs of article I, section 8—powers which obviously, for the good of all the people of the United States, had to be lodged in a central legislative body.

With all good wishes,

Sincerely,

WILLIAM T. HUTCHINSON,
Senior Editor.

Mr. ROBERTSON. Mr. President, I ask unanimous consent to have printed in the RECORD Dr. Hutchinson's biography, as published in Who's Who in America, as an evidence of his scholarship.

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

Hutchinson, William Thomas, university professor; born, Freehold, N.J., March 9, 1895; son, Thomas Combs and Anne (Thomas) H.; A.B., Rutgers University, 1916, Litt. D., 1941; A.M., Columbia University, 1917; Ph. D., University of Chicago, 1927; married Frances Runyon, November 23, 1921; children: Anne (Mrs. Ward M. Hussey), Judith (Mrs. John K. Powell, Jr.). Instructor in history, Rutgers University, 1921–24; with University of Chicago, 1924, acting chairman, department of history, 1942–43, chairman, 1943–50, Preston and Sterling Morton, professor American history, 1955—; secretary, Charles R. Walgreen Foundation, 1938–45 (publications, 15 vols. "Walgreen Studies in Democratic Institutions"). Served as private, sergeant, second lieutenant, and first lieutenant, 5th Regiment, U.S. Marine Corps, 2d Division, A.E.F., 1917–19. Supercargo, U.S. Shipping Board, 1919–21. Awarded Croix de Guerre with two citations and Purple Heart. Member, War Department Committee on History of the War, 1946–56. Member, American Historical Association, Mississippi Valley Historical Association (president, 1958–59, board, editors, Mississippi Valley Historical Review, 1946–49), Phi Beta Kappa, Baptist. Club: Quadrangle. Author: "Biographies of Cyrus H. McCormick and Frank O. Lowden." Editor, Democracy and National Unity, 1941, others: coeditor, James Madison's Papers, 1956—. Home: 5821 Dorchester Avenue, Chicago. (Source: Who's Who in America, 1962–63.)

Mr. ROBERTSON. Last but not least, Mr. President, I wrote to a friend who is the chairman of the Virginia Commission on Constitutional Government. He referred my letter to Mr. Hugh V. White, Jr., the executive director of that commission, who, in my opinion, is one of the best constitutional lawyers in Virginia.

Mr. White has written me a 14-page letter in which he analyzes all of the evidence, pro and con, on whether Brant's biography of Madison was correct when the author claimed that Madison advocated the welfare clause as an unlimited grant of power and then did a flip-flop on it.

Mr. President, I ask unanimous consent that there may be printed in the RECORD, together with the references, the 14-page letter to me of January 30, 1963, written by Mr. Hugh V. White, Jr., executive director of the Virginia Commission on Constitutional Government.

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

COMMONWEALTH OF VIRGINIA,
COMMISSION ON CONSTITUTIONAL GOVERNMENT,
Richmond, Va., January 30, 1963.

Hon. A. WILLIS ROBERTSON,
Chairman, Senate Committee on Banking and Currency, Senate Office Building, Washington, D.C.

DEAR SENATOR ROBERTSON: Mr. Mays has given me your letter of January 24, 1963, and he has requested that I forward to you any information available on Mr. Madison, the Virginia plan, and the general welfare clause.

The sections that you quote, which were referred to in the debate of January 15 by Senator DOUGLAS, are extracted from the Virginia plan.[1] However, I think it important to understand that the Virginia plan was intended as a general recommendation of the objectives sought to be accomplished by the new Constitution; they were not intended to create the precise wording that should go into that Constitution. As an illustration of this line of thought, Resolution 1 offered by Mr. Randolph on May 29, 1787, referred to the general welfare as an objective to be accomplished by the new Constitution. This did not mean that the new Constitution should create a General Government that would be empowered to act as it wished to improve the general welfare. It simply meant that the new Constitution should achieve that objective, and it might well do so by reserving to the States the power to legislate in general fields, while the national legislature should be empowered to legislate in certain specific fields.

I believe that Resolution 6, also offered by Mr. Randolph on May 29, 1787, properly should be read in the same light. For example, when that resolution states that the national legislature "ought to be empowered * * * to legislate in all cases to which the separate States are incompetent," this does not mean that the National Legislature can legislate on anything it wishes simply by determining that the States are incompetent in those fields. To the contrary, I believe this provision to be perfectly consistent with the Constitution as it evolved, giving to the national legislature the power to legislate in certain specified fields, e.g., interstate commerce, raising armies and navies, requiring a common currency, etc., it being the sense of the Convention that the States were incompetent to legislate in these fields.

In addition to these principles of construction that should be applied to the Virginia plan, I believe that the situation as it existed early in 1787 under the Articles of Confederation should be kept in mind. When Mr. Madison and the other delegates met in Philadelphia, the Nation was living under a charter of government that allowed no Federal power over interstate and foreign commerce, no money for Federal purposes except by requisition upon the States, and no amendment except by the unanimous consent of all the component States, to name a few of the more important weaknesses. As a result the Nation was in some turmoil, having no money in the treasury, no uniform set of regulations governing foreign trade, and having witnessed at least one major

[1] Elliot's Debates, 143–145.

rebellion against an established State government in Massachusetts. It was only natural, therefore, that the delegates to the Convention should arrive at Philadelphia with a strong impression that there should be created a more powerful Union. The ensuing debates no doubt gave time for reflection, which revealed the dangers of creating an all-powerful central government. This explains to some extent why the Virginia plan as offered emphasized that the central government must have considerable powers, and this explains why the Virginia delegates and the delegates from other States created from the Virginia plan a modified federal system of government that would provide proper safeguards against the creation of too powerful a Central Government.

As for the role of James Madison in advocating a strong Central Government, I do not think it could be denied that this was one of his great objectives, just as it is proper today to argue for a Central Government strong in the exercise of those powers delegated to it by the Constitution. For example, early in the Convention, Madison said that "he should shrink from nothing which should be found essential to such a form of government as would provide for the safety, liberty and happiness of the community." [2] This statement, read in connection with Madison's earlier statement that he had grave doubts as to the possibility of enumerating the powers of Congress, has been interpreted by some people to mean that Madison was in favor of a Central Government with broad general powers. This interpretation I believe to be insupportable, because any Senator today, or indeed anyone dedicated to the well-being of this Nation, would no doubt support anything essential to the safety, liberty and happiness of the community.

It is generally understood that Madison drafted the Virginia plan. However, the plan was introduced by Edmund Randolph, of Virginia, who presumably was familiar with the plan and sympathetic with it, or Madison surely would not have consented to his presentation of the plan. Therefore, it is important to note that early in the Convention, when some delegates expressed fear that they were creating an all-powerful national government, Mr. Randolph "disclaimed any intention to give indefinite powers to the National Legislature, declaring that he was entirely opposed to such an inroad on the States' jurisdictions; and that he did not think any considerations whatever could ever change his determination. His opinion was fixed on this point." [3]

It was immediately after this that Madison said "he had brought with him into the Convention a strong bias in favor of an enumeration and definition of the powers necessary to be exercised by the national legislature * * *," though he also had doubts as to whether the enumeration could be accomplished.[4]

It is impossible to reconcile these statements by the author and a principal advocate of the Virginia plan with the interpretation that the plan was intended to create a central government of broad general powers. The attitude evidenced early in the Convention by Madison is borne out by his later correspondence, as will be seen shortly.

Of course it is true that Madison advocated a congressional power to veto State laws, and he also supported, early in the Convention, a constitutional provision authorizing the use of Federal forces against a State when necessary. However, both these provisions were rejected, and Madison later revised his position on at least one of these items, concluding that it would be disastrous for the Federal Government to have the power of using force against a State.[5] In light of these facts, little importance can be attached to these two rejected provisions of the Virginia plan.

At one point early in the Convention, Mr. Bedford, of Delaware, moved to give Congress the affirmative power to legislate in all cases "for the general interests of the Union. * * *" This was a considerably broader power than that proposed by the Virginia plan, and Mr. Madison is recorded as opposed to Bedford's suggestion.[6] As for the attitude of Edmund Randolph toward this proposal, he said "it involves the power of violating all the laws and constitutions of the States, and of intermeddling with their beliefs," and Virginia voted against the revision, which passed for the moment but eventually failed of adoption.[7]

This information as to the views expressed by Madison and Randolph is the best of that available from the debates of the Federal Convention in Philadelphia. As you will recall, there was a long period of time, about 2 months, during the Convention when the matter of general welfare, or general powers of Congress, was not even discussed. Incidentally, this long period of silence is an argument in support of limited construction of the general welfare clause, because the several strong proponents of reserved State powers undoubtedly would not have remained silent while a broad general power was conferred on the Congress. Madison mentions this factor in some of his correspondence which appears later in this paper.

I will now proceed to a brief examination of some of the comments made by Madison and Randolph during Virginia's ratifying convention. In so doing, it is worth noting that the ratifying conventions in the several States were the actions that breathed life into the Constitution. Before that time, the Constitution was simply a piece of paper, binding on no one; therefore the interpretations placed upon the grants of power to Congress in the ratifying conventions should be of great importance.

In the Virginia convention, Madison had this to say about the powers of Congress and the powers of the States:

"The powers of the General Government relate to external objects, and are but few. But the powers in the States relate to those great objects which immediately concern the prosperity of the people." [8]

These remarks by Madison, made within a few months following the Federal Convention, on July 11, 1788, are strange words to be uttered by a man who Senator DOUGLAS claims as an ally in advocating broad congressional power.

Shortly thereafter in the Virginia convention, Patrick Henry made an impassioned speech in which he criticized what he believed to be the broad power conferred on Congress by the general welfare clause. In reply, Edmund Randolph said,

"I appeal to the candor of the honorable gentleman (Henry), and * * *. I ask the gentlemen here, whether there be a general, indefinite power of providing for the general welfare? The power is, 'to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare. * * *' No man who reads it can say it is general, as the honorable gentlemen represents it. You must violate every rule of construction and common sense, if you sever it from the power of raising money and annex it to anything else, in order to make it that formidable power which it is represented to be." [9]

Thus, the man who presented the Virginia plan, speaking on June 24, 1788, less than a year after the Constitution was drafted, refers to the interpretation placed on the plan by Senator DOUGLAS as a violation of every rule of construction and commonsense.

I note from your debate in the Senate that Senator DOUGLAS refers to repudiation of "the doctrines of Richard Henry Lee" and other great Virginians. This is an unusual statment to be made by one who is engaged in interpreting the debates of the Federal Convention and the meaning of the Constitution as ratified, because Richard Henry Lee rejected an invitation to represent Virginia at the Federal Convention, and he opposed ratification of the Constitution in the Virginia convention.

The sense of the Virginia convention as an entity is clear, however, "we, the delegates of the people of Virginia * * * do, in the name and in behalf of the people of Virginia, declare and make known * * * that every power, not granted (by the Constitution) remains with them, and at their will * * *." [10]

These are not the words of a body disposed to place broad general powers in the hands of the National Legislature.

It is quite obvious from the debates in the Virginia convention that if Madison and Randolph intended the Virginia plan to create a National Government of general powers, they must have accomplished a complete reversal of opinion during the few months following the Federal Convention and before the Virginia convention, and they must have accomplished this reversal so completely that they could speak with a great deal of conviction in the Virginia convention.

I am sure you are familiar with Madison's essay in the Federalist Papers, in which he describes the broad interpretation placed on the general welfare clause as a "misconstruction." You will recall that Madison then discussed the enumeration of powers and the fact that such an enumeration would have been unnecessary had the general welfare clause given the broad powers that Hamilton and some others claimed for that clause.[11] I will not quote the passage, but it seems to me that this is quite persuasive material, because the Federalist essays were written shortly after the Convention, and presumably they were well-considered essays, while the proceedings during the Convention may have been somewhat disorderly on occasion, and may not have been recorded with absolute correctness.

The final item in reaching the true construction that Madison placed on the general welfare clause is his correspondence in the years following the Convention. Writing to Edmund Pendleton on January 21, 1792, with regard to Hamilton's broad interpretation of the general welfare clause in his report on manufactures, Madison referred to "a new constitutional doctrine of vast consequence, and demanding the serious attention of the public. I consider it myself as subverting the fundamental and characteristic principle of the Government * * * and as bidding defiance to the sense in which the Constitution is known to have been proposed, advocated, and adopted. If Congress can do whatever in their discretion can be done by money, and will promote the general welfare, the Government is no longer

[2] Madison, Journal of the Federal Convention, p. 83. (Hereinafter cited as Journal.)
[3] Journal, p. 83.
[4] Ibid.
[5] Journal, p. 84.
[6] III Brant, "James Madison, Father of the Constitution," 103. (Hereinafter cited as Brant).
[7] III. Brant, pp. 102–103.
[8] III "Elliot's Debates," 259.
[9] III "Elliot's Debates," 599–600.
[10] III "Elliot's Debates," 656. This passage is from the text of Virginia's ratification of the Constitution as agreed to by the entire Convention.
[11] The Federalist, No. 41, at 300–301 (Wright, edition, 1961) (Madison).

a limited one, possessing enumerated powers, but an indefinite one. * * *" [12]

Several writers have stated that Madison changed his view after the Convention and that his correspondence in later years reflected this revised opinion. However, it is important to note that this letter was written early in 1792, before some of the really important clashes between the Federalists and the anti-Federalists. And it is of much importance to note that Madison refers in the letter not to his opinion of 1792, but to the prevailing opinion when the Constitution was proposed, advocated, and adopted. If one is to contend that Madison held the contrary opinion in 1787, he must impugn the honesty of Madison himself, writing in 1792.

In a letter to Andrew Stevenson under date of November 27, 1830, Madison discussed at great length the proper interpretation of the general welfare clause. He traced that clause from the Articles of Confederation through the Convention at great length, and at one point he wrote "that the terms in question were not suspected in the Convention which formed the Constitution of any such meaning as has been constructively applied to them, may be pronounced with entire confidence; for it exceeds the possibility of belief, that the known advocates in the Convention for a jealous grant and cautious definition of Federal powers should have silently permitted the introduction of words or phrases in a sense rendering fruitless the restrictions and definitions elaborated by them." [13]

I think it is clear from the foregoing information that a good case can be made for the proposition that Madison advocated a strict construction of the general welfare clause, with reliance on the enumerated powers of article I, section 8 of the Constitution, as defining the proper powers of Congress. There can be no doubt, of course, that Madison wanted to see a strong Union wtih a Federal Government sufficiently powerful to manage those problems that must be managed at the national level.

No doubt he had some changes of opinion during the course of the Convention and possibly thereafter, as practically everyone has changes of opinion on matters that are difficult and of great importance. But judging from all the information I have been able to discover during this necessarily brief period of research, I do not think there is any doubt that Madison always adhered to the basic theory of a Central Government of limited powers, with general powers reserved to the States. I cannot for a moment believe that Madison, had he been confronted early in 1787 with the interpretation now placed on the general welfare clause, would have stated that it met with his general approval.

If you feel that there is anything further that I might do along this line, please let me know.

Sincerely,

HUGH V. WHITE, Jr.,
Executive Director.

Mr. ROBERTSON. Mr. President, I have put this material into the RECORD knowing full well that at 3 o'clock this afternoon we will vote to lay on the table a motion, the real purpose of which is to challenge the fact that the Senate is a continuing body. That vote will temporarily end the debate to change Senate rules, but it will not settle the issues which have been raised. I have shown that the Constitution was amended to give Congress unlimited power to tax.

When that constitutional change was being debated, a Senator in opposition thereto, said, "I fear that if we take this step the time will come when the Federal Government will take as much as 5 percent of a man's income."

I do not have to tell the distinguished present Presiding Officer (Mr. KENNEDY in the chair) what the Federal Government now takes in income taxes. Impatient of a constitutional rule on spending, a Chief Executive put pressure on the Supreme Court to construe the general welfare clause in a way that would permit it. With unlimited taxing power and unlimited spending power in the hands of the Central Government, the only protection of the States from a domineering and possibly oppressive Federal Government is a U.S. Senate as a continuing body with rules of free debate that cannot be arbitrarily changed at the beginning of the Congress by a simple majority.

The PRESIDING OFFICER. The time of the Senator from Virginia has expired.

Mr. PROXMIRE. Mr. President, will the Senator from Minnesota yield me 2 minutes?

Mr. HUMPHREY. Mr. President, I yield 3 minutes to the Senator from Wisconsin. If he needs more time I will yield it to him.

Mr. PROXMIRE. I thank the distinguished Senator from Minnesota.

HOWARD MORGAN'S GREAT PLEA FOR PUBLIC-INTEREST APPOINTMENTS TO REGULATORY AGENCIES

Mr. PROXMIRE. Mr. President, recently a distinguished Commissioner of the Federal Power Commission, Mr. Howard Morgan, announced he would not accept reappointment to the Federal Power Commission. This was a sad decision, because Mr. Morgan has been an excellent Commissioner. He is one of those rare people who is more concerned with the public interest than with anything else.

His letter to the President of the United States is so compelling and persuasive on the importance of appointing properly qualified people to these commissions that I shall later ask to have it printed in the RECORD. Before doing so I wish to read brief excerpts from it.

He said:

Ordinary men cannot administer those laws today in the face of pressures generated by huge industries and focused with great skill on and against the sensitive areas of government. Ordinary men yield too quickly to the present-day urge toward conformity, timidity, and personal security.

Mr. Morgan also points out:

Without the needed sense of public responsibility, a Commissioner can find it very easy to consider whether his vote might arouse an industry campaign against his reconfirmation by the Senate, and even easier to convince himself that no such thought ever crossed his mind.

Mr. Morgan also says:

The big problem is to find men of ability, character, courage, and broad vision who have the same viewpoint as the authors of the legislation they will be called on to administer; men who would feel at ease while working with a Pinchot or a Norris; men who don't become neurotic with worry after having cast a vote for the public interest.

He also says:

Regulatory agencies have extraordinary problems and responsibilities, and they operate under extraordinary pressures. They require—and they cannot operate successfully without—extraordinary men.

Mr. President, in the past I have objected—in one case, at least, at very great length—to appointments of unqualified men to these commissions. I hope that Members of the Senate will read this letter and think of its implications, because the burden which we as Senators have in approving appointments of men to these commissions is one of our most important responsibilities.

Mr. President, I ask unanimous consent to have the letter written by Commissioner Howard Morgan of the Federal Power Commission to the President printed in the RECORD at this point.

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

FEDERAL POWER COMMISSION,
Washington, D.C., January 23, 1963.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: It is with considerable regret that I now convey to you my firm decision not to accept a further appointment to this Commission after expiration of my present term of office on June 22, 1963. I respectfully request that a nomination to replace me be made in time to permit confirmation by the Senate prior to that date.

There are a number of reasons for my decision but I am sure I should be considered less than gracious if I were to list them all. Besides, several of them are clearly visible to those who have read the dissenting opinions which I have been obliged to write during my service here. I should, however, like to make a general comment concerning the regulatory agencies which may be of some small help to you, to my successors and to the public interest. My study and work in the regulatory field cover a period of 25 years, and the strongest convictions produced by that experience are those I am setting forth in this letter.

Standing as it does midway between the extremes of unbridled monopoly and undiluted state ownership, public utility regulation has been perhaps as noble, hopeful and challenging a concept as any in our democratic framework of government. The passage of laws establishing this concept required all the courage, self-sacrifice and tenacity of men like George Norris, Hiram Johnson, Gifford Pinchot and many, many more of the same caliber. Ordinary men could not possibly have secured the enactment of those laws against the almost overwhelming forces opposed to them. Ordinary men cannot administer those laws today in the face of pressures generated by huge industries and focused with great skill on and against the sensitive areas of government. Ordinary men yield too quickly to the present-day urge toward conformity, timidity and personal security.

Under our laws the great natural monopolies which form our utility industries are granted almost priceless protections and privileges. The industries and individual companies are keenly alert to their rights, as they should be, and properly insist before the commissions, the courts and the Congress upon prompt and full enjoyment of those rights.

[12] I "Writings of James Madison," 546.

[13] IV "Writings of James Madison," 128. The letter and attached memos cover about 20 printed pages of text.

But those unusual rights—rights not enjoyed by unregulated industry—are accompanied by unusual obligations and responsibilities. Or are supposed to be. There is the rub. If our regulatory laws are not administered by men of the same character, courage and outlook as the men who enacted the laws, we will surely find the regulated industries and companies successful in postponing, or evading entirely, the responsibilities which are supposed to accompany their rights. When this happens, utility regulation ceases to be or never becomes a protection to the consuming public. Instead it can easily become a fraud upon the public and a protective shield behind which monopoly may operate to the public detriment.

The big problem in the regulatory field is not ex parte communications, influence peddling and corruption as that word is commonly understood, though where these problems exist they can be serious. In my experience as a regulatory official I have been approached only once with a veiled intimation that money or stock was available in return for a favorable decision, and that was at the State level, not here in Washington. But abandonment of the public interest can be caused by many things, of which timidity and a desire for personal security are the most insidious, the least detectable and, once established in a regulatory agency, the hardest to eradicate. This Commission, for example, must make hundreds and even thousands of decisions each year, a good many of which involve literally scores and hundreds of millions of dollars in a single case. Without the needed sense of public responsibility, a Commissioner can find it very easy to consider whether his vote might arouse an industry campaign against his reconfirmation by the Senate, and even easier to convince himself that no such thought ever crossed his mind. And if he can fool himself, whom can he not fool?

The big problem is to find men of ability, character, courage, and broad vision who have the same viewpoint as the authors of the legislation they will be called on to administer; men who would feel at ease while working with a Pinchot or a Norris; men who don't become neurotic with worry after having cast a vote for the public interest.

Admittedly there is no oversupply of such men these days. There never was. But men, and only such men, make great regulatory commissioners. It is only when a commission is staffed by men, for example, like Eastman, Aitchison, Splawn, and Mahaffie of the old Interstate Commerce Commission that the public gets protection instead of platitudes; principle instead of puff-jobs and image-building; hard work instead of streamlining and wall-chart juggling.

As you well know, there has been a great deal of study of regulatory agencies lately, and with good reason. All of the studies I have seen mention the matters I have discussed in this letter, but only in passing; and then proceed to make detailed suggestions of an organizational and administrative character. I am sure the agencies will continue to benefit from these studies and suggestions, but I am equally convinced that the main problem is in the area of personnel selection which I have discussed.

Regulatory agencies have extraordinary problems and responsibilities, and they operate under extraordinary pressures. They require—and they cannot operate successfully without—extraordinary men.

Let me emphasize that these comments have been general in nature and apply equally to all regulatory agencies. With the exception of the persons named herein they are not intended to depict or describe any individual, including my colleagues and myself.

Service on the Commission has been an immensely stimulating and educational experience for me, for which I shall remain grateful to you. Please let me extend all good wishes for the continued success of your administration.

Very sincerely,

HOWARD MORGAN,
Commissioner.

THE FUTURE OF MANNED STRATEGIC AIRCRAFT

Mr. PROXMIRE. Mr. President, yesterday the distinguished Secretary of Defense, Mr. Robert S. McNamara, appeared before the House Committee on Armed Services.

There has been a lot of talk in the Congress—and I am sure there will be a great deal more talk in the coming months—about manned bombers. Unfortunately, that talk is likely to be one-sided. Very few of us will support the Secretary's position. I intend to do so. I think the Secretary's position—as is always true of the Secretary of Defense—is convincingly and concisely stated.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PROXMIRE. Mr. President, I ask unanimous consent to proceed for 30 more seconds.

The PRESIDING OFFICER. Is there objection to the request by the Senator from Wisconsin?

Mr. RUSSELL. Mr. President, will that time be charged?

Mr. PROXMIRE. Mr. President, will the Senator yield mc a half minute?

Mr. HART. Mr. President, I will yield the Senator 1 minute.

Mr. PROXMIRE. Mr. President, I ask unanimous consent to have printed in the RECORD the section of the Secretary's statement on "The Future of Manned Strategic Aircraft" which includes the bombers, the missiles, and other strategic forces.

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

THE FUTURE OF MANNED STRATEGIC AIRCRAFT

I know that this committee is concerned over the question of the future of manned strategic aircraft. As I promised last year, we have made a most detailed and exhaustive review of the entire problem of the future role of these systems. I would like to review some of the recent history of this issue and to report to you on our findings at this time.

B–52 PROCUREMENT

The first bomber procurement issue I faced was the question of whether or not to procure another wing of B–52's in 1961. At that time, we had a force of some 1,500 intercontinental bombers, soft based and concentrated on about 60 bases. We had very few ICBM's, and those that we did have were also soft and concentrated. By mid-1961, as you will recall, we had 5 Polaris submarines operational; a very small force. The most urgent problem at that time, and the problem was urgent, was to acquire rapidly a large force of protected nuclear firepower that could not be knocked out in a surprise missile attack.

Manned bombers on the ground are quite vulnerable to surprise ballistic missile attack. Minuteman, however, because it is installed in hard and dispersed sites, is far less vulnerable. An attacker would have to use several of his missiles in order to be reasonably confident that he had knocked out one Minuteman. And Polaris missiles in submarines at sea cannot be targeted for ballistic missile attack at all. Therefore, we decided to concentrate our procurement dollars on the accelerated production of Minuteman and Polaris. This decision did not mean that we did not want manned bombers. We already had many bombers but very few ballistic missiles. What we needed to do was to build a more balanced force of bombers and missiles, and to do that, we had to buy more missiles.

THE RS–70

The next issue I had to face was the development of the B–70, or the RS–70 as it was later called. The issue here was not the future of manned strategic aircraft in general. Rather, it was whether this particular aircraft, in either of its configurations, could add enough to our already programed capabilities to make it worth its very high cost.

Many of the arguments that have been advanced in support of the RS–70 actually support the case for postattack reconnaissance in combination with an improved ICBM force. We believe that there are more promising ways of performing this mission than the RS–70, when both cost and effectiveness are considered. Other than this, the RS–70 is said to have two distinct capabilities: (1) transattack reconnaissance; that is, reconnaissance during our missile attack, and (2) the ability to examine targets and attack them on the spot with strike missiles, if required. Quite apart from the technical feasibility of developing, producing, and deploying such a system within the time frame proposed by the Air Force (which we do not think possible), there are better ways, when one considers both cost and effectiveness, to obtain both of these capabilities.

The principal advantage of having a reconnaissance and a strike capability in an aircraft is one of timeliness. That is, it may be possible to process and interpret enough of the recon data in the few minutes the aircraft is still within range of the target to permit an effective air-to-surface missile strike, keeping in mind that the aircraft would be moving at a speed of over 30 miles per minute and that the missile would have a relatively short range—i.e., a few hundred miles. If this can be done effectively there is the advantage of being able to deal with the target within minutes instead of an hour (or more) if the strike had to be accomplished by some other weapon system. Quick attack is not always important, but to the extent that it is and can be accomplished effectively, a "strike" capability in the aircraft is an advantage. However, postattack reconnaissance and subsequent strike—whether by air-to-surface missiles or ICBM's—is important in two principal cases: (1) Where fixed targets whose location was not known precisely must be attacked; (2) in mop-up operations against fixed targets of known location that have been programed for initial attack by ballistic missiles, but which may not have been destroyed.

Initial attack on targets of known location can be accomplished effectively with ICBM's, which have the important advantages of shorter time to target, lower cost, and higher survival potential. Mobile targets simply cannot be successfully attacked with an RS–70, and, in fact, such a role has not been proposed for that aircraft.

The issue, therefore, resolves itself to the question: How much could we gain from a capability to attack the two types of targets I referred to earlier, with air-to-surface missiles instead of ICBM's?

With regard to the first case, if a target is known to be somewhere within a relatively small area, usually its exact location can eventually be established. Moreover, such targets can be attacked by ICBM's after postattack reconnaissance. With regard to the second case, other means are expected to be available to determine whether targets previously attacked by ICBM's have been destroyed. These targets, too, once it is known

that they have not been destroyed, could be attacked again with ICBM's.

The RS–70, by carrying air-to-surface missiles, would provide only a very small increase in overall effectiveness. In my judgment, this increase is not worth the large additional outlay of funds estimated at more than $10 billion above the $1.35 billion already approved.

Accordingly, we propose to complete the presently approved $1.3 billion B–70 development program of three aircraft and, in addition, continue the development of selected sensor components using, in the current fiscal year, $50 million of the extra $192 million provided by the Congress last year for the RS–70 program. The Air Force has not yet completed its analysis of the effect on development costs of the 3-month delay already encountered in the flight testing of the first B–70.

SKYBOLT

The final issue related to the future of manned bombers is the cancellation of Skybolt. It has been argued that Skybolt would be able to extend the life of the B–52 force in an era of increasingly sophisticated enemy air defenses. That is, even if the B–52 were to have trouble penetrating enemy defenses, it could stand off at a distance and fire Skybolt. Viewed in this role, it was clear that Skybolt could not make a worthwhile contribution to our strategic capability since it would combine the disadvantages of the bomber with those of the missile. It would have the bomber's disadvantages of being soft and concentrated and relatively vulnerable on the ground and the bomber's slow time to target. But it would not have the bomber's advantageous payload and accuracy, nor would it have the advantages usually associated with a manned system. It would have the lower payload and poorer accuracy of the missile—indeed, as designed it would have had the lowest accuracy, reliability, and yield of any of our strategic missiles—without the relative invulnerability and short time to target of a Minuteman or a Polaris.

These characteristics make Skybolt unsuited to either category of primary strategic targets. On the one hand, Skybolt would not have been a good weapon to use against Soviet strategic airbases, missile sites, or other high priority military targets because it would take hours to reach its target, while a Minuteman could reach it in 30 minutes. On the other hand, Skybolt would not have been a good weapon for controlled, countercity retaliation. Aside from its relative vulnerability to antiballistic missile defenses, it has the important disadvantage that its carrier, the B–52, must be committed to its targets, if at all, early in the war because it would be vulnerable on the ground to enemy missile attack. Commonsense requires that we not let ourselves be inflexibly locked in on such a matter. And being "locked in" is unnecessary when we have systems like Polaris whose missiles can be withheld for days, if desired, and used at times and against targets chosen by the President. The Skybolt, therefore, cannot be, and is not, justified as a weapon to be used against primary targets.

Skybolt's value, then, would depend upon its effectiveness in the only remaining important target category, "defense suppression", that is, the destruction of the enemy's defenses in order to permit the bombers to penetrate. But in this role Skybolt offered no unique capability. Several other missiles could also be used to attack enemy defenses: Minuteman and Hound Dog in particular. Skybolt offered a special advantage in this role only as long as it was expected to be significantly cheaper than alternative systems. Unfortunately, this advantage disappeared.

The cost history of Skybolt is particularly poor. Although originally estimated to be less, the Air Force early in 1960 estimated that Skybolt would cost $214 million to develop and $679 million to procure. By early 1961, the estimated development cost had increased to $391 million. By December 1961, the estimated development cost had risen to $492.6 million and the procurement costs to $1,424 million. In its July 1962 program submission, the Air Force increased the estimated procurement cost to $1,771 million. Thus, the latest Air Force estimate to develop and procure Skybolt exclusive of warheads was $2,263.6 million.

In fact, there are compelling reasons for believing that even these latest estimates are still very unrealistic, and that the actual costs would be much higher. For example, the Skybolt development program was far behind schedule on the program that was supposed to be completed for $492.6 million. According to that program, there were supposed to be 28 test flights by the end of 1962, when, in fact, there were only six. Moreover, the amount of flight time allowed in the Skybolt test program was less than half the amount which was actually required for Hound Dog, a much less complex development.

Just how much more would have been required to complete Skybolt is uncertain. I am sure that the full development and engineering test program would have ultimately cost at least $6 million and might have cost substantially more. As for procurement, it is difficult to see how the cost could have been less than $2 billion. Thus, the Skybolt would very likely have become nearly a $3 billion program, not counting the additional cost of warheads. And even then, there was no assurance that the Skybolt development would result in a reliable and accurate missile.

In effect, this meant that Skybolt had lost whatever cost advantage it once promised. The cost per missile aboard an alert bomber—and that is the most realistic way to reckon the cost—would approximate $4 million per missile, very close to the incremental initial investment cost for a Minuteman missile, complete with its blast resistant silo. In view of Minuteman's greater flexibility, reliability, accuracy, its much lower vulnerability and faster time to target, it clearly makes sense to meet our extra missile requirements by buying Minuteman rather than Skybolt.

We propose, then, that to the extent ballistic missiles are required for defense suppression, they be Minuteman. I can assure you, moreover, that the missile program I am recommending is fully adequate to the defense suppression task.

Finally, I want to emphasize that we are doing many other things to help our bombers to penetrate enemy defenses. We have equipped the B–52's with jamming equipment and with air-launched Quail decoy missiles to confuse the defenses. Nearly $315 million for a wide range of measures to enhance the overall effectiveness of the B–52 fleet was included in the 1963 budget, and about $210 million more is included in the 1964 budget request.

Lest there be any impression to the contrary, the cancellation of Skybolt has had no effect whatsoever on our plans for retention of the B–52 fleet. However, that decision will result in a net saving of about $2 billion, even after providing for the extra Minuteman for the defense suppression task.

BOMBER FORCES

We plan to continue a mixed force of missiles and manned bombers throughout the entire planning period—1964–68. Although most of the aiming points in the Soviet target system can be best attacked by missiles, the long-range bombers will still be useful in followup attack, particularly on certain hardened targets. Accordingly, all 14 of the B–52 wings will be maintained in the force once attrition aircraft have been procured with prior year funds to support this force.

The B–47 subsonic medium bombers will be gradually phased out of the forces over the next several years. Some of these aircraft would be continued in operation for a longer period of time than now planned if the need should arise over the next year or two. Two wings of the B–58 supersonic medium bombers will be continued in the force throughout the program period.

Since July 1961 we have maintained approximately 50 percent of the manned bomber force on a 15-minute ground alert. Because this measure is essential to the survival of the force in a ballistic missile attack, we plan to continue it throughout the program period. But I should caution that a 15-minute ground alert may not be sufficient to safeguard the bomber force—particularly during the later part of this decade. By that time the Soviet Union could have a large number of missile-firing submarines on station within reach of most of our bomber bases. The increasing missile threat underscores both the importance of maintaining our on-the-shelf airborne alert capability and the value of the special provisions contained in section 512b of the fiscal year 1963 Defense Appropriation Act. This is the section which authorizes the Secretary of Defense, upon determination by the President that such action is necessary, to provide for the cost of an airborne alert as an excepted expense. This provision should be retained in the law.

Although we are planning to continue the present airborne alert training program and the maintenance of an on-the-shelf capability to fly one-eighth of the force for 1 year, we must always be ready to increase promptly the scale of this operation. Indeed, during the early phases of the Cuban crisis last year, we did just that. We may be able to finance the additional cost of that action from our current year's appropriations, in which case we may not have to resort to section 512b this year; provided, of course, that no new crisis again forces us to expand our airborne alert operations.

ICBM AND POLARIS FORCES

By and large, the strategic missile forces we are proposing for the fiscal year 1964–68 period are in line with those presented last year, with two major exceptions which I will discuss.

(a) Atlas: There has been no change in the Atlas program during the last year and all 13 Atlas squadrons, aggregating 126 operational missiles on launchers, are now in place. No change has been made in the decision to start phasing out some of the "soft" Atlas; however, we will for some time retain the option to phase them out either more slowly or more quickly as future circumstances may warrant.

(b) Titan: The Titan force is essentially the same as that presented to the committee last year. All six squadrons of Titan I, aggregating 54 missiles, are now in place. We expect all 12 squadrons of Titan, aggregating 108 missiles on launchers, to be in place by the end of the current calendar year, and we plan to continue this force throughout the programed period.

(c) Minuteman: A total of 800 Minuteman missiles have been programed through fiscal year 1963. These should all be in place by the end of fiscal year 1965. The program is on schedule, the first 30 operational missiles are already in place, and the first three squadrons totaling 150 missiles should be operational by the end of the current fiscal year. The 1964 budget includes funds for another 150 Minutemans, raising the total force to 950.

(d) Polaris: The Polaris program is about the same as that presented to the committee last year. Thirty-five Polaris submarines were fully funded through fiscal year 1963 and the long lead-time equipment for six additional ships was provided for. The last 6 of the planned fleet of 41 submarines are

fully funded with the provision of $695 million in the fiscal year 1964 budget. Nine Polaris submarines carrying 144 missiles are now deployed at sea. Nine more submarines with 144 missiles will become deployable during fiscal year 1964.

The first five Polaris submarines are equipped with the 1,200-nautical-mile A–1 missile. We had also planned to equip the sixth submarine with the A–1 missile but we have since found it possible to equip it with the A–2 missile which has an effective range of 1,500 nautical miles. Similarly, the 19th was to be equipped with the A–2 missile but we now plan to outfit it with the 2,500 nautical mile A–3. Thus, the 6th through the 18th submarine will be equipped with the A–2 missile and the 19th through the 41st will be equipped with the A–3. As previously planned, all of the earlier submarines will eventually be equipped with the A–3 missile, although the missile tubes of the first five will have to be replaced to accommodate the larger missile.

The presently planned Polaris force will require a supporting fleet of six tenders, six resupply ships, and a number of floating drydocks and other support ships. A force of six tenders has been programed in order to insure that at least five of the six will be available for continuous deployment to support the five squadrons into which the Polaris force will be organized. Four tenders and three supply ships were funded through fiscal year 1963. The 1964 program includes funds for the fifth tender and also funds for the conversion of another resupply ship. The balance of the requirement will be brought into the force in phase with the deployment of the submarines. This program, except for the one change—the addition of the tender—is the same as presented last year.

A year ago, funds were requested to begin construction of the west coast Polaris logistics support and training complex to permit deployment in the Pacific. The complex includes a missile facility at Bangor, Wash., a training facility at Pearl Harbor, an overhaul facility at Puget Sound, and a Polaris tender anchorage at Guam. About $1 million is included in this budget to complete work on these facilities.

(e) Penetration aids: A great deal of progress has been made during the last 2 years in the study of penetration aids for our ballistic missiles, but much more remains to be learned about the physical effects which accompany the reentry of ballistic missile warheads into the atmosphere and the various methods which might be used to simulate these effects. There are a large number of different techniques which might be used as penetration aids. Each has its particular advantages and disadvantages.

As we learn more about antiballistic missile defense and reentry phenomena, further improvements may be expected in our penetration aids. But this is a costly research program requiring much sophisticated instrumentation at the test ranges. Accordingly, we have made every effort to take maximum advantage of the related work being done in connection with our own antiballistic missile defense R. & D. efforts, particularly the Nike-Zeus and Defender projects. Obviously, the problems of the offense are the converse of those of the defense and the information obtained from our penetration aids program is of very great value to our antiballistic missile program and vice versa. What we have already learned from our penetration aids research has greatly influenced our thinking on the antiballistic missile defense problem which I will discuss in the next section of my statement.

OTHER STRATEGIC RETALIATORY FORCE PROGRAMS

There are a number of other systems supporting the Strategic Retaliatory Forces.

(a) Quail: This program of decoy missiles for the B–52 bombers has now been completed.

(b) Tankers: Last year the figures presented for the KC–135 tankers included a number of aircraft for the National Emergency Airborne Command Post (NEACP) and the Post Attack Command and Control Systems (PACCS). This year we have excluded these aircraft from the tanker category, with the cost of the NEACP aircraft transferred to the general support program and the PACCS carried in the command and control element of this program.

We have programed for the 1965–68 period a large force of KC–135's to support the B–52's and the B–58's, and when required, the fighter aircraft of the Tactical Air Command. Most of the procurement requirement has been funded and the balance of $33 million is included in the fiscal year 1964 budget request.

The KC–97's will be phased out as previously planned.

(c) Regulus: We now have five operational Regulus submarines with a total of 17 missiles aboard and, as I pointed out last year, we plan to start phasing them out of the force. The contribution that these few Regulus missiles will be able to make to our rapidly growing total strategic retaliatory capability will be quite marginal, especially when weighed against either the cost of continued operation of the submarines in this role or their use for other purposes.

AMENDMENT OF RULE XXII—CLOTURE

The Senate resumed the consideration of the question submitted to the Senate by the Vice President, with respect to the motion of the Senator from New Mexico [Mr. ANDERSON], Does a majority of the Senate have the right under the Constitution to terminate debate at the beginning of a session and proceed to an immediate vote on a rule change notwithstanding the provisions of the existing Senate rules?

Mr. RUSSELL. Mr. President, I yield 10 minutes to the distinguished Senator from Florida [Mr. HOLLAND].

Mr. HOLLAND. Mr. President, I wish to devote myself today to a most important aspect of the issue pending before the Senate in the time allotted me. I am pleased to state that I am joined in my statement by my able and distinguished colleague, the junior Senator from Florida [Mr. SMATHERS].

Mr. President, when we were debating the proposed change of the Senate rules in 1959, I called to the attention of the Senate the great importance the Founding Fathers placed upon the stability of the Senate and the fact that the Senate as an institution was designed by them to supply needed stability to our Republic. It is perfectly obvious to me, as it was then, that the continuity of the Senate—the fact that it is a continuing body—is the principal factor which supplies that needed stability.

For 174 years the Senate has endured as the "stable member of the Government" which James Madison held to be indispensable to the endurance of the Government itself. Nothing has occurred in those 174 years which in the slightest lessens the wisdom of Madison's words. Mr. President, I strongly oppose any action now or ever which would nullify that fundamental Senate concept as stated by Madison.

In his letter LXIII in the Federalist, entitled "A Further View of the Constitution of the Senate, in Regard to the Duration of the Appointment of its Members," James Madison in his first paragraph, referring to the Senate, wrote:

> Without a select and stable member of the Government the esteem of foreign powers will not only be forfeited by unenlightened and variable policy, proceeding from causes already mentioned; but the national councils will not possess that sensibility to the opinion of the world, which is perhaps not less necessary in order to merit, than it is to obtain its respect and confidence.

In fact, Mr. President, Madison devoted a great part of both his letter LXII in the Federalist and his letter LXIII, from which I have just quoted, to the great importance, if not the absolute necessity that the Senate should possess the quality of stability. No less than 10 times in these 2 letters does Madison refer to the necessity for stability in the Senate, the requirement for "stability of character," "the necessity of some stable institution in the government," the requirement for assuring "a continuance of existing arrangements," the necessity for "possessing * * * stability," and so on, as a close perusal of these valuable documents shows. In his letter LXII, which is entitled, "Concerning the constitution of the Senate, with regard to the qualifications of the Members; the manner of appointing them; the equality of representation; the number of the Senators; and the duration of their appointments," Madison gave to this Nation a great truth, to wit, that good government implies two things: First, fidelity to the object of government, which is the happiness of the people; second, a knowledge of the means by which that object can be best attained, and then he wrote:

> The mutability (that is the quality of frequent change) in the public councils, arising from a rapid succession of new members, however qualified they may be, points out, in the strongest manner, the necessity of some stable institution in the government.

Again, Mr. President, a few paragraphs later Madison reemphasizes the necessity of stability in government when he says:

> Every nation, consequently, whose affairs betray a want of wisdom and stability, may calculate on every loss which can be sustained from the more systematic policy of its wiser neighbors. But the best instruction on this subject is unhappily conveyed to America by the example of her own situation. She finds that she is held in no respect by her friends; that she is the derision of her enemies; and that she is a prey to every nation which has an interest in speculating on her fluctuating councils and embarrassed affairs.

After asserting and proving the importance of stability to government, Madison discusses the injurious effects of instability at length, concluding with this:

> In another point of view, great injury results from an unstable government. The want of confidence in the public councils damps every useful undertaking, the success

and profit of which may depend on a continuance of existing arrangements.

In his letter LXIII, to which I referred at the beginning of my remarks, relating to the constitution of the Senate with regard to the duration of the appointment of its Members, Madison continues to discuss the quality of stability.

He points to the necessity of bringing back to one of the original States, which he mentions by name, the stability which it had lost through undemocratic and unstable processes.

Then he says:

The proper remedy for this defect must be an additional body in the legislative department, which having sufficient permanency to provide for such objects as require a continued attention, and a train of measures, may be justly and effectually answerable for the attainment of those objects.

Later, he speaks of the "necessity of some institution that will blend stability with liberty."

In one of his last references to this particular quality of the Senate, he says that:

Liberty may be endangered by the abuses of liberty, as well as by the abuses of power; that there are numerous instances of the former as well as of the latter; and that the former, rather than the latter, is apparently most to be apprehended by the United States.

Mr. President, the Senate has sustained that point of view and maintained that objective through 174 years of the history of our Nation.

Many Members of this body over the years have recognized the significance of the stability and continuity of the Senate as well as the close relationship between continuity and stability.

Among our present Members who have given scholarly attention to this matter is our distinguished colleague, the junior Senator from Minnesota, Senator MCCARTHY, who, when he represented that great State in the House of Representatives in 1957, called attention to the importance of the Senate's continuity as a body.

In his article entitled "The House Versus the Senate," which appeared in the New York Herald Tribune in August of 1957, the junior Senator from Minnesota discussed the increasing power of the Senate and what he termed "the predominance of the Senate." Along with other advantages accruing to the Senate, the Senator referred to the importance of its continuity and stability as follows:

Along with the advantages derived from these historical changes, the Senate has had the help of a number of institutional advantages. The 6-year term in the Senate, plus the experience of its Members, and its continuity as a body, give it a stability and strength lacking in the House of Representatives.

The Senator from Minnesota, in his excellent article also touched upon another aspect of congressional procedure which is quite germane to the matter pending today. In discussing the effectiveness of the House of Representatives at that time, he had this to say:

The House, as critics have said, has limited its effectiveness somewhat by its own rules. Great debates today are the Senate debates. Debate in the House was effectively limited by rules changes brought about under Speaker Tom Reed in the last decade of the 19th century. These changes did prevent obstruction and delay in the general legislative process, but at the same time practically destroyed effective House debates. As a result, public interest, at least as reflected in the press, is generally concentrated not on what is said in House debate, but rather on the outcome of the vote.

I refer to Senator MCCARTHY's thoughtful comments in 1957 because they impressed me greatly at that time as they do today.

And yet Senators now propose in the pending debate to adopt a precedent which would tend to destroy the concept of the Senate as a continuing body—a precedent which would tend to diminish its stability and would invite changes in its rules—any or all of its rules—at the beginning of each Congress, by a mere transient majority of one of its Members. What greater blow at the stability and the value to our republic of the Senate as an institution could be struck than by adopting such a shortsighted proposal for the sole purpose of passing extreme so-called civil rights legislation?

Mr. President, I strongly hope that the Senate will soundly defeat this proposal, and will adopt the motion to lay on the table which will shortly be made.

Mr. President, I hope the Senate by its vote in approving the pending motion will keep our well-intentioned but misguided friends of the opposition from following the example of the blinded Samson of ancient Biblical days who pulled down the pillars of the temple and destroyed himself and many others in the wreckage of the beautiful edifice which he had demolished by his lack of judgment.

Mr. RUSSELL. Does the Senator yield back the remainder of his time?

Mr. HOLLAND. I yield back the remainder of my time.

Mr. HART. I yield myself 5 minutes.

We approach an historic occasion, or, at least, an occasion which in the pressure of the moment appears to be historic. I suspect that many times the body acts in what might be suggested as being something other than in an historic manner, or at least in a way that the record does not bear out that it is a historic action. However, I believe that we are at this moment moving in a direction which could indeed be historic.

The argument has been advanced that we in the Senate be permitted, at the opening of the 88th Congress, to determine the rules which shall be applicable in the Senate, and to make that determination not subject to any limitation established by an earlier Senate.

Senate Resolution 9, submitted by the Senator from New Mexico [Mr. ANDERSON], to terminate debate by three-fifths of the Senators present and voting, and Senate Resolution 10, submitted by the Senator from Minnesota [Mr. HUMPHREY] and the Senator from California [Mr. KUCHEL], and other Senators, to terminate debate by the vote of a majority of the Senators present and voting, were offered in complete good faith and in the deep conviction that this represented the direction in which the Senate should move in order that it might effectively respond, in the middle of this century, to the principles that should guide us at a time when we cannot indulge always in the luxury of unlimited debate.

We find that even our effort to bring the first resolution, offered by the Senator from New Mexico, before the Senate for discussion, is blocked by a filibuster.

It is my feeling that one would have to search deep in the precedents of this body to find an occasion when a filibuster has blocked the effort to bring a rules change up for debate.

After days of attempting to permit the Senate to find itself in the position to act upon the Anderson resolution, and only after days of deliberation, those of us who are supporting the present constitutional motion took this action in order to bring the Senate to a point where it may vote on the Anderson constitutional motion. That motion itself was offered only after Senators opposing any rules change filibustered the Anderson procedural motion to consider Senate Resolution 9. The opponents of any rules change demonstrated their refusal even to consider the proposal that some change in the rules was desirable.

Those Senators who believe that the Senate has the right to consider the substance of a rules change now should vote to defeat the tabling motion offered by our distinguished leadership.

The Anderson constitutional motion stems from what we concede to be a very clear mandate in the Constitution itself. We have heard it mentioned time and again.

Article I, section 5, provides that a majority of each House shall constitute a quorum, and that each House may determine the rules of its proceedings. Those circumstances when a majority is not sufficient to transact business are enumerated by the Constitution. They are limited in number. They have no application to the question pending before the Senate.

No one disputes the right of a majority of Senators to determine the rules. The dispute centers around the fact that the existing rule XXII prevents a majority from exercising that right. If this explicit constitutional source of authority is to be other than just empty verbiage, there must be a way for an appropriate majority to vote on the rules of the Senate, not a majority after cloture has been invoked by two-thirds of the Senators present and voting.

Those Senators who desire to trigger, to use, and to give life and meaning to this constitutional right to determine the rules by a majority, should now vote against the tabling motion that pends, whether their attitude is in support of the Anderson three-fifths application of cloture, or the Kuchel-Humphrey constitutional majority proposal.

The device that we are approaching now by way of a vote is a procedural one. It is an oblique way of getting at the meat of the problem. I hope very much that the tabling motion will be beaten.

Let us be clear about this fact. If it is defeated, the Senate will be back to the point that we have been seeking to

develop all along. We will then urge the Senate to give application of its will to the proposition contained in Senate Resolution 9 or 10.

Mr. RUSSELL. Mr. President, I yield 8 minutes to the Senator from Hawaii.

Mr. INOUYE. Mr. President, I fully understand the respected custom of this body which advises a new Member to sit in his chair, to listen quietly and to learn before he rises to speak to the Senate himself. There is wisdom in that custom, as there is in most customs which last through years of trial and experience. I would not willingly break that honored silence, but because this debate calls to question the place of the minority in a democratic political system, I feel I must say these few words in deep but passionate humility; for I am a member of a minority, in a sense few other Senators have ever been. I understand the hopelessness that a man of unusual color or feature experiences in the face of constant human injustice. I understand the despair of a human heart crying for comfort to a world it cannot become a part of, and to a family of man that has disinherited him. For this reason, I have done and will continue to do all that one man can do to secure for these people the opportunity and the justice that they do not now have.

But, if any lesson of history is clear, it is that minorities change, new minorities take their place, and old minorities grow into the majority. One can discern this course in our own history by observing the decisions of the Supreme Court, where the growth of the Nation's law so often takes the form of adopting as the opinion of the Court, the dissenting view of an earlier decision. From this fact we discern the simplest example of a vital democratic principle. I have heard so often in the past few weeks, eloquent and good men plead for the chance to let the majority rule. That is, they say, the essence of democracy. I disagree, for to me it is equally clear that democracy does not necessarily result from majority rule, but rather from the forged compromise of the majority with the minority.

The philosophy of the Constitution, and the bill of rights is not simply to grant the majority the power to rule, but is, also, to set out limitation after limitation upon that power. Freedom of speech, freedom of the press, freedom of religion; what are these but the recognition that at times when the majority of men would willingly destroy him, a dissenting man may have no friend but the law? This power given to the minority is the most sophisticated and the most vital power bestowed by the Constitution.

In this day of the mass mind and the lonely crowd, the right to exercise this power and the courage to express it has become less and less apparent. One of the few places where this power remains a living force is in the Senate.

Let us face the decision before us directly. It is not free speech, for that has never been recognized as a legally unlimited right. It is not the Senate's inability to act at all, for I cannot believe that a majority truly determined in their course could fail eventually to approach their ends. It is, instead, the power of the minority to reflect a proportional share of their view upon the legislative result that is at stake in this debate.

To those who wish to alter radically the balance of power between a majority in the Senate and a minority, I say, you sow the wind, for minorities change and the time will surely come when you will feel the hot breath of a righteous majority at the back of your own neck. Only then perhaps will you realize what you have destroyed. As Alexis de Tocqueville said about America in 1835:

> A democracy can obtain truth only as the result of experience; and many nations may perish while they are awaiting the consequences of their errors.

The fight to destroy the power of the minority is made here, strangely enough, in the name of another minority. I share the desire of those Senators who wish to help the repressed people of our Nation, and in time, God willing, we shall effectively accomplish this task. But I say to these Senators, we cannot achieve these ends by destroying the very principle of minority protection that remains here in the Senate.

For as De Tocqueville also commented:

> If ever the free institutions of America are destroyed, that event may be attributed to the omnipotence of the majority.

Mr. RUSSELL. Mr. President, I yield myself 1 minute.

I desire to express to the distinguished Senator from Hawaii my profound congratulations on the magnificent statement he has made. He proved his courage on many fields of battle when his country was under attack from without. He has here today revealed that other kind of courage—political courage—which is sometimes rarer than physical courage. He appreciates what the institutions of our Government mean. I know that they are thought by some to be outmoded and out of date; but the Senator from Hawaii understands what Tom Paine meant when he said:

> He that would make his own liberty secure must guard even his enemy from oppression.

Mr. HART. Mr. President, I yield 15 minutes to the distinguished senior Senator from New York.

Mr. JAVITS. Mr. President, I have heard with the greatest interest the speech of the distinguished Senator from Hawaii [Mr. INOUYE], speaking, as he does, as a member of a minority. I do not claim omniscience for myself. I do not claim omniscience for him because he is a member of a minority. However, I point out that the balance of the majority and the minority under the present rule XXII is not right, and the balance is proving wrong, notwithstanding the length of time it is taking to correct it. This is proved by the fact that in not one single instance since the cloture rule took effect—now a matter of 35 years—has it been possible to require the minority to allow the majority to vote on a civil rights issue, when the minority did not wish to do so.

I respectfully submit that after three decades and a half of experience, without being able to break through that barrier even on one single occasion, notwithstanding the fact that on two such occasions a majority of the Senate voted for cloture, there is a deep imbalance. It is just as fair to say, "Yes, surely the foundations of the Republic can be shaken by a drastic change, but we cannot allow the veins of the Republic to atrophy, so that freemen, who are despondent and despair of its processes, must seek some extra legal way in which to bring about a change, because legitimate change is being frustrated by shackles which the Senate has put upon itself."

This is the issue: Are we talking about a rule, in respect to rule XXII, or are we talking about law? I respectfully submit that the record now shows that we are talking about law, not a rule. This issue cannot be dressed up in any other way.

I would be deeply interested, if there were the opportunity, to test the question whether the Senate would, for 5 minutes, allow another Congress to bind it in the amendment of any law; in other words, whether we would for 5 minutes, consent to the proposal that, if Congress passed a bill which became law, the law could not be changed except by a two-thirds vote of the Senate. Would we respect such a law for 5 minutes? Of course we would not. We would be the first to argue against it and to say it was tyranny. No Congress can bind another Congress. We are perfectly free to change any law we please. That is set forth in The Federalist Papers. It has been decided by the courts time and again. There is really no need to cite authority, for the authority is very complete. *Newton* v. *Board of County Commissioners of Mahoning County, Ohio* (100 U.S. 548, 559) is one leading case. *Reichelderfer* v. *Quinn* (287 U.S. 315, 318) is another. There is a long list of similar cases in the Supreme Court of the United States. *Town of East Hartford* v. *Hartford Bridge Co.* (10 How. 511, 533); *Ohio Life Insurance & Trust Co.* v. *Debolt* (16 How. 416, 431); *Connecticut Mutual Life Insurance Co.* v. *Spratley* (172 U.S. 602, 621); *Toomer* v. *Witsell* (334 U.S. 385, 393 (n. 19)).

I think we have demonstrated beyond any question that what has now happened is that rule XXII has become law, devoted to frustrating the lawmaking process. It seems to me it is high time that the Senate asserted its right.

What opponents of change really argue is that the rules adopted in 1789 persist unless they are changed in accordance with those rules, notwithstanding the mandate of the Constitution. So, if not as a matter of constitutional law, then as a matter of time-honored practice, the idea is invoked that we should not change the rules or that we cannot change them except in accordance with our own rules. But it is a fact that a time will come when the Senate must decide that it is going

to take its destiny into its own hands. There is nothing new about that. Indeed, one of the precedents cited in the briefs which we have submitted to the Senate goes back to the time when there were joint rules for the Senate and the House. Those joint rules were abrogated by action of the Senate in 1876, after they had been in effect for 87 years. The Senate was not afraid to take that action in making the necessary break with tradition. I do not think the Senate ought to be afraid to take similar action now.

The Senate has before it a motion to table. If it carries, we shall be inhibited from dealing with the main question. I hope the motion to table does not succeed. I shall vote against it. But let us remember that if it carries, we shall be inhibited from dealing with the main question. This question will nonetheless persist. We have now a historic opportunity to settle something for the Senate. If the Senate does not settle the question now, the question may come up in a much less quiet time, difficult as the present time is, when much graver emergencies may face the country than face it today, for we have now seen just a glimmering of the complete anarchy into which the Senate can be thrown if this question is not decisively settled now.

We face a situation in which no resolution of the issue is possible; and no resolution will be possible unless a minority will allow us to resolve it. In short, no matter what question may be submitted to the Chair or what constitutional question may arise, the Chair has said it must refer such a question to the Senate itself. That question then becomes subject to debate, and debate can be cut off only under the rule. In short, the minority, by speaking on every motion which is made, whatever it may be, can completely frustrate the will of the majority—and we are assured by the leader of Senators who are opposed to this proposal that it will do so—until the majority yields to the one third minority, either by dropping this proposal or compromising it as the minority wishes it to be compromised.

There has been talk about tyranny and dictatorship; but a tyranny of the minority is also a tyranny. It does not have to be the tyranny of one man. Let the record be clear that no one has counseled tyranny or dictatorship by the Vice President. Everything the Vice President could do is subject to appeal to the Senate and determination by a majority of the Senate. I argued that yesterday and made it crystal clear. I cannot allow any imputation or argument to appear upon the record which defies that solid fact.

I heard the Senator from Hawaii talk about a forged compromise between the minority and the majority as being the process of a republic. I agree.

But a compromise forged by exhaustion is not the kind of compromise which is proper in a democracy or a republic, and it is not the kind of compromise we are talking about; not a compromise because of demonstration, conviction, or the marshaling of public opinion, but a compromise by exhaustion. Mr. President, no country can intelligently operate and express its will and its manifest destiny on such a basis.

Lest it be thought for a moment that there is no solid fact to support everything I say, let me refer to one or two pages of history. The cloture rule was adopted only in deference to the fact that this constitutional question would have been raised by Senator Walsh in 1917, and that he would have won on it. Hence, those who were opposed—and the arguments made and the ideas expressed at that time were very much the same as those we hear today—allowed some kind of cloture rule to be adopted. But under that cloture rule, cloture could not apply to a motion to take up. Hence, a complete "out" was available: There would be unlimited debate upon a motion to consider.

The next change came in 1949, when, again, there was some danger of losing on the constitutional issue. At that time Senator Wherry brought forward an agreement, again paying a very heavy price for it, because, under that agreement, the rule itself which we are talking about could not be revised except in accordance with the rule. At least, that is what the rule said when it was agreed to.

In 1959—again as a slight amelioration of rule XXII—the rule was changed so as to permit cloture by the affirmative votes of two-thirds of those present and voting, instead of two-thirds of the total membership of the Senate. Again a heavy price was paid, because of the addition to rule XXXII of paragraph 2, which provides:

> The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules.

By the addition of that paragraph to rule XXXII, which supports the argument that the Senate is a continuing body, a very heavy price was paid. However, Mr. President, I am in an excellent position to speak against that addition to the rule, because I voted against it.

I relate that history to indicate where we stand at this time. Never have we been able to do anything about rule XXII that the minority would not permit us to do. Because of that situation, no matter how strong the arguments, no matter how persuasive and forceful the debate, no matter how important and compelling the necessity for change, the minority was able to accomplish its purposes, regardless of the necessity for a reasonable compromise, regardless of how important it was that reasonable views prevail.

As to the substantive legislation involved, I point out that the power of one-third of the Senate to kill any measure or proposal in the Senate has brought about a positive shambles. When the minority—determined as it is—decided during the last session that it would not permit even a literacy test bill to be passed, notwithstanding the fact that both the majority leader and the minority leader favored the passage of such a bill, no literacy test bill was passed. It is very interesting to me to note that when this determined minority gets its teeth into a matter, it gets its way, notwithstanding the fact that the majority leader and the minority leader are acting together.

Mr. President, examine, if you will, the record of a series of votes taken on such issues as elimination of the poll tax in 1962 and the proposed extension of the life of the Civil Rights Commission, in 1961, and the civil rights bills—weak and meager though they were—in 1957 and 1960.

I ask unanimous consent to have printed at this point in the RECORD, in connection with my remarks, a table on this subject. It shows the constant assault on such measures and their constant defeat by means of motions to lay on the table. Why has that happened? It has happened because of the threat to engage in a filibuster—for example, the threat to engage in a filibuster unless part III was deleted, or unless no further attention was paid to placing a statutory base under the Committee on Equal Employment Opportunity under Government contracts.

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

Motions and amendments weakening recent civil rights legislation

Measure	Action taken	Date
Civil Rights Act of 1957:		
Pt. III, authorizing Attorney General to institute civil actions for preventive relief to redress civil rights.	Deleted by amendment	July 24, 1957
Civil Rights Act of 1960:		
Pt. III, authorizing Attorney General to institute civil actions for preventive relief to redress civil rights.	Tabled	Mar. 10, 1960
Statutory base for Commission on Government Contracts	do	Apr. 1, 1960
Temporary aid for adjustments in school desegregation	do	Apr. 4, 1960
Pt. III, limited to intervention in school desegregation suits	do	Do.
Liberalization of voting registrar provision	do	Do.
Federal enrollment officers	do	Do.
Liberalization of voting registrar provision	do	Apr. 6, 1960
Civil Rights Commission, 2-year extension, 1961 (amendment to State, Justice, Judiciary appropriations, 1962):		
Permanent extension of Commission	do	Aug. 30, 1961
Extension of Commission for 4 years	do	Do.
Pt. III, authorizing Attorney General to institute civil actions for preventive relief to redress civil rights.	do	Do.
Implementation of Supreme Court school desegregation decision	do	Do.
Antipoll tax constitutional amendment:		
Statutory authority in lieu of constitutional amendment	do	Mar. 27, 1962
Objective literacy test	Returned to calendar	May 15, 1962
Labor-HEW appropriations:		
Barring funds for segragated hospitals	Tabled	July 20, 1962
Barring funds for segregated schools	do	Do.

Mr. JAVITS. Mr. President, all these struggles are ahead of the Senate, as they have been for decades; and regardless of whether we win today, I repeat what I said yesterday, in response to the arguments made by the Senator from Rhode Island [Mr. PASTORE]; namely, that we are dealing with a fundamental change in the entire history of our country; and the Congress is in grave danger of being discredited in the eyes of the people of the country because the Congress cannot transact the business which the interests of the country require; and a fundamental aspect of that situation is the cloture rule we are now discussing. The entire record proves that.

Finally, Mr. President, I address myself to a matter of most critical importance; namely, the concept of the Senate as a continuing body, a concept which is completely irrelevant to this argument, but nevertheless is trotted out regularly because it is so pleasing to our sensibilities. Is it not nice to be a solon of our country in a body which continues, and is not subject to the vicissitudes and changes of the House of Representatives? A Member of the Senate can say to himself, "We are truly the upper body because we are a continuing body." The only difficulty with that point is that it is not relevant to the issue now before us, much as the continuing-body argument may please our egos.

Furthermore, no such provision is to be found in the Constitution. Instead, the continuing-body argument defies the Constitution, because the Constitution provides that Senators are to have a 6-year term, and that there are to be two Senators from each State. Those are constitutional guarantees to the States—but not the provisions of rule XXII. So those of us who subscribe to rule XXII are not good constitutionalists; instead, those who subscribe to it are bad constitutionalists, by reason of clinging to rule XXII, which is outside the Constitution.

The PRESIDING OFFICER. The time yielded to the Senator from New York has expired.

Mr. JAVITS. Mr. President, may I have a little more time?

Mr. HUMPHREY. How much additional time does the Senator from New York wish to have?

Mr. JAVITS. About 5 minutes.

Mr. HUMPHREY. Very well, Mr. President, I yield to the Senator from New York an additional 5 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 additional minutes.

Mr. JAVITS. Mr. President, it does not matter whether the Senate is or is not a continuing body. The fact is that many aspects end with the end of a particular Senate; even those who argue that the Senate is a continuing body must admit that bills which are pending and nominations which are pending end with the end of any one Congress, and the composition of the membership of the Senate then changes. So whether one holds to the view that the Senate is a continuing body or does not hold to that view, that question is not involved in the question of whether we have a right to change the rules.

The fundamental argument which we make—and which, as I say, is the basis of this entire position—is that history has now demonstrated that we are no longer talking solely about a rule; instead, we are talking about a rule which has the effect of substantive law, because experience with that rule has shown, historically, that it can inhibit, frustrate, and defeat the legislative process contemplated by the Constitution.

It has been argued that freedom of speech and freedom of advocacy will be ended in the Senate if this rule is changed. But, Mr. President, nothing could be further from the fact, and the country should certainly understand that. There have been 25 opportunities for the Senate to apply cloture. But cloture has been applied in exactly five of them. If the proposed 60 percent rule had obtained—and that proposal is before the Senate under the Anderson resolution—cloture would have been ordered in 9 of those 25 instances, and in connection with only 2 out of 11 civil rights measures. I cannot understand how that would amount to shutting the doors to advocacy. The Anderson resolution surely does not contend for a complete break with the past.

In any case, there is clearly consensus as to the need for a moderate, temperate improvement in the existing rule, which, until now, has completely frustrated us.

It is said that the purpose behind this effort is to allow the passage of civil rights legislation. Such an argument grants the main point I make, which is that the civil rights legislation thus far passed in the Senate and that which can be passed in the future under the present cloture rule is only such as the minority will allow the Senate to pass. Is that situation constitutional? Is it just? Can we expect Negroes to be happy in the face of that situation?

As a practical matter, when we concede on the record that this effort is directed to civil rights legislation, it becomes obvious that that is why some Senators will not agree to such a change in the rule, because they do not want the adoption of a rule which would take away the power of the minority to inhibit, frustrate, and prevent the passage of civil rights legislation which the minority does not like.

So let us face this situation frankly. Not only is this a fundamental question which deals with the ability of Congress to meet modern times decently, but it is also an endeavor to prevent the Senate from permitting itself to be hamstrung.

Mr. President, we could be hamstrung and placed in anarchy, and in far worse situations even than civil rights if a determined minority should get its teeth into the issues. What if there is a motion to clear the way for some proposed civil rights legislation? Is that wrong if it is responsive to the deep feeling of the country? Must we resolve all civil rights questions in the manner demonstrated on the campus of the University of Mississippi—by force, violence, and people being killed? Is that the only way we can administer justice in our country? Can we not find some other way? Can we not give the aspirations, desires, and feelings of man some tongue and opportunity for expression? Or must we be inhibited and frustrated in legislating on that score by anything the minority dictates?

We can go no further. Mr. President, in a considered way, as a Senator of the United States I say that if we leave rule XXII as it is, we cannot pass any civil rights measure which a minority, the majority of that minority being southern Senators, will not allow the Senate to pass. That is it.

Let every Senator who votes on the issue understand that this is the most important civil rights vote which any Senator will have an opportunity to cast in the present Congress. I thank my colleague for yielding.

Mr. TALMADGE. Mr. President, I yield 6 minutes to the distinguished Senator from Alaska [Mr. GRUENING].

THE SENATE UNDER THE EXISTING RULE IS A BULWARK AGAINST HASTILY CONCEIVED LEGISLATION AND THE PROTECTOR OF THE LESS POPULOUS STATES

Mr. GRUENING. Mr. President, on Friday last I spoke on the issue before us—the proposed modification of rule XXII—and took the position, in some detail, that the existing rules for cloture which were adopted by a vote of 72 to 22 just 4 years ago is the greatest protection that the people of the United States have against hasty and ill-advised legislative action which might easily take place, as it has taken place, in times of national hysteria, panic, or alarm.

Another aspect of this issue to which I alluded is that the present rule furnishes the greatest possible protection to the smaller States which are represented in the House of Representatives by only one Representative or by a small number. Such States' interests might be easily jeopardized by being outvoted by the great majorities in the larger States which are correspondingly represented in the House of Representatives. Prolonged debate—yes, a filibuster, if necessary, in the Senate—might avert an unjust oppression by the majority of a minority.

I notice that William S. White, in an article in last night's Washington Evening Star, makes a similar point, and it is pertinent to the discussion we are now having in the Senate.

I ask unanimous consent that William S. White's article, entitled "Attack on Constitutional Balance," be printed at this point in my remarks.

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

ATTACK ON CONSTITUTIONAL BALANCE

(By William S. White)

Under cover of demands for seemingly dusty changes in Senate rules, a profound attack on the very constitutional balance in this country is now unfolding.

The ultimate objective is to reduce the power of the smaller, less urbanized States in the only national forum where such power still exists—the United States Senate. The ultimate effect would be the substitution of a Gallup poll kind of majority rule, based almost wholly upon the wishes of the populous urban centers and States and interests, for the matchless system of checks and bal-

ances written into the Constitution nearly two centuries ago.

The end of it would be a new majoritarian rule based upon megalopolis—the supercity, the super state—which would give little time and less heed to any and every section or interest in the United States which was allied with the new majoritarianism.

In short, what is finally sought here is the creation of a new political system of totally unchecked majority rule—instant government like instant coffee—in spite of the fact that the whole heart of the Constitution is meant to restrain majorities from running over minorities. Not even a majority of 99 percent can presently take away the basic rights of minorities, even the irreducible minority of one man, to free speech, free religion, the private enjoyment of private property.

THE LAST BASTION

Those attempting this fateful amendment of the Constitution by unconstitutional means are naturally centering upon the one place where they have not already won the game—the Senate. They are generally called "liberals" and generally they are Democratic Senators from big urban-controlled States, plus a handful of Republican "liberals" from the same kind of States.

A more exact term for them, however, is majoritarians. Chief among them are such Democratic Senators as PAUL DOUGLAS of Illinois, WAYNE MORSE of Oregon, and JOSEPH CLARK of Pennsylvania, and such Republican Senators as JACOB JAVITS of New York, and CLIFFORD CASE of New Jersey.

Their immediate objective is to end the effective power of any minority to resist by prolonged talking in the Senate through applying a parliamentary gag. Their case is superficially attractive. The filibuster has a bad name because southern Senators have long used it to retard civil rights legislation. The fact, however, is that what is poison to the majoritarians in other hands is meat in the hands of the majoritarians themselves. The same weapon has been used by them more often than their opponents, to retard legislation sought by conservatives generally.

CIVIL RIGHTS ONLY A VEHICLE

Civil rights therefore is only the vehicle by which the majoritarians really intend to break not merely southern resistance to civil rights bills but any and all minority resistance on any and every issue with which minorities may dare to disagree with the majoritarians. For when a minority, however "wrong" can be gagged today, a minority, however "right," can be gagged tomorrow.

There was a time when 26 States were soundly estimated to be in control of the shadowy Ku Klux Klan. These 26 States could have voted a clear majority in the Senate and, under the new debate restrictions now being demanded, undeniably could have halted all debate on any issue whatever.

The great, bottom truth is that the Senate is literally the only place left where political minorities have truly effective rights. The House is a strictly majority-rule-by-one institution. And minorities, including small-populated States, have little to say about either the nomination or election of a President.

All this is specifically why the Constitution gave each State, regardless of size, two votes in the Senate.

Those demanding "changes in the Senate rules" are demanding infinitely more than this. They are demanding, consciously or not, a revolutionary overturn in the basic form of Government toward a monolithic, automatic, foredoomed conformism to whatever megalopolis might decide at any given moment.

Mr. GRUENING. The cloture issue has been closely associated, particularly in the minds of those favoring a diminution of the present two-thirds majority required, with the civil rights fight. There is no question that filibusters have been used by those opposing civil rights in the past and may again. But actually, under the existing rules, in the last Congress, the 86th, a civil rights bill was enacted, and under the more stringent rule of two-thirds of the total membership, a civil rights bill was also passed in the 85th Congress. It is my view that other issues involved in maintaining the present rule are no less important than civil rights.

Civil rights, as I interpret them, and as the words signify in this context, are the extension of equality to all Americans, regardless of race, creed, or color. That means equality in opportunity to vote, equality in opportunities for education, equality in opportunities for employment. As such, I consider civil rights an indispensable objective, whose fulfillment is long overdue, and my position has been clear since I came to the Senate and long before that as writer, editor, and as Governor of Alaska, and always will be. I believe this is a major issue and we must continue to fight for it until equality of opportunity is achieved. It is coming. It is coming as a result of court decisions, of legislation enacted by the Congress and its implementation by Federal executive agencies coupled with a changing public attitude. It is coming more slowly than those who have been the victims of the discrimination on the basis of color which exists throughout the United States in varying degrees would have it come. But such gratifying reactions as those of the Governors of North Carolina and South Carolina in recent days do much to offset the disgraceful and barbaric treatment which James Meredith has received in Mississippi and the long-standing discrimination against our colored citizens in many States, North and South.

In this connection, I ask unanimous consent to have printed in the RECORD, at the conclusion of my remarks, an editorial from last night's Washington Evening Star, which applauds the very different treatment as a result of the firm and enlightened stand of Gov. Donald Russell which Harvey Gantt, a colored enrollee in Clemson College, South Carolina, is receiving.

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

(See exhibit 1.)

Mr. GRUENING. Mr. Gantt is the first of his race to enroll in a South Carolina college. May the decent reception he appears to be accorded serve as an example to the University of Mississippi, where I am glad to note in today's news that James Meredith is remaining.

In North Carolina, Gov. Terry Sanford is blazing a new trail. He has created the North Carolina Good Neighbor Council, to consist of 24 eminent citizens of that State. Its purposes, the Governor announces, are two-fold: First, to encourage employment of qualified people without regard to race; and second, to promote better training so as to qualify youth for such employment.

In memorable words the Governor has proclaimed a new policy for his State, which I am hopeful and confident will be followed:

The American Negro was freed from slavery 100 years ago. In this century he has made much progress, educating his children, building churches, entering into the community and civic life of the Nation.

Now is a time not merely to look back to freedom, but forward to the fulfillment of its meaning. Despite great progress, the Negro's opportunity to obtain a good job has not been achieved in most places across the country. Reluctance to accept the Negro in employment is the greatest single block to his continued progress and to the full use of the human potential of the Nation and its States.

The time has come for American citizens to give up this reluctance, to quit unfair discriminations, and to give the Negro a full chance to earn a decent living for his family and to contribute to higher standards for himself and all men.

We cannot rely on law alone in this matter because much depends upon its administration and upon each individual's sense of fair play. North Carolina and its people have come to the point of recognizing the urgent need for opening new economic opportunities for Negro citizens. We also recognize that in doing so we shall be adding new economic growth for everybody.

We can do this. We should do this. We will do it because we are concerned with the problems and the welfare of our neighbors. We will do it because our economy cannot afford to have so many people fully or partially unproductive. We will do it because it is honest and fair for us to give all men and women their best chance in life.

In North Carolina we will attempt to provide leadership for the kind of understanding America needs today.

But all this, which should gratify the proponents of civil rights as it does me is happening quite independently of and without relation to the present cloture debate.

We have now spent 3 weeks debating this issue, I believe it has been debated amply. Meanwhile the regular business of the Senate has been shelved. Its committees have not been organized. If the tabling motion fails, the debate may continue for weeks. We have important legislation awaiting action. The President has already submitted his program, which will include major tax legislation, a vitally important Federal aid to education bill, a farm bill, and other measures of vital concern to our Nation's economy, vital to its spiritual, cultural, and material progress. I believe we should proceed with it without further delay. I shall therefore cast my vote for the tabling motion.

EXHIBIT 1

[From the Washington Evening Star, Jan. 30, 1963]

IT CAN BE DONE

Harvey Gantt, son of a colored shipyard worker, has been enrolled at Clemson College, and neither the sun nor the stars nor the planets have fallen down upon us.

This, of course, does not mean that South Carolina's desegregation problems have been solved. Difficult days doubtless lie ahead. But it does mean, given the proper attitude, maturity and awareness, that a Negro can be admitted to a southern college without giving rise to the disgraceful spectacle which marked James Meredith's enrollment at the University of Mississippi.

Much credit goes to South Carolina's Gov. Donald Russell. He is by no means an integrationist. But where Mississippi's Governor Barnett stormed and ranted, Governor Russell announced that Harvey Gantt would be admitted to Clemson "peaceably, without violence, without disorder, and with proper regard for the good name of our State and her people." Pursuant to this, he issued the appropriate orders to the State police, but as it turned out there was no great need for their services. Much credit also belongs to the Clemson College authorities, who made it very clear to the student body that punishment would be swift and severe for anyone guilty of incidents.

The only major rumble of discontent has come from a member of the South Carolina Legislature, who proposes to create a committee to inform Clemson students of their "rights of free speech and assembly." It looks, however, as though his efforts will not be needed. Judging from their behavior to date, the Clemson student body is composed of young men who understand, not only their rights, but also their responsibilities as Americans.

Mr. TALMADGE. Mr. President, I yield 8 minutes to the distinguished senior Senator from Massachusetts [Mr. SALTONSTALL].

Mr. SALTONSTALL. Mr. President, the question before us is in the form of a constitutional question, but we all recognize the fact that we are in reality debating the question of the continuity of the rules of the Senate and the Senate as a continuing body under our Constitution. Basically, the question is not whether the Senate rules may be amended but whether they shall be amended in accordance with the procedures set forth in the rules themselves. To me the answer is clear. The Senate is one of the truly great parliamentary powers in the world. We are all proud to serve in it. To ignore the stipulated conditions by which its rules may be changed and to adopt other procedures does violence, I think, to its fine traditions. If the rules are to be changed—and I am one of those who believes they are not perfect—then we must proceed to do it by the method prescribed in the rules.

To me this is not a question of civil rights. Surely my record on that question is clear not only as an official in Massachusetts but also as a Member of this body. I hope in the near future to be able to vote on further sound civil rights legislation in areas where the Federal Government properly may be responsible.

For more than 150 years the Senate has always continued its rules from session to session because, although a session may adjourn sine die, the Senate itself as a body continues.

There never is a new Senate. Two-thirds of its Members always carry over. There is always a Senate, as there is always a Supreme Court. In my opinion, it cannot continue as a legislative body without continuing rules.

The fundamental question before us relates to the Senate itself under the Constitution and in accord with the precedents built up over the years. We must reach our decision on a basis which will act to continue our democratic form of government in the legislative branch to the best advantage.

I have long been interested in improving the rules of the Senate, especially rule XXII, in ways designed to permit reasonable limitation of debate after full opportunity for expression by Senators desiring to speak. In 1947 and 1949 I filed resolutions to permit cloture on a motion to take up a bill. That amendment was adopted in 1949 but in order to have that change adopted, we agreed to make a constitutional two-thirds instead of those two-thirds present and voting the number necessary to invoke cloture and, furthermore, to exempt the cloture provisions on motions to change the rules themselves. In 1950 I sought to liberalize that rule but it was not until 1959 that the present procedure was finally adopted.

But, in my opinion, the question now before us is not to determine whether to amend any specific rule. It is rather as to whether the Senate itself continues its rules or whether new rules are to be adopted at each new session. Can a parliamentary body continue without any rules on which to proceed? Continuous existence implies potential continuous functioning. Are not continuing rules as essential to a continuing body as tracks to a moving locomotive?

In 1959 we added a provision to rule XXXII which reads:

> The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules.

Now an attempt is made to ignore that provision which was adopted only 4 years ago.

There is a clear distinction between action and procedure. Rules are established to permit a parliamentary body to take action. Rules themselves do not constitute action. They are simply the rules by which a parliamentary body proceeds to act. Certainly one Senate cannot bind a future Senate by its actions, but that does not mean that its rules do not continue until amended or rescinded, because rules constitute the procedure by which the Senate acts.

The Senate is a continuing body under our Constitution for the purpose of making certain that the legislative system of our Government shall not necessarily stop when a session of Congress closes. In the days before the 20th amendment, the Senate even sat sometimes after the House recessed, to fulfill its duties of confirming Executive appointments. Under the present rules the Senate committees do continue. Investigating committees carry over from one session to the next. So it is clear that the Senate itself continues; and I repeat, if the Senate itself is a continuing parliamentary body, how can it operate unless it has rules of procedure which continue with it?

If we are to provide that the Senate, while a continuing body, may adopt new rules at the opening of each session, we take away from it the continuity of its procedure as a legislative body and we make it more possible to have sudden changes in the rules which may substantially alter the procedures under which the Senate acts.

The faith of our fathers in the democratic processes has built this country to its present greatness. The pride we each feel in being a Member of this body comes from the fact that over the years the Senate as a whole has acted wisely and well.

Today the proponents argue that a new set of rules is necessary because the present rule XXII permits a minority of Senators too much power in preventing the passage of sound legislation, especially in the field of civil rights. The proponents also argue that the rules can never be changed by any future Senate action because they say a minority can prevent and will prevent a change in the rules. In my opinion, this indicates a confusion between the action some believe the Senate should take and what procedures the Senate may adopt to carry out its actions.

As a matter of fact, the Senate has amended its rules many times, but always by continuing its present rules and amending them—not by the system of adopting new rules. I want to help in enacting further amendments to the rules of the Senate where they may be desirable, but I do not want to be a party to any change which would alter Senate procedures and possibly in the future create the Senate a different form of parliamentary body than the form which was established by our Constitution and which has endured since 1789.

Our Founding Fathers wanted to make sure that the interests of the small States would be protected. Consequently our Constitution provides for equal representation in the Senate, and the Senate rules provide protection for minorities.

So the central issue on this particular vote is not what kind of majority should be required before cloture may be invoked, but whether the established rules of the Senate have any meaning. At one time or another, all of us who serve in this body have been distressed by the restrictions imposed by the rules and by our inability because of the rules to accomplish some result we have considered most desirable. But we know these rules perform a most worthwhile function. Sometimes they may prevent precipitate actions, and on other occasions they provide protection against legislation which may be ill timed.

I, therefore, wholeheartedly shall support the position of our majority leader and our minority leader by voting to lay this constitutional question before us on the table.

Mr. HUMPHREY. Mr. President, I yield 7 minutes to the Senator from Illinois [Mr. DOUGLAS].

The PRESIDING OFFICER (Mr. INOUYE in the chair). The Senator from Illinois is recognized for 7 minutes.

Mr. DOUGLAS. Mr. President, I think there is grave danger that this debate may bog down into a discussion dealing with the labyrinth of Senate rules and procedures. The real issue before the Senate is, however, whether we shall eliminate some of the landmines and roadblocks which now prevent a majority of the Senate from legislating under the authority granted by the 14th and 15th amendments to the Constitution.

I think the present rules of the Senate are sufficient to protect the national in-

terest in time of threatened war or other emergency and that it would be impossible, for example, for a determined pacifist minority to tie up the decisions of the U.S. Senate, or the Congress.

The point at which the present rules governing debate are inadequate is, however, in the field of civil rights.

Our southern friends either ignore or belittle the 14th and 15th amendments to the Constitution. A great war was fought over these issues, and as a result of that war the 13th, 14th, and 15th amendments to the Constitution were passed by Congress and ratified by the States. They are as integral a part of the Constitution as any of the original articles of the Constitution, or as any of the amendments in the so-called Bill of Rights; and in connection with the specific matters with which they deal, namely, the right of suffrage, the right of equal citizenship, and equal rights and privileges to be protected by national action, if Congress so desires—they supersede the previous 10th amendment to the Constitution, to which our southern friends so frequently refer.

We all know that 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 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.

Similarly, the 14th amendment provides:

All persons born or naturalized in the United States, and subject to its jurisdiction thereof, are citizens of the United States and of the State wherein they reside.

And there is to be no differentiation between types of citizens.

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.

The final section provides that—

The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

We all know that if proposed civil rights legislation, designed to make effective the 14th and 15th amendments—which are of course being abridged and in many cases violated in many States of the Union—could be brought to a vote, they would in all probability be passed both by the Senate and by the House. Our difficulties are that under the rules relating to limitation of debate it is virtually impossible to obtain the necessary two-thirds majority. The southerners and their allies are able to filibuster any meaningful civil rights measure to its death.

I shall speak very frankly when I say, first, that, whatever dissent there may be within the 11 States of the old Confederacy their Senators will in all probability vote almost as one against any limitation of debate; and second, that in the so-called 3 border States of Kentucky, Maryland, and Delaware, which were slavery States prior to the Civil War, at least 3 of those Senators will vote against limitation of debate; and further that in the 3 Southwestern States, Oklahoma, New Mexico, and Arizona, largely peopled by southerners and with a strong southern tradition, in all probability at least 5 of those 6 Senators will always vote against cloture. So we get a total of 30 right off the bat.

Then there are the crypto-sympathizers with the South, Senators who if the measure were brought to a vote, would feel compelled to vote for civil rights, but who will vote against limitation of debate in order to enable the southern Senators to carry on this interminable program of so debating as to prevent the matter from ever coming to a vote. This latter category could be well described as following the version of the fifth commandment "Thou shalt not kill, but need not strive officiously to keep alive."

In effect, what our southern friends are saying is that we should make the theories of John C. Calhoun, an integral part of the procedures of the U.S. Senate. Calhoun said that the majority should not govern and he defended instead the doctrines of slavery and inequality and insisted that any reform must meet with the approval of each and every major section of the country. In effect, what our southern friends are saying is that they should have the right of veto on these matters.

I seldom allude to the Civil War, but a great war was fought over this issue a century ago. Hundreds of thousands of men were killed in that war, men in blue uniforms and men in gray uniforms. The men from the North fought, in large part, in order to make other men free.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOUGLAS. May I have another minute?

Mr. HUMPHREY. I yield an additional minute to the Senator from Illinois.

Mr. DOUGLAS. While we have made some progress in the last century, we certainly have not made enough progress. Millions of Negroes are denied the vote. Millions also are denied the equal rights of citizens. The Latin-Americans also suffer from the denial of equal rights. The questions of civil rights has become a national issue—not merely a State issue, but a national issue. It is an issue which in part determines what the two billion people of color in the world will think of us, and it is an issue which in part will determine our own domestic peace and tranquility.

I think it is about time we put substance behind the 14th and 15th amendments to the Constitution. In order to do so, we now have to go through the endless process of debating while mines and roadblocks are successfully put in our way which prevent action. That is why I hope the Senate will defeat the motion to table.

Mr. RUSSELL. Mr. President, I yield, 10 minutes to the Senator from Texas [Mr. TOWER].

Mr. TOWER. Mr. President, I am a little bit surprised to hear my very good and able friend from Illinois [Mr. DOUGLAS] imply that might makes right when he suggests this issue was resolved on the battlefields of the Civil War. I am further a little surprised to hear him attack John C. Calhoun and his doctrine of concurrent majority.

After all, our bicameral system in this country has inherent in its organization the implementation of the doctrine of concurrent majority. The House of Representatives is based on proportional representation. In the Senate each State is represented as a corporate entity by an equal number of Senators. Both Houses must pass legislation before it becomes law. Therefore, we have recognized and accepted John C. Calhoun's doctrine of concurrent majority.

I think, in any discussion of the rules, their historical evolution, their intent, their significance, their application, we should repair to Thomas Jefferson's Manual of Parliamentary Practice. In compiling this manual, he drew not only on his own personal experience as Vice President of the United States and as President of the Senate, but he drew on other excellent sources of parliamentary rules and procedures, including Mr. Hatsel's very excellent statement which Jefferson quotes at the very beginning of his Manual of Parliamentary Practice, as follows:

Mr. Onslow, the ablest among the Speakers of the House of Commons, used to say it was a maxim he had often heard when he was a young man, from old and experienced members, that nothing tended more to throw power into the hands of administration, and those who acted with the majority of the House of Commons, than a neglect of, or departure from, the rules of proceeding; that these forms, as instituted by our ancestors, operated as a check and control on the actions of the majority, and that they were, in many instances, a shelter and protection to the minority against the attempts of power. So far the maxim is certainly true, and is founded in good sense; that as it is always in the power of the majority, by their numbers, to stop any improper measures proposed on the part of their opponents, the only weapons by which the minority can defend themselves against similar attempts from those in power are the forms and rules of proceeding which have been adopted as they were found necessary, from time to time, and are become the law of the House, by a strict adherence to which the weaker party can only be protected from those irregularities and abuses which these forms were intended to check and which the wantonness of power is but too often apt to suggest to large and successful majorities (2 Hats., 171, 172).

And whether these forms be in all cases the most rational or not, is really not of so great importance. It is much more material that there should be a rule to go by, then what that rule is; that there may be a uniformity of proceeding in business not subject to the caprice of the Speaker or captiousness of the members. It is very material that order, decency, and regularity be preserved in a dignified public body (2 Hats., 149).

There ends the citation from Jefferson's Manual of Parliamentary Procedure.

Mr. President, I suggest that if we hold in this body that the Senate is not a continuing body operating under the rules, and that is the issue here—we shall have destroyed any protection the

minority has to defend itself against precipitate and emotional tyranny of a majority, whatever the composition of that majority may be.

My distinguished friend from Pennsylvania [Mr. CLARK] suggested the other day that we should streamline our procedures here to bring them in line with those parliamentary institutions of other democracies. I suggest that to do that we would have to transform our system, from a presidential-executive system, into a parliamentary-executive system in which the executive dominates the parliament, in which there is an imposition of strict party discipline, to the extent that each member of the party is little more than a drudge dragging himself through the division lobbies when it comes time to vote on an issue.

I do not think we want to be reduced to that. After all, we are a vast continental Nation made up of many people. We are very heterogeneous in character, and every section must be represented and be able to express its view and must be able to attempt to implement their interests in the Congress of the United States.

The adoption of a parliamentary type system would, I think, defeat the cause of justice and equitability in the representation of those interests in the Halls of the Congress of the United States.

It is my fervent hope that minorities will not be stripped of the last remaining instrument for their protection by the holding here that the Senate is not a continuing body operating under the rules.

After all, precedent would have it that we are a continuing body, and as my learned colleagues know, precedent is almost as much a part of our constitutional system as is the written document. Custom and usage are a part of it, as is judicial decision. Indeed, by precedent we are a continuing body, because we have never at the outset of a Congress reaffirmed our rules, and it should continue thus.

Mr. President, I yield back the remainder of my time.

Mr. HUMPHREY. Mr. President, I yield 8 minutes to the Senator from Pennsylvania.

Mr. CLARK. Mr. President, to me, the answer to the question propounded to us by the Vice President is very clear and simple. The answer to the question is "Yes"; therefore, the motion to table should be defeated.

Section 5 of article I of the Constitution provides that each House may determine the rules of its proceedings. It is admitted by every Senator, including the Senator from Georgia [Mr. RUSSELL], that the rules shall be determined by a majority vote.

Adoption and change of its rules by the Senate is, accordingly, a recognized right vested in a majority of the Senate by the Constitution.

The sole question is whether this constitutional right of the majority can be defeated by unlimited debate conducted by a minority, terminable only by resort to the two-thirds cloture rule. I think the correct answer is clearly negative.

The time has come to put an end to this filibuster by terminating debate by majority vote.

The applicable principle of constitutional law was never better stated than by Chief Justice Marshall, of Virginia, in 1819 in the famous case of McCulloch against Maryland. He said:

> 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 consistent with the letter and spirit of the Constitution are constitutional.

Clearly, the end, the adoption of Senate rules by majority vote, is legitimate and is specifically called for by the Constitution.

That end is being frustrated by a filibuster. Thus the Senate is denied the right given it by the Constitution.

It must follow that all appropriate means may be utilized to achieve that end. Among these means is termination of the filibuster by majority vote, since a right which cannot be exercised is a nullity, and this was never the intention of the framers of the Constitution.

As Vice President Nixon stated to the Senate in 1959, the Members of the Senate have the right by majority vote to determine the rules under which the Senate will operate, and—I quote:

> This right * * * in order to be operative, also implies the constitutional right that the majority has the power to cut off debate in order to exercise the right of changing or determining the rules.

If further authority is needed, it comes from rule XX of the Senate.

It is specious to suggest that the question we are now considering is not a point of order camouflaged as a question.

A word on the argument raised by the senior Senator from Massachusetts a few moments ago, to the effect that the Senate is a continuing body and therefore its rules automatically carry over from one Congress to the next.

This old, discredited argument is dragged out and dusted off every 2 years, only to be demolished anew.

The fact is that the Senate is a continuing body for some purposes but not for others. The question is accordingly entirely irrelevant to the issue of the constitutional right of each newly elected Senate to change its rules at the beginning of each session, as authorized by the Constitution. For that purpose the Constitution overrides any fine spun theory about a continuing body.

Let me note three instances where the Senate is clearly not a continuing body.

Bills end and terminate and are dead and gone at the end of each session, and must be reintroduced in the next Congress if they are to be considered.

Rule XXV of the Senate provides that standing committees shall be appointed at the commencement of each Congress. Not a Member of the Senate is legally a member of any committee until he is appointed as such by reason of seniority or custom, not by law, when we get around to organizing the Senate.

The President pro tempore of the Senate was elected a few weeks ago, and so was the majority leader and the minority leader. This had to be done because the Senate is not a continuing body, and they do not automatically continue in office.

So much for the continuing body theory. So much for the legalities.

I now turn to broader questions of legislative policy.

Unlimited debate is a cancer which is slowly but surely killing the Senate as an effective legislative body. If not soon removed by major surgery, unlimited debate will render this body impotent and unable to perform its constitutional duties.

The shadow of the filibuster hangs over every piece of legislation brought to the floor. Bills are watered down. Bills are withdrawn under the threat that they will be talked to death. Senators are not permited to express their personal views as to bills because they are told the bills cannot be passed. This shadow of the filibuster exists alone in this body of all legislative bodies in the civilized world. Only the Senate of the United States has this absurdity of debate unlimited except by a two-thirds vote.

Far more than the question of civil rights is involved in this fight.

If we fail to deal now with this cancer, I predict it will cripple the program of the Kennedy administration. Just as Poland died because of the veto in the hands of individual members of the Imperial Diet at the time of the partition, just as the House of Commons in England was saved by the skin of its teeth at the time of the first reform bill, and just as the various Parliaments of France died on the cross of inadequate legislative action, so will the Senate of the United States, and democracy with it, go down the drain if we do not change our rules.

Lag in congressional action is the great danger to democracy in America. This point was never more clearly made than in the introduction to a splendid book which has just been published entitled "The Deadlock of Democracy," written by Prof. James MacGregor Burnes, when he said:

> We are at the critical stage of a somber and inexorable cycle that seems to have gripped the public affairs of the Nation. We are mired in governmental deadlock, as Congress blocks or kills not only most of Mr. Kennedy's bold proposals of 1960, but many planks of the Republican platform as well. Soon we will be caught in the politics of drift, as the Nation's politicians put off major decisions until after the presidential campaign of 1964. Then we can expect a period of decision, as the voters choose a President, followed by a brief phase of the "politics of the deed," as the President capitalizes on the psychological thrust of his election mandate to put through some bits and pieces of his program. But after the short honeymoon between Congress and President the old cycle of deadlock and drift will reassert itself.
>
> Historically there has been a serious lag—once a near fatal lag—in the speed and effectiveness with which the National Government has coped with emerging crises.
>
> We have often been too late, and we have been too late with too little. Whether we can master depression in peacetime is still in doubt, for we pulled ourselves out of the

great depression only by the bootstrap of war. Currently baffled by a sluggish economy, we seem unable to promote long, sustained economic growth. We have done almost nothing about the old dream of a coordinated and vitalized transportation policy. Our social welfare measures are inadequate, especially in medical care. We cannot play our full economic role abroad because of inhibiting forces in Congress. Our structure of transportation is inequitable and archaic. We have hardly begun to adapt our Federal and State policymaking machinery to the heavy demands on it.

Today, however, the notion of the beneficient inevitability of gradual progress is open to challenge. For one thing, the furious pace of social and economic change at home and abroad makes delay in Government action far riskier than before. We do not enjoy a cushion of time in adjusting to such change, just as we no longer enjoy a cushion of time in coping with enemy attack.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HUMPHREY. I yield 1 additional minute to the Senator from Pennsylvania.

Mr. CLARK. Mr. President, I continue to read:

Partly because of these miscalculations, we still underestimate the extent to which our system was designed for deadlock and inaction. We look on the current impasse in Washington as something extraordinary rather than as the inevitable consequence of a system we accept. We look on the failure of the National Government to act as the result of poor leadership or bad luck or evil men, and we search for scapegoats.

That is not the true answer. The answer is in the procedures and in the rules of the Congress in general, and of the Senate in particular.

Until the filibuster is killed democracy is in peril.

Mr. RUSSELL. Mr. President, I yield 3 minutes to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, so that the record may fully indicate the position of the senior Senator from Rhode Island, I should like to announce that I shall vote for the motion to table the pending motion. I shall not at this time repeat all the reasons that I gave yesterday. I merely wish to say that there is no Member of the Senate who has worked harder and fought harder to pass civil rights legislation than has the senior Senator from Rhode Island. I will continue to do so. For that reason I have an apology to make to no one.

However, I do resent the implications of the pending motion, because, as was explained yesterday, the only effect of this motion is to give dictatorial powers to the Vice President, who is presiding over the Senate, powers that are not given to him in the Constitution. The Constitution gives to the Vice President only the authority to sit as the Presiding Officer. But as far as the rules of the Senate are concerned, those rules and the right to make the rules come to the Senate itself through the Constitution of the United States.

I know that this motion will carry. I know, too, that the result of the vote on this motion will be used as a measurement to determine a later motion which will be made to lay on the table the motion to bring up Senate Resolution 9, which was submitted by the Senator from New Mexico [Mr. ANDERSON]. In order that my position may not be misunderstood by those who read the RECORD, once it has been made on the pending vote, I now state that I shall vote against the motion to table Senate Resolution 9, because in that instance I think the case is entirely different. Senate Resolution 9 follows the pattern which the Senate followed in 1959, when the present Vice President of the United States, who then was Senator LYNDON JOHNSON, from the State of Texas, was the majority leader. At that time, Senator JOHNSON submitted a resolution which resulted in a change, whereby the rule that a vote of two-thirds of the Senators elected and sworn would be required before cloture could be applied, was changed to a vote of two-thirds of the Senators present and voting. All that the Anderson resolution would do would be to change the figure from two-thirds of the Senators present and voting to three-fifths of the Senators present and voting. With that change I am in accord.

So my position at the present moment is that I shall vote to table the pending motion; but should a similar motion be made to table Senate Resolution 9 itself, I shall vote against it, because then I think the Senate will be acting in perfect order.

I thank the Chair. I yield back the remainder of my time.

Mr. GOLDWATER. Mr. President——

Mr. HUMPHREY. Mr. President, how much time have I remaining?

The VICE PRESIDENT. The Senator from Minnesota has 36 minutes remaining.

Mr. GOLDWATER. Mr. President, will the Senator from Minnesota yield me some time?

Mr. HUMPHREY. Mr. President, I would be happy to yield time to the Senator from Arizona if he were planning to speak on my side. If he were, it would be really a wonderful achievement.

Mr. RUSSELL. Mr. President, there is no gleam of insanity in the eyes of the Senator from Arizona, so I am happy to yield him 3 minutes.

Mr. GOLDWATER. I thank the Senator from Georgia.

Much as I enjoy the friendship of the Senator from Minnesota, for me to vote with him on this question would be rather inconsistent.

Mr. President, during the course of this debate, and of debates which have preceded this one, I think more and more the truth has come out as to why the rule now involved and other rules of this body are proposed to be changed. It is said this is an effort to speed up the procedure of the Senate. Why does the procedure of this body have to be speeded up? There is no need for that. Down through the years of the existence of this body, Senators and the Senate have been able to get along. Laws have been passed and the business of the Senate has been taken care of under the rules of the Senate.

More and more on television, on the radio, in the newspapers, and in books, we find attacks being made upon Congress. I dislike to say this, but I am sorry that more Senators and more Members of the House do not defend Congress. Congress is a separate entity of our Government. It is a part of the tripartite system of our Government. It was never planned that Congress should come under the domination of the Vice President or the President of the United States. Yet today one of the main reasons we hear why rule XXII should be changed is that the President's program cannot be passed otherwise. It is said that without a change in the rules, the administration's program cannot be passed. I defy any of the proponents of a change in the rules of the Senate to point out to me any provision in the Constitution that even intimates that Congress must do the bidding of the President.

The distinguished Senator from Pennsylvania [Mr. CLARK] has just said that if rule XXII is not changed, or until it is changed, democracy will not have free expression. I wish to go in the other direction. If the rule is changed, I think that will be the moment in history when democracy will begin to die in this country.

I hope Senators will understand my position on this question. I came to this body opposed to the filibuster. It did not take me long to learn that the filibuster is the only method by which important parts of a democracy, the minorities, can be protected.

I think the attempt to change rule XXII is dangerous. I thought it was dangerous the last time the attempt was made and succeeded. I think it is dangerous today and will be dangerous again if it is tried in the future.

I intend to vote in favor of the motion to table. I shall vote against any attempt to change rule XXII, because I have not become convinced, from listening to the arguments and reading the debate, that a change in the rule is needed. I think the Senate took a dangerous step a few years ago when it changed the rule in the way it did. We must not be tempted into the belief that to legislate with intelligence requires speed. I have always honestly felt, as I now feel, that it is not the laws which Congress passes that help the country. In most cases, it is the measures which are not passed.

I do not want to see this country come under the domination of the President or the administration, regardless of whether it be Democratic or Republican; because if that should happen, we will have kissed goodby to democracy and our way of life.

Mr. HUMPHREY. Mr. President, I yield 8 minutes to the distinguished Sentor from New York.

Mr. KEATING. Mr. President, if there were ever any doubt about it before, certainly it has become apparent during this debate that the filibuster is a device which is tailormade for obstruction.

The defense of the filibuster has been based on several elaborately contrived fictions, the most oft-repeated of which are that it protects minority rights and preserves free speech. A new fiction which has suddenly come to life is that the filibuster cannot be curbed without transforming our Vice President into a dictator.

These contentions, supplemented by occasional cries of gag rule and Hitlerism, and buttressed by an adroit use of parliamentary devices have served to completely confuse the issue before the Senate and to compound widespread misunderstanding of what this debate is all about. Unfortunately, the vote on tabling which will occur today—no matter how it results—will contribute very little toward disentagling the labyrinth through which the Senate has been moving.

No one who is willing to face facts can accept the extreme arguments which have been made in defense of the filibuster. Our Constitution provides the most reliable and far-reaching provisions for the protection of small States and minority rights in the Senate and in the Nation. None of these—the most important of which gives every State, regardless of its size, equal representation in the Senate—would be affected in the slightest degree by a curb on filibusters. The truth is that as a result of the filibuster, and some of our other practices, the distribution of power in the Senate has been grossly distorted in a manner which cannot possibly be reconciled with the Constitution and the system of representative government which it ordained.

The Constitution gives every necessary protection also to the right of free speech and debate. But how can anyone seriously claim that these rights are abridged by a request that the Senate be allowed to act after 15 days of discussion on whether to take up a matter, or by a resolution, such as we have proposed—which would guarantee more than 15 days of debate on any issue before cloture. We debate the whole concept of debate by equating it with a filibuster. Filibusters are a negation of debate, a device resorted to when the appeal to reason has been abandoned. It bears more resemblance to a resort to brute force to prevent the Senate from acting than it does to any form of speech.

Finally, in all of the discussion with respect to the Vice President's authority, no one has denied that if the Presiding Officer submits every motion or point of order to the Senate for unlimited debate—this body will be unable to act, and the motions to amend the filibuster rule will be filibustered to death.

The Constitution gives the Senate the right to determine the rules of its proceedings.

The Constitution makes the Vice President the Presiding Officer of the Senate.

There is danger in giving a Presiding Officer too much power—but there is danger, too, in his having too little power.

The Presiding Officer cannot be a passive observer of tactics which make a mockery of debate. Of course, it is the responsibility of the Senate, all 100 Senators, to decide on what course it shall take to reform its rules. But it is the responsibility of the Vice President and the leadership on both sides of the aisle, to make certain that the Senate has an opportunity to express its will on this issue.

This is not dictatorship. Instead, it is the kind of leadership which is essential if the Constitution is to have any force.

There are in the rules of the Senate provisions for disposing of many issues without debate—such as the procedures under rule XX and the procedure following a motion to lay on the table.

I suggest that when a constitutional question is submitted to the Senate, the Presiding Officer must necessarily have implied authority under the Constitution to allow the Senate to decide such a matter after reasonable debate. If he does not have that limited power to bring a constitutional question to a vote in the Senate, where we are proceeding under the Constitution, then legislative anarchy certainly could prevail here.

I shall vote against the motion to table the present question. But the outcome of that vote, no matter what it may be, will not dispose of the fundamental questions which lurk in the background of this debate. I express the earnest hope that if the motion to lay on the table is adopted, it will not be used as a pretext—as has occurred so often in the past—for maintaining that thereby a majority of the Senate has manifested its desire to make no change in rule XXII, and that therefore we should abandon all further efforts along that line. I am confident that if today they were given a chance to vote on the merits, a majority would vote to change this rule.

So, Mr. President, we should stick to this problem—regardless of the outcome of the vote taken today—until this change is made. If not, Senators can rest assured that this issue will be brought before the Senate again and again and again.

Mr. President, I yield back the remainder of the time which has been made available to me.

The VICE PRESIDENT. Without objection, the Chair wishes to make this observation: Since some very brave Senators have attacked the Chair from time to time, and the Chair has been unable to reply, the Chair wishes to assure the Senate that any time the Senate wishes the Chair to exercise authority delegated him by the Senate rules as the Presiding Officer, the Chair will exercise it. However, this Presiding Officer does not intend to exercise authority he does not believe he has merely because other men are unwilling to exercise the authority they do have.

Furthermore, the Chair wishes the Senate to know that this Chair is not a "passive" Presiding Officer. This Chair enforces the Constitution of the United States, the rules of the Senate, and the precedents of the Senate.

As for lectures about "hollow shells" and "passive observers," the Chair thinks that if paragraph 1 of rule XX regarding a question of order were ever to be applied, to silence a Senator, this might be a proper time to call a Senator to order. However, the Chair does not think the rule goes that far, even in this instance.

Mr. RUSSELL. Mr. President, I yield 3 minutes to the distinguished Senator from North Carolina [Mr. ERVIN].

The VICE PRESIDENT. The Senator from North Carolina is recognized for 3 minutes.

Mr. ERVIN. Mr. President, while it may be considered heresy by some of my colleagues, I am going to look to the past, because I believe the great philosopher Von Schlegel spoke a profound truth when he said history is a prophet looking backward and because I believe that another great philosopher, Martin, spoke a great truth when he said history tells us all things, including the future.

Mr. President, I defend the existing rule XXII of the Senate because history shows us clearly that on at least one occasion the provision of the Constitution requiring a two-thirds vote of Senators for the impeachment of a President prevented the impeachment of President Johnson and the total destruction of constitutional government in the United States. And these tragedies were averted by a margin of only one vote under that two-thirds rule.

The Senator from Illinois referred to the unfortunate conflict in which thousands of the youth of America died in fratricidal strife. I remember that 42,000 of the youth of my State died in that conflict, which might well be called the "uncivil war." It was brought about by intemperate and impatient men of the North and of the South. If it had not been for those intemperate and impatient men, that war never would have been fought.

History teaches us in most tragic tones that at one time the two-thirds rule applicable to impeachment proceedings conducted before the Senate saved constitutional government in our country from total destruction at the hands of impatient and intemperate Members of the Congress of the United States. After the assassination of Abraham Lincoln, President Andrew Johnson put into practice Abraham Lincoln's ideas about reconstruction of the Southern States; and all the Southern States established governments in accordance with Abraham Lincoln's plans for reconstruction. But that did not suit some power-hungry men in the Congress led, by a Congressman from Pennsylvania, Thaddeus Stevens. That group of power-hungry men decided to keep themselves in power by actions wholly incompatible with the Constitution. The first thing they did to give themselves complete control of the Nation was to deny to 10 Southern States the right to be represented in the Congress of the United States by Senators and Members of the House of Representatives, even though the last Confederate soldier had long since laid down his arms and returned to peaceful pursuits, and even though the 10 States had reestablished governments conforming to Lincoln's plans as followed by his successor, President Andrew Johnson.

At that time, that is, in April 1866, the Supreme Court of the United States

handed down its most courageous decision of all time—Ex parte Milligan, in which it held that a military tribunal in Indiana could not try a civilian while the civil courts were open. The impatient and intemperate men who controlled Congress saw that the Supreme Court of the United States was standing between them and complete domination of the country. As a consequence, they had Congress enact a law in July 1866 which denied President Johnson the right to fill vacancies on the Supreme Court of the United States. They then frightened the Supreme Court out of its courage and wits by threatening to abolish it by constitutional amendment. They actually robbed it of its jurisdiction to review habeas corpus proceedings.

The VICE PRESIDENT. The time yielded to the Senator from North Carolina has expired.

Mr. RUSSELL. Mr. President, I yield 2 additional minutes to the Senator from North Carolina.

The VICE PRESIDENT. The Senator from North Carolina is recognized for 2 additional minutes.

Mr. ERVIN. Mr. President, time does not permit me to recount to the Senate the history of all the tragic events by which the impatient and power hungry men who controlled Congress cowed the Supreme Court into submission to their will and by which they subjected the 10 Southern States to military rule under the obviously unconstitutional Reconstruction Acts which they had Congress to pass over President Johnson's vetoes. When those impatient and intemperate Members of Congress discovered that Andrew Johnson had the courage to resist their unconstitutional acts, they sought to impeach him upon a false charge. The only reason they did not succeed in their attempt to impeach President Johnson and remove him from office, was the constitutional provision requiring a two-thirds vote in the Senate for impeachment, and the courage of Senator Edmund G. Ross, who voted with the minority and enabled them to avert a conviction on the false charge by a margin of only one vote. This tragic historical event teaches that we need some restraints in time of great stress on impatient and intemperate majorities even in the Senate of the United States. Knowing, as I do, that at one time a two-thirds rule applicable to Members of the Senate saved constitutional government in our country from total destruction, I intend to stand, for as long as I live and as long as I serve in this body, for the preservation of rule XXII in its present form.

In closing, I warn those who join Henry Ford in thinking that history is "bunk" that when the rulers of any nation ignore the lessons taught by history, they doom their country to repeat the mistakes of the past.

Mr. HUMPHREY. Mr. President, I yield 8 minutes to the Senator from California [Mr. KUCHEL].

The VICE PRESIDENT. The Senator from California is recognized for 8 minutes.

Mr. KUCHEL. Mr. President, my last 10 years here in the U.S. Senate have been the most thrilling and the most moving chapter in my life. But I do have some ugly recollections. Mainly, they revolve around the filibusters which I have witnessed from my seat in this Chamber.

The filibuster is not indigenous to any one part of the United States. While sitting in this Chamber, I have listened to some of my colleagues from the South denounce, at great length, civil-rights legislation which your political party, Mr. President, and mine joined in promising the American people they would enact. While sitting in my seat in the Senate, I have listened to some of my northern colleagues revile and inveigh against the tidelands bill and against the Telstar communications satellite legislation.

A decade ago the first vote I cast in the Senate was against the filibuster. I am prouder of that vote than any other single vote I have ever cast.

For the first time today, Members of the Senate in this new 88th Congress have an opportunity to take the first step, however feeble it may be, to shear away a cruel, undemocratic, anachronistic rule which permits the filibuster euphemistically described as free and open debate. Those of us who are waging the fight once again ground our requests to our colleagues upon the American Constitution, which in part provides:

> Each House may determine the rules of its proceedings.

The House of Representatives in each Congress does exactly that. New Senators and those who come back here with the permission of the people have not been given the same opportunity. A majority has not been free to adopt those rules which will guide us in debate, unless that proposal was sanctioned by a minority who could always threaten continuance of a filibuster.

Across the land it is said—and it is repeated in the Senate—that we, a majority of Senators, can pass proposed legislation or reject proposed legislation, and that a majority of Senators can adopt rules any time, or reject rules any time they wish to do so.

That statement is most unrealistic, for in order for a majority of Senators to act, the first requisite is that one third of the Members of the Senate permit them to act. A question may be pending, but so long as one-third of the Senate plus one desire to engage in "free and unlimited debate," we cannot do anything about it. Thus we fiddle away and frustrate a constitutional guarantee to every Senator at the beginning of a new Congress to write rules of reason and to prevent the frustration of the legislative process.

The Vice President has asked the Senate to pass judgment on the question:

> Does a majority of the Senate have the right under the Constitution to terminate debate at the beginning of a session and proceed to an immediate vote on a rule change notwithstanding the provisions of the existing Senate rules?

That is his question. Senators, do not tell me that anyone who answers that question "yea" is making a czar of the Vice President of the United States or any presiding officer. We merely contend that under the Constitution of the United States, at the beginning of a new Congress every one of us—those who come here for the first time, those who return to the Senate, and those who have remained here—have a right that cannot be infringed upon, to pass rules of procedure under which the U.S. Senate will transact its business.

A motion has been made to table the question which the Vice President has submitted to the Senate. I shall vote against that tabling motion. I hope a majority of Senators will also do so. If they do, in my judgment they will be standing on the floor of the Senate defending their rights and responsibilities under the American Constitution, and demonstrating to the people of our country and to their fellow Senators that they wish an opportunity to pass such rules as they believe are in the interest of the processes of the Senate and, more importantly, in the best interests of the people of the United States.

In the debate, some Senators have referred to section 2 of rule XXXII:

> The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules.

That means that rules which were adopted a decade ago or longer tie the hands of Senators.

Incidentally, I voted against that rule change when the issue was before the Senate 4 years ago. I deny that the present Senate, in this new Congress, has its hands tied by what a past Senate in some other era decided.

A few days ago my able friend the Senator from New Mexico [Mr. ANDERSON] commented on the fact that the Senator from California, who looks forward with a keen anticipation and relish to serving 6 additional years in the Senate, is unable to demonstrate by his vote that he wishes to eliminate the filibuster, unless a majority of the Senate sees fit to go along with what he has suggested.

As my colleague, the Senator from Minnesota [Mr. HUMPHREY], I, and other Senators on both sides of the aisle have suggested, this is the only time during the coming 2-year period when a majority of us, acting under the American Constitution, can do that which in the national interest ought to be done.

I recall the first filibuster that I saw in the Senate. My recollection is that it lasted 3½ weeks. The Senate was in session 24 hours a day from early Monday morning to late Saturday evening. Then all of us would go home, sleep all day Sunday, and return on Monday for the next grueling week. What a tragic scene.

The VICE PRESIDENT. The time of the Senator has expired.

Mr. HUMPHREY. Mr. President, I yield 1 additional minute to the Senator from California.

Mr. KUCHEL. What a spectacle in the American Government to see Senators coming into the Chamber with parts of their pajamas still clothing them, representing the great and glorious United States in the Senate.

I say most sincerely to my colleagues that I do not want any gag rule. I want full and free debate, so long as it is relevant and helpful to all Senators in the process of making up their minds. But when, under the rule, we permit a Senator to rise and waste time merely to prevent me from casting my vote, then I take offense at such a rule, and I hope and pray that my colleagues—my Republican colleagues and my Democratic colleagues will take similar offense. I hope that by a convincing majority we will vote down the tabling motion as a first step toward, at long last, changing the cloture rule of the Senate.

The VICE PRESIDENT. The time of the Senator has expired.

Mr. RUSSELL. Mr. President, I yield 10 minutes to the distinguished Senator from Georgia.

Mr. TALMADGE. Mr. President, in a few short minutes the Senate will determine, first, whether or not it will follow its own rules. When we make that determination, we will also decide whether or not the Senate will continue its constitutional role of 174 years as being the protector of our constitutional system of government.

The Constitution of the United States, article I, section 5, provides in part as follows:

> Each House may determine the rules of its proceedings.

Strangely enough, that simple provision of the Constitution of the United States has been used as authority for some to say that the Senate's own rules are unconstitutional. That is the strangest distortion of the English language that I have ever heard. The opposite is true. The Constitution provides that the Senate shall make its own rules. The Senate has made its own rules. In fact, the Senate made its rules in 1789. Those rules have continued in existence for 174 years. Those rules have been modified or changed or amended from time to time as the Senate by majority vote has determined.

I say to all Senators, Mr. President, that the Senate by its own rules—the Senate by its precedents—the Senate by its every act for 174 years—has said that it has made its rules, that we should follow them, and that the rules are constitutional.

Who else has said the same, in addition to Members of the Senate? This fact has been recognized by every branch of our Government.

The President of the United States on several occasions has called the Senate and the Senate alone into extraordinary session to act on proposed legislation. Does that not demonstrate its continuity? Does that not demonstrate that the executive branch of the Government recognizes the Senate is a continuing body?

Who else has recognized it? Even the Supreme Court of the United States, in the famous Daugherty case, which followed the Teapot Dome scandal, held that the Senate of the United States was a continuing body. It follows then as the night follows the day that if the Senate is a continuous body, if it has the power to make its own rules and has made its rules, those rules continue in existence and are constitutional.

No one can seriously question that. No one has ever questioned it, until a few years ago, when some strange theory penetrated the thinking of a few Senators, that the Senate was too awkward, too slow, and did not pass legislation which they wanted fast enough. This caused them to think that they ought to decapitate the Senate and make it amenable to every pressure group in the country. That is from where it came, Mr. President. That is the situation existing before this body today.

As recently as 1959, by a vote of 72 to 22, if I correctly recall, we added this provision to our own rules:

> The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules.

There were some of us who voted against that rules change. We did not wish to see the rule made more liberal than it was, in the first instance; and we did not think that the provision was necessary, in the second instance.

Every member of every bar association in our country, and everyone else who had studied the history of the Senate and constitutional government, knew the Senate was a continuing body.

But the Senate, nonetheless, passed that rule.

I heard the Senators from New York and other Senators on this floor make the strange argument that we have tied the hands of new Senators; that the new Senators did not have an opportunity to vote on these rules, since they came here only a short while ago; and that the new Senators ought to have an opportunity to say what are the rules of the U.S. Senate.

My colleagues, would we say that about the Constitution of the United States? Would we say to 185 million Americans that our Constitution is no good, since it was written by those "old fogies" who have long since passed away? Would we say that the Constitution is no longer binding on us?

Should we say that the criminal code of the United States is no longer binding because the authors of some of the acts are dead and the Congress adjourned last year?

Why, that argument is completely idiotic. There has not been a Senator since the first Senators in 1789 who has had an opportunity to pass on every rule in the Senate de novo. Daniel Webster did not have that opportunity. Henry Clay did not have it. John C. Calhoun did not have it. John F. Kennedy did not have it.

But every one of those Senators had and every one of the present Senators has an opportunity to submit a resolution to amend the rules of the Senate in accordance with the rules. That resolution would go to the Committee on Rules and Administration, where hearings would be held on it. It would be reported or rejected, as the committee and the Senate thought proper.

It is the most absurd argument which has ever been presented before the Congress of the United States, for someone to say, "Because it is old, because you did not vote on it, it is illegal, dead, illogical, and of no avail."

If that were true, my friends, every new person would have to start a totally new civilization involving not only law and rules, but also custom and everything else.

We have preserved the best of the ages. We amend it to conform with what the situation requires from time to time.

My friends, on yesterday—to demonstrate how complete is the intolerance of those who advocate such strange proceedings as this—we saw both the Senators from New York, the Senator from Pennsylvania, and other Senators stand on the floor of the Senate and we heard them infer that our distinguished Vice President somehow had some invisible, strange, mystic power to stop Senators in the U.S. Senate from speaking.

I listened to the argument and I was shocked, because it was completely different from anything we had ever learned in our Republic. I listened to the argument in disbelief.

Then, when the RECORD came out, I studied it in detail.

Those Senators indicated that they thought that the Vice President, by virtue of his office, had authority to make 100 Senators from 50 sovereign States take their seats and not even open their mouths in debate on a particular question.

I watched as the Vice President sought to elicit information from these Senators.

He asked:

> Can you cite a provision of the Constitution giving the Presiding Officer authority to do this?

There was no provision cited.

He asked:

> Can you cite a provision of the rules that gives the Presiding Officer of the Senate the authority to do that?

There was no provision of the rules cited.

The distinguished Presiding Officer asked:

> Can you cite any precedent in the history of the Senate, in 174 years, to show that the Presiding Officer has the power to make Senators take their seats and not represent their constituents?

There was still no answer.

Yet those gentlemen, my friends, were of the opinion that somehow the Presiding Officer could become a dictator of this body and determine, himself, when Senators could or could not speak.

My colleagues, I thought that one of the greatest editorials I have ever read appeared in yesterday's Washington Evening Star. It was written by that outstanding syndicated columnist, the author of "Citadel," William S. White.

The VICE PRESIDENT. The time of the Senator from Georgia has expired.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the editorial may be printed in the RECORD as a part of my remarks at this time.

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

ATTACK ON CONSTITUTIONAL BALANCE

(By William S. White)

Under cover of demands for seemingly dusty changes in Senate rules, a profound attack on the very constitutional balance in this country is now unfolding.

The ultimate objective is to reduce the power of the smaller, less urbanized States in the only national forum where such power still exists—the U.S. Senate. The ultimate effects would be the substitution of a Gallup poll kind of majority rule, based almost wholly upon the wishes of the populous urban centers and States and interests, for the matchless system of checks and balances written into the Constitution nearly two centuries ago.

The end of it would be a new majoritarian rule based upon megalopolis—the supercity, the superstate—which would give little time and less heed to any and every section or interest in the United States which was not allied with the new majoritarianism.

In short, what is finally sought here is the creation of a new political system of totally unchecked majority rule—instant government like instant coffee—in spite of the fact that the whole heart of the Constitution is meant to restraint majorities from running over minorities. Not even a majority of 99 percent can presently take away the basic rights of minorities, even the irreducible minority of one man, to free speech, free religion, the private enjoyment of private property.

THE LAST BASTION

Those attempting this fateful amendment of the Constitution by unconstitutional means are naturally centering upon the one place where they have not already won the game—the Senate. They are generally called liberals and generally they are Democratic Senators from big urban-controlled States, plus a handful of Republican liberals from the same kind of States.

A more exact term for them, however, is majoritarians. Chief among them are such Democratic Senators as PAUL DOUGLAS, of Illinois, WAYNE MORSE, of Oregon, and JOSEPH CLARK, of Pennsylvania and such Republican Senators as JACOB JAVITS, of New York, and CLIFFORD CASE, of New Jersey.

Their immediate objective is to end the effective power of any minority to resist by prolonged talking in the Senate through applying a parliamentary gag. Their case is superficially attractive. The filibuster has a bad name because Southern Senators have long used it to retard civil rights legislation. The fact, however, is that what is poison to the majoritarians in other hands is meat in the hands of the majoritarians themselves. The same weapon has been used by them more often than their opponents, to retard legislation sought by conservatives generally.

CIVIL RIGHTS ONLY A VEHICLE

Civil rights therefore is only the vehicle by which the majoritarians really intend to break not merely Southern resistance to civil rights bills but any and all minority resistance on any and every issue with which minorities may dare to disagree with the majoritarians. For when a minority, however wrong, can be gagged today, a minority, however right, can be gagged tomorrow.

There was a time when 26 States were soundly estimated to be in control of the shadowy Ku Klux Klan. These 26 States could have voted a clear majority in the Senate and, under the new debate restrictions now being demanded, undeniably could have halted all debate on any issue whatever.

The great, bottom truth is that the Senate is literally the only place left where political minorities have truly effective rights. The House is a strictly majority-rule-by-one institution. And minorities, including small-populated States, have little to say about either the nomination or election of a President.

All this is specifically why the Constitution gave each State, regardless of size, two votes in the Senate.

Those demanding changes in the Senate rules are demanding infinitely more than this. They are demanding consciously or not, a revolutionary overturn in the basic form of government toward a monolithic, automatic, foredoomed conformism to whatever megalopolis might decide at any given moment.

Mr. TALMADGE. Mr. President, I hope the Senate will not strike down its constitutional responsibility.

Mr. HUMPHREY. Mr. President, I now yield 3 minutes to the senior Senator from Hawaii [Mr. FONG].

Mr. FONG. Mr. President, the issue before the Senate today is the question the Vice President has submitted to the Senate for decision; that is:

> Does a majority of the Senate have the right under the Constitution to terminate debate at the beginning of a session and proceed to an immediate vote on a rule change notwithstanding the provisions of the existing Senate rules?

The majority leader and the minority leader are expected jointly to present a motion to table that question at the conclusion of this 3-hour debate.

Should the motion of the majority leader and minority leader be sustained, it will be in substance a manifestation that the Senate is desirous of adhering to its existing rule which requires affirmative vote of two-thirds of Senators present and voting to stop debate.

The motion to table offers a way for the Senate to avoid voting on the constitutional question, and if the tabling motion succeeds, the Senate will be back where it was at the start of the session, when the motion to take up a change in the rules was offered. We do not want this to happen, for we have already spent nearly 3 weeks debating this matter. We all know if the situation reverts to that point the Senate could then be subjected to further prolonged debate.

If the motion to table is defeated we would have at least made some progress toward a rule change, for this would clearly manifest that a majority of the Senate desires a change in rule XXII.

It is therefore clear that those who are desirious of changing rule XXII should vote against the motion to table.

The real question before the Senate, Mr. President, is whether a majority of 51 elected Senators under the Humphrey-Kuchel proposal, or a majority of three-fifths of Senators present and voting under the Anderson-Morton proposal, shall be permitted to perform their duty to legislate on matters of vital importance to the Nation—or whether one-third of the Senate plus one, under the existing rule, shall be permitted to obstruct the other two-thirds of the Senate.

As one who believes in a constitutional majority on this issue, I pose this question to the Senate—Shall the minority of one-third plus one rule the Senate by denying the majority the right to come to a vote? Or, shall the Senate, by its rules of procedure, permit the majority to work its will while at the same time protecting the right of the minority to be heard.

This, Mr. President, is the sum and substance of this great debate which has occupied the Senate for nearly 3 weeks.

During this lengthy debate we have heard a great deal about the unfairness of allowing 51 Senators to limit debate on the other 49 Senators and about the unfairness of 60 Senators limiting debate of the other 40.

Is it their contention that a minority of the Senate should be able to hog-tie and hamstring the remaining majority of the Senate so that the majority cannot come to a vote?

Is it fair for 34 Senators to prevent the majority of 66 Senators from coming to a vote? That is all it takes under the existing rule.

In the brief 3½ years it has been my privilege to serve in the U.S. Senate, I have witnessed five talkathons designed to prevent the majority of the Senate from voting on the merits of substantive measures before it. I have witnessed how the threat of a talkathon succeeded in forcing the majority to emasculate legislation in order to get a bill of some sort passed. I have witnessed how the Senate Rules have been used, not as tools for promoting orderly business in the Senate, but as tools for thwarting the majority from its duty to legislate.

I recall very vividly the round-the-clock sessions of the Senate in 1960 which lasted for 9 days and nights and forced Senators to remain within calling distance of the floor at all times, sleeping at night in their offices and in rooms near this Chamber. An attempt to halt the talkathon by closing debate under existing rule XXII requiring a two-thirds majority failed. The upshot was that, in order to pass a civil rights bill, the majority was forced to water it down to the point of acceptability to the minority of civil rights opponents.

The VICE PRESIDENT. The time of the Senator has expired.

Mr. HUMPHREY. I yield the Senator from Hawaii 1 additional minute.

The VICE PRESIDENT. The Senator from Hawaii is recognized for 1 additional minute.

Mr. FONG. Mr. President, what has happened from time to time in the Senate resembles minority rule rather than the majority rule contemplated by the Founding Fathers. These architects of the U.S. Constitution clearly endorsed majority rule as the rule for congressional action, for they expressly specified all the instances in which more than a majority vote is required. There are only five instances where a two-thirds majority is stipulated in the Constitution: in the power of Congress to override a Presidential veto, in Senate ratification of treaties, in the initiation by Congress of amendments to the Constitution, in the impeachment power, and in expulsion of Members of Congress. It seems clear that, insofar as the drafters of the Constitution were concerned, Congress was to operate by majority rule

unless otherwise instructed by terms of the Constitution.

Indeed, Alexander Hamilton in Federalist No. 22 wrote:

> To give a minority a negative upon a majority (which is always the case where more than a majority is requisite to a decision) is, in its tendency, to subject the sense of the greater number to that of the lesser.

Hamilton also pointed out:

> If a pertinacious minority can control the opinion of a majority, respecting the best mode of conducting it, the majority, in order that something may be done, must conform to the views of the minority; and thus the sense of the smaller number will overrule that of the greater, and give a tone to national proceedings.

The history of the U.S. Senate shows that throughout the years Senators have zealously guarded their rights to full and free debate, each always conscious of the fact that while today he might be in the majority on one issue, tomorrow he might be in the minority on another issue.

This helps to explain why the Senate has been so loath to limit debate of some of its Members who have used filibusters to prevent majority action. Since 1917, when the Senate adopted the original rule XXII to limit debate, there have been 27 votes to limit debate, only 5 of which succeeded.

That the existing rule XXII makes it possible for a minority to obstruct the will of the majority of the Senate was recognized by both major political parties in their platforms adopted in 1960. The Republican platform states:

> We pledge: Our best efforts to change present rule XXII of the Senate and other appropriate congressional procedures that often make unattainable proper legislative implementation of constitutional guarantees.

The Democratic platform pledges:

> In order that the will of the American people may be expressed upon all legislative proposals, we urge that action be taken at the beginning of the 87th Congress to improve congressional procedures so that majority rule prevails and decisions can be made after reasonable debate without being blocked by a minority in either House.
>
> To accomplish these goals will require executive orders, legal actions brought by the Attorney General, legislation, and improved congressional procedures to safeguard majority rule.

Unless and until these reforms in congressional procedures are effected, the pledges of both the Republican and the Democratic Parties for meaningful and effective civil rights legislation will remain just noble words and noble promises, incapable of fulfillment, for never has the Senate agreed to limit debate on a civil rights issue since rule XXII was first adopted in 1917.

The word "gag" has been used often in the current debate. Mr. President, the Humphrey-Kuchel proposal, which I cosponsored, will allow at the least 25 to 30 days of debate on an issue. We submit, Mr. President, that the Senate after 25 to 30 days debate on an issue should be willing to vote on any matter before it.

We who sponsor this resolution are just as aware as any other Members of this body that there will be times when we must be in the minority on an issue. But we say that as long as we have full and equal opportunity granted to us to debate the question—and we hold that 25 to 30 days are more than sufficient to allow full discussion—we would be willing to be bound by the vote of the Senate, be it for us or against us.

Let the Senate make representative government more workable in this legislative body and more responsive to the will of the American people who are represented here in the U.S. Senate.

Let the Senate vote down this tabling motion.

Mr. RUSSELL. Mr. President, I had intended to allocate time to the majority leader and minority leader. As a matter of comity, they are usually recognized.

Mr. HUMPHREY. Mr. President, I yield myself 7 minutes.

The VICE PRESIDENT. The Senator from Minnesota is recognized for 7 minutes.

Mr. HUMPHREY. Mr. President, how much time have we left?

The VICE PRESIDENT. Fifteen minutes. The Senator from Minnesota yields himself 7 minutes.

Mr. HUMPHREY. Mr. President, I merely wish to say to my colleagues that the argument being made by those opposing the tabling motion will be concluded by the maker of the constitutional motion, the Senator from New Mexico [Mr. ANDERSON]. He has been a tower of strength in this struggle, which involves the right of every Senator to determine the body of rules under which the Senate will conduct its business. I felt it was only appropriate that the Senator who led this fight should conclude the argument.

I pay my respects to our colleague the assistant minority leader, the distinguished Senator from California [Mr. KUCHEL] for his diligence, perseverance, and courage in the struggle. This has been a bipartisan effort, sustained by many of the speeches we have heard today.

What have we sought to do? First, let us clear the record. The very first thing that was done was a motion by the Senator from New Mexico [Mr. ANDERSON] under rule VIII and rule XIV, which rules were accepted and acquiesced in by this body, to place on the calendar Senate Resolution 9.

That is within the Constitution, within the rules, and within the operation of the U.S. Senate.

What was the result of that effort? From the 15th day of January to the 28th day of January, we have had argument, filibuster, dilatory tactics. Why do I make that charge? It is a serious one. Because in 1959, when the then majority leader, and now the Vice President, offered a motion, under the same rules, to modify the rules of the Senate by permitting two-thirds of the Senators present and voting to bring about a limitation of debate, there was no delay. There was no dilatory tactic, but, by the normal processes of this body, that was done, and the proposal was not referred to committee. So we had the experience of 1959, in which the Senate moved with dignity, thoughtfulness, and consideration to proceed to act on a proposed change in the rules that was offered at the commencement of the session that the Senate modify rule XXII.

What are we trying to do now? We are trying to modify rule XXII. Some of us voted for the modification in 1959 because it was the best that we could get under those circumstances. The Senator from New Mexico voted for it. The Senator from Minnesota voted for it, not because he wanted a limitation to be imposed by two-thirds of those present and voting. I wanted a constitutional majority to be able to do it. That is the Kuchel-Humphrey proposal, which was supported so ably just now by the distinguished Senator from Hawaii [Mr. FONG]. We voted for it because we thought that was as much as could be obtained under the circumstances. The Senator from New Mexico has come back to the original proposal of a requirement of three-fifths. The Senator from Minnesota does not think that is good enough but thinks that it should be possible to impose a limitation by a majority vote after 15 days and 100 hours.

Be that as it may, why do we find ourselves in this position today? Why will there be this vote under a unanimous-consent request? Because that is the only way we have been able to find a way to bring the Senate to its responsibilities. I do not say we need a dictator or an iron fist. I am not asking the Vice President to force the Senate to determine its course. I am asking my colleagues to make that determination. The only way the Senate can make a judgment is to act responsibly this afternoon and come to grips with the question before it. That is what the debate is about.

I have made this predicate to the argument because I think we should know why we have gotten into this position. We are prepared to vote. We shall know whether the Senate is then ready, by majority vote, to act on the Anderson resolution, Senate Resolution 9.

I heard the speech made by the Senator from Georgia pointing out that the Constitution has been with us many years, and pointing out how the writers of the Constitution had come to write that document. The rules of the Senate are based upon the authority of the Constitution.

The VICE PRESIDENT. The 7 minutes of the Senator have expired.

Mr. HUMPHREY. I yield myself 1 additional minute.

Article I, section 5, provides that a majority of each House shall constitute a quorum to do business, and each House may determine the rules of its proceedings.

Can anyone show me how we can better demonstrate a need to determine those rules by a majority than under these circumstances, when an intransigent minority refuses to conclude debate and vote?

In summary: The Anderson constitutional motion to terminate debate was offered only after those Senators opposing any rules changes filibustered the Anderson procedural motion to consider Senate Resolution 9. This filibuster tactic was employed despite the accepted

practice of permitting motions to change the Senate rules to come up for consideration. No objection was raised in 1959 when Senator LYNDON JOHNSON moved to consider his resolution to amend rules XXII and XXXII. Nor was the Johnson resolution referred to committee.

The opponents of any rules change demonstrated their refusal even to consider the proposition that some change in Senate rules was desirable. Those Senators who believe that the Senate has the right to consider the substance of a rules change should vote to defeat the tabling motion.

Second. The Anderson constitutional motion stems from a clear mandate found in article I, section 5 of the Constitution: (a) "a majority of each [House] shall constitute a quorum to do business;" (b) "Each House may determine the rules of its proceedings." Those circumstances when a majority is not sufficient to transact business have been enumerated in the Constitution: ratification of treaties, impeachment proceedings, overriding of Presidential vetoes, initiation of proposals by Congress to amend the Constitution, and the expulsion of Members.

No one disputes the right of a majority of Senators to determine the rules. Dispute centers around the fact that the existing rule XXII prevents a majority from exercising this right. If this explicit constitutional prerogative is to be more than verbiage, there must be a way to permit a majority to vote on Senate rules—not a majority after cloture has been invoked by two-thirds of Senators present and voting.

Those Senators who desire to activate this constitutional right to determine rules by a majority vote should vote against the present tabling motion.

Third. The Anderson constitutional motion should not be confused with the Humphrey-Kuchel resolution—Senate Resolution 10—to permit cloture of debate by a constitutional majority of Senators. Senators supporting the Anderson constitutional motion to terminate debate on a motion to consider a resolution to amend Senate rules can logically support any subsequent proposal to amend the rules. Senator ANDERSON himself does not support Senate Resolution 10, but he does support the right to a majority to adopt its rules.

Fourth. The Anderson constitutional motion has nothing to do with whether or not the Senate is a continuing body. The Senate has both continuous and discontinuous aspects. The arguments for the carryover of rules comes down to this: since two-thirds of the Senators carry over, the Senate is a continuous body; because the Senate is a continuous body, the rules carry over. Striking the words "continuous body" from this equation, the argument reads: since two-thirds of the Senators carry over, the rules carry over. But this is a patent non sequitur. It assumes that the carryover of two-thirds of the Senate always carries over a majority in favor of the rules.

In short, we accept the large majority of Senate rules by acquiescence. We dispute only those rules—XXII and XXXII—that prevent a majority of the Senate from exercising the constitutional right to determine new rules if they should so desire.

Fifth. Defeat of the tabling motion would demonstrate the Senate's conviction to uphold its constitutional right to consider amendments to Senate rules, unfettered by restrictive rules adopted by earlier Congresses. It would not terminate the debate itself. But it would indicate a determination on behalf of the Senate not to have this constitutional right ignored.

I ask my colleagues to vote against the motion to table so that the Senate may determine affirmatively the question before it.

Mr. President, I yield 3 minutes to the Senator from New Jersey [Mr. WILLIAMS].

Mr. WILLIAMS of New Jersey. Mr. President, I would like to say a few words in favor of modifying Senate rule XXII.

The question of amending the rules of the Senate has been before us on several occasions. We all know that this subject has been fully explored and debated. And I believe a majority of Senators would now favor some modification of rule XXII. Yet we are prevented from voting on the merits of the various proposed modifications because of our present inability to achieve a two-thirds vote to bring debate to a close. This certainly indicates to me that rule XXII is badly in need of modification.

I simply cannot understand why, if it takes only a majority vote to change the rules of the Senate, it should take a two-thirds vote to terminate debate so that the merits of the rule change can be voted upon.

This question, of course, raises the issue whether the Senate is or is not a continuing body. I think it is clear that in certain respects it is, if only because only one-third of the Members of the Senate are elected every 2 years. But it is also clear that, in other respects, the Senate is not a continuing body. For one thing, all bills die at the end of each session of the Congress.

The question is whether the Senate is a continuing body with respect to the rules governing its procedure, and whether the Senate can only change its rules in accordance with the rules established by previous Congresses. The argument we make is that the Senate has the right under the Constitution to establish its rules, and that you cannot bind new Members of this body as well as existing Members of a new Congress to rules established in previous Congresses.

But the issue is really more fundamental than this. It seems to me that the crux of the issue is whether the Senate is going to be able to debate and then act to meet the great legislative challenges that lie in the difficult and rapidly changing years to come, or whether a minority of one-third plus one will continue to be able to virtually paralyze the effective functioning of the U.S. Government if it so chooses.

This is not to say that we should do away with the checks and balances that have helped make this form of government such a great success. But the number of other checks and balances woven into this type of government are so numerous that, given the enormous changes taking place in the world today which were unknown to our forefathers, there is reason to be as concerned with the problem of stalemate in the democratic process as there is with the problem of possible corruption through the accumulation of too much power.

Nor is this to say that the Senate should be denied the right of full and extensive debate, which on many occasions has helped illuminate complex questions, focus public opinion on vital issues, calm impassioned emotions, and protect strongly held minority views, which obviously can be right as often as they can be wrong.

And as a matter of fact, I do not think the proposals to change the rules which are now under consideration could be more sensitive to the many potentially beneficial values of full debate I have just mentioned.

The Humphrey-Kuchel proposal, Senate Resolution 10, which I have joined in sponsoring, would permit a constitutional majority of the Senate to end debate on a subject only after 15 days of debate had elapsed. Thereafter, a maximum of 50 additional hours of debate would be available for each side to close their arguments.

Mr. President, this amendment and the others under consideration are based on the belief that there is a time for debate and there is a time for decision.

I think our responsibilities to the Nation compel a better balancing between the needs for debate and action.

Mr. President, I think it is important to note that, so far as I know, no other parliamentary body in the world makes it as easy as the U.S. Senate for so small a minority to block the will of the majority and prevent action from being taken.

I think it is even more interesting to note the situation that exists in the upper bodies of our own State legislatures.

I noticed that a good many of our colleagues who are opposed to changing the rules of the Senate have also spoken frequently and eloquently about the rights and responsibilities of our State governments.

Our State governments are unquestionably vital elements of the Federal system of government. Their powers and responsibilities are very great, and I am sure there are some Senators here who would like to see even more power and responsibility transferred from the Federal Government and placed in the hands of the State governments.

Yet, nearly every one of our States provide much more rigid limitations on debate in their upper bodies than does the U.S. Senate.

In fact, 47 of the 50 States forbid filibustering in their senates, either by use of the previous question motion or by other parliamentary limitations. In 39 of those States the motion for the previous question requires only a majority vote.

In view of this situation in our State legislatures, I find it a little hard to understand why those who place such great faith in the duty and ability of our State governments to exercise very

great responsibilities and power over the lives of the American people should fear the adoption of Senate rules similar to the rules on debate that prevail in so many of our States, in the South as well as the North.

Mr. President, I think other Senators may be interested in knowing the rules governing debate in our State senates, and I ask unanimous consent that a table prepared by the Library of Congress be included in the RECORD at this time.

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

BRIEF SUMMARY OF STATE SENATE RULES ON LIMITATION OF DEBATE

ALABAMA (1957)

Debate may be limited by a vote of two-thirds of all elected members (rule 19). Members limited to twice the number of times to speak on one measure and limited to one hour each time (rule 37).

ALASKA

Alaska (1961): Previous question authorized by vote of two-thirds of the members present (rule 31).

ARIZONA (1958)

Previous question authorized rule XVIII. Presumably requires majority vote.

ARKANSAS (1951)

Previous question authorized if seconded by at least five members (rule XV). Presumably requires majority vote. Dilatory motions forbidden (rule XIV, sec. 19).

CALIFORNIA (1957)

Previous question authorized by majority vote (rule 41).

COLORADO (1958)

Previous question authorized by majority vote (rule IX). Debate may be limited not less than 1 hour after adoption of motion to that effect by majority vote (rule IX, 3).

CONNECTICUT (1957)

When yeas and nays have been ordered by one-fifth of members present, each senator when his name is called shall declare openly his assent or dissent (rule 10).

DELAWARE (1957)

Roberts Rules of Order to settle all parliamentary procedure (rule 24).

FLORIDA (1957)

Members may not speak longer than 30 minutes no more than twice on any one question without leave of the senate (rule 20).

GEORGIA (1957)

Previous question authorized by majority vote (rule 58). Speeches are limited to 30 minutes unless by leave of senate (rule 15).

HAWAII

Hawaii (1961): Previous question authorized by vote of two-thirds of the members present (rule 49). The motion is not allowed in meetings of the committee of the whole house (rule 34).

IDAHO (1947)

Previous question authorized (rule 4). Presumably by majority vote.

ILLINOIS (1958)

Previous question authorized (rule 54). Presumably by majority vote. Members are limited to 15 minutes at any one time without consent of senate (rule 33).

INDIANA (1949)

Previous question authorized (rule 17). Presumably by majority vote.

IOWA (1957)

Previous question authorized by majority vote (rule 12).

KANSAS (1957)

Previous question authorized (rule 28) presumably by majority vote. No senator may speak more than twice on same subject on same day (rule 15).

KENTUCKY (1958)

Previous question may be ordered by majority of senators elected (rule 12). Members are limited to one 30-minute speech on a measure until all members desiring to be heard have spoken (rule 21).

LOUISIANA (1958)

Previous question authorized by majority vote (rule 17). Debate may be limited by majority vote so that no senator shall speak longer than 1 hour at one time without leave of senate (rule 9).

MAINE (1957)

Members are limited to one speech on a measure to the exclusion of any other member without leave of senate (rule 10). Reed's Rules and Cushing's Law and Practice govern whenever applicable (rule 37).

MARYLAND (1958)

Members are limited to one speech on any measure to the exclusion of any other member. Each member is required to confine himself to the subject (rule 14). Jefferson's Manual governs when not inconsistent with standing rules (rule 92).

MASSACHUSETTS (1958)

Debate may be closed not less than 1 hour after adoption of motion to that effect (rule 47). Presumably by majority vote. Cushing's Manual and Crocker's Principles of Procedure shall govern when not inconsistent with standing rules (rule 62).

MICHIGAN (1958)

Previous question authorized by majority vote of members present and voting (rule 65). Members are limited to two speeches in any one day on the same measure (rule 23).

MINNESOTA (60TH SESSION)

Previous question authorized by majority vote (rule 24).

MISSISSIPPI (1956)

Previous question authorized (rule 112). Presumably by majority vote.

MISSOURI (1957)

Previous question authorized by majority vote of members elected (rule 76). Members are limited to one speech on same question without leave of senate (rule 72).

MONTANA (1951)

Previous question authorized by majority vote (rule XIV). Members are limited to two speeches in any one debate on same day in exclusion of others (rule XII).

NEBRASKA (1957)

Previous question authorized by a vote of a majority of elected members (rule 10). Members are limited to two speeches in any one debate during a legislative day without leave of legislature (rule 1).

NEVADA (1951)

Previous question authorized by majority of members present (rule 18). Members are limited to two speeches on one question on the same day (rule 44).

NEW HAMPSHIRE (1951)

Previous question authorized (rule 9). Presumably by majority vote. Members are prohibited from speaking more than twice on the same day on a measure without leave (rule 4).

NEW JERSEY (1958)

Previous question is authorized (rules 41, 43). Presumably by majority vote. Prohibits any member from speaking more than three times on same subject without leave (rule 47).

NEW MEXICO (1958)

Permits debate to be closed after 6 hours debate by a majority vote of members present (rule 68). Previous question authorized when demanded by a majority of members present (rule 58). Members are prohibited from speaking more than twice in any one debate on same day (rule 12).

NEW YORK (1959)

Debate may be limited by majority vote of those present whenever any bill, resolution, or motion shall have been under consideration for 2 hours (rule XIV, sec. 3).

NORTH CAROLINA (1951)

Previous question authorized (rule 57). Presumably by majority vote.

NORTH DAKOTA (1957)

Previous question is authorized (rules 18, 21). Presumably by majority vote. Ordinary members are limited to speak only 10 minutes on same subject, then 5 minutes, until every member choosing to speak has spoken (rule 13).

OHIO (1957)

Previous question is authorized on demand of three members (rule 89). Presumably by majority vote. Members are prohibited from speaking more than twice on same question (rule 74).

OKLAHOMA (1955)

Previous question authorized by majority vote of members voting (rule 39).

OREGON (1951)

Previous question authorized by majority vote (rule 69). Members are limited to speaking on any question to two times (rule 25).

PENNSYLVANIA (1958)

Previous question authorized (rules 9, 10). Presumably by majority vote. Mason's Manual to govern when applicable (rule 34).

RHODE ISLAND (1958)

Motion to close debate authorized after consideration for 2 hours (rule 23). Presumably by majority vote. Members are limited to speaking on a measure to two speeches without leave of senate (rule 18).

SOUTH CAROLINA (1957)

Previous question is authorized if seconded by at least one-seventh of members elected and requires a vote of a majority of members present to carry (rule 53).

TENNESSEE (1949)

Previous question authorized by vote of two-thirds of members present; if rejected, committee of rules may, upon demand of a majority of the members, submit rule fixing of limiting time for debate for adoption by majority of senate (rule 20).

TEXAS (1949)

Previous question authorized by majority vote (rule 101).

UTAH (1957)

Previous question specifically forbidden (rule 45). Provides that no member speak more than twice in any one debate on same day without leave (rule 42).

VERMONT (1957)

Previous question specifically forbidden (rule XVIII, 55). Provides that no member shall speak more than twice on same question without leave (rule X, 66).

VIRGINIA (1958)

Previous question authorized if seconded by majority of members present (rule 50). Prohibits members from speaking more than twice on same subject without leave (rule 56).

WASHINGTON (1957)

Previous question authorized by majority vote of members present (rule 30). Prohibits members from speaking more than twice on same subject on same day without leave (rule 16).

WEST VIRGINIA (1957)

Previous question authorized by majority vote (rule 53). Prohibits members from speaking more than twice on same subject without leave (rule 17).

WISCONSIN (1957)

Previous question authorized on demand of five members (rules 76, 77). Presumably by majority vote. Prohibits members from speaking more than twice on same subject without leave (rule 59).

WYOMING (1957)

Previous question authorized when seconded by three members (rule 43). Presumably by majority vote. Prohibits members from speaking more than twice on same subject on same day without leave (rule 32).

Mr. RUSSELL. Mr. President, I yield 20 minutes to the Senator from Illinois [Mr. DIRKSEN].

The VICE PRESIDENT. The Senator from Georgia yields 20 minutes to the Senator from Illinois.

Mr. RUSSELL. Or so much of that time as he may desire to use.

Mr. DIRKSEN. Mr. President, several years ago a friend sent me a little poem. I carry it in my pocket, and I read it nearly every day. The title is: "Slow Me Down—I Am Going Too Fast."

This is the missile age. This is the nuclear age. This is the age of the astronaut. This is the age of hurry, of speed, of acceleration. There is no time to ponder and to reflect. Things must be jammed through now.

It becomes disturbing because the missile age is infectious. I suppose in life everything is rather compensatory. So, as I come afoul of the proposition which is before us I think first of all of what is written in Exodus:

Thou shalt not follow a multitude to do evil.

As a matter of fact, there is no compromise with evil. There is no compromise with sin. One either takes it or rejects it.

I am sure there is a kernel of evil in all this. I say it most kindly. I believe the rule as it exists on the Senate rulebook is actually the only brake on irrational and unreasonable action anywhere. I make no exception in the whole structure of government.

Let us see whether that thesis can be established.

The first bill I voted on in 1933 under Franklin Roosevelt was the Economy Act. It was not even in print. We worked from five typewritten copies. The economy was achieved at the expense of the veterans and the Federal employees, and no one else. I voted for the rule, to begin with, and then voted against the bill. In a few days my desk was littered with telegrams and letters. It is no easy thing to bear when one's best friend sends a telegram: "You stinking one-termer."

I have been here nearly 30 years. That is what an aberration even among a free people can do. That is the kind of impact it can have on our deliberations.

I was here when Franklin Roosevelt sent the Potato Act to Congress. The Secretary of Agriculture would have become a czar and would have been permitted to say what size potato could be shipped in interstate commerce. It was passed because the economic pinch upon the country did something to people, and it frightened those who came here who should have been deliberate in their approach to legislation, even in a great depression.

I was here when Franklin Roosevelt sent the coal bill to the Ways and Means Committee of the House. I will never forget the message. The message said:

Let no doubt, however reasonable, about its constitutionality deter you from passing this bill.

Think of that. A President said that to Congress.

One never knows what kind of attitude will stem from economic stagnation and when the pocketbook pinches and when financial empires go down the drain.

I was here when the National Industrial Recovery Act came to Congress.

Does not everyone remember the Blue Eagle, flaunting its beauty from every billboard in the land, with a commercial wheel in one talon and a bolt of lightning in the other? It would have suspended the antitrust laws of the country.

A pants presser in New Jersey was put in jail because he refused to charge 50 cents, the code price for pressing a pair of pants. A battery manufacturer in York, Pa., was put in jail because he would not raise his prices.

That is what happens when a country is under pressure. Then we ask, "Where is the brake?" We ask, "How do we stop it finally? How do we introduce reason and some sense?"

I have always said that in these times we become a little cowardly, under pressure.

I wept when my friend wrote to me about that first vote. I wanted to make public service a career. It was hard work to go back to talk to my business friends and others who had scolded me and had said, "You should follow the President." They did not ask whether he was right or wrong. They said, "You should follow the President." We were told to lead the children out of the wilderness of economic stagnation.

I was here when the Gold Reserve Act and the Silver Purchase Act were put on the books. What did the Secretary of the Treasury say yesterday to the Committee on the Economic Report? He asked that the Silver Purchase Act be repealed. That was his answer. But under pressure these things go on the statute books. Then we ask ourselves the question, "How and when can it be stopped?"

I was here when we voted the Agricultural Adjustment Act. I was here during the call for the incineration of little pigs, and the arguments for the plowing under of cotton. Oh, there could be no time to deliberate. The order was: Push it through now. Haste. Speed. Acceleration. Hurry. That was the order of the day. I remember the old slogan: Relief, reform, recovery. Harry Hopkins came to the other body and almost demanded that we not touch his estimates. Then they went abroad in the land to spend billions of dollars under CWA.

I defy anyone to go anywhere in the country and find a durable vestige of what is left of that whole program.

But that is what emotionalism, that is what passion, can do. Is there anyone so bold as to stand up and say it will never happen again? Oh, it will happen. It will happen many times. All these acts, CWA, Silver Purchase, National Industrial Recovery Act, the Economy Act, the Agricultural Adjustment Act, the Potato Act, the Gold Act—if I had time, I suppose I could add materially to the list—were all pushed through.

Now let me give the Senate classic example. It came later. On May 25, 1946, President Harry Truman stood before a joint session of Congress. I apprehend Senators who are still serving in the Senate were present. I was there. He asked for the immediate enactment of the Industrial Disputes Act. In large part, I suppose it was all right. However, there was something in that act that gives me profound regret. I voted for it. Three hundred and six House Members voted for it. Only 13 voted against it. One hundred and eleven refused to vote. Let me tell the Senate what the President of the United States asked for when he stood in the rostrum. I read from section 7 of that bill:

The President may, in his proclamation issued under section 2 hereof, or in a subsequent proclamation, provide that any person subject thereto who has failed or refused, without the permission of the President, to return to work within 24 hours after the finally effective date of his proclamation issued under section 2 hereof, shall be inducted into the Army of the United States. * * *

He stood there that day and urged the railroad brotherhoods to go back to work. They had been on strike. The coalworkers in the Government-seized mines were still on strike. That was what the President of the United States asked for. He asked Congress for the right to put the strikers into the Army if they did not go back to work in 24 hours. In all my years in both bodies, that is the one vote that I would like to sponge out.

The bill then came to the Senate. Thank goodness, the Senate had a redoubtable leader. The bill was stopped here in a night session. The Senate took out that provision and tried to particularize a few more things.

You see, emotionalism, prejudice, hate, unreason, and all those things, can come at any time or in any generation. But there was more than a majority of the House who voted to give the President the power to proclaim an emergency and to put every railroad and mine striker into the Army if in 24 hours he did not return to work.

Where was the brake? The brake was here, in this body, if it had to be exercised. In the whole structure of the Government, it is the only brake on hasty action of which I have any knowledge. Such action could happen again.

It has been said that to prevent the majority from exercising its will and getting a chance to vote, if the proposal is evil, the majority ought to be stopped; and those who have the conviction that it is evil are recreant to their duty if they do not do everything they can to prevent the enactment of a proposal that would do evil and injustice to the country. It is that simple.

Rule XXII in its present form is, on reflection, still the one brake preserved in our country. I do not want to see it

go by the board. Other days will come. Oh, how in 1933 we first charged down one radical road and then another, and there were only a handful to stand up and protest. I think in the third term there were only 87 Republicans out of 435 Members of the House of Representatives. All we could do was to protest. But when the legislation came under the House procedures, the time for general debate was set at 2 hours, 4 hours, 5 hours, or whatever the rule might have provided.

Then we had the grand chance. We had 5 minutes in which to offer an amendment. Oh, how those amendments slid through, and how often we were laughed at. We had to hope, then, that there would be a number of profiles in courage in the U.S. Senate to stand up and do their job, and not let the situation get out of hand.

Much emphasis has been placed on civil rights. I doubt whether any Member of this body will reproach the minority leader for his record on civil rights. I carried the flag for Eisenhower here, and I thought we did reasonably well. But I am thinking not merely of civil rights; I am thinking of anything that could have a bad impact upon the economy of the country. The day will come when it will happen again, for the very simple reason that since the beginning of time human nature has not changed.

When David coveted Bathsheba and put Uriah in the front lines to get him killed, he was expressing a human weakness that has obtained even until today under the veneer of our civilization.

Ananias and Sapphira departed from the truth, and we find their counterparts in this highly intelligent civilization of ours. Human nature has not changed. People will come in whose breasts and in whose hearts there will be a lust for power. If they are fortified, they might push their plans through, unless there is a brake in Government somewhere.

This body is the one brake, because a few Senators can stand up and seek to stop such action—not merely to stop a majority from voting, but to stop evil from being done. Let us not forget that.

I said it takes profiles in courage. We may have whatever profile we like, but we must have a weapon to go with it. That is the important thing. Rule XXII is the weapon.

Let us not kid ourselves as to where this procedure would ultimately lead, because a number of resolutions are pending. Here is one submitted by the distinguished Senator from Oregon [Mr. MORSE]. It reads:

> Is it the sense of the Senate that the debate shall be brought to a close?
>
> And if that question shall be decided in the affirmative by a majority vote of those voting, then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

A quorum is 51. A majority is 26. The Morse formula as imbedded in this resolution would make it possible, if 51 Senators were on the floor, for 26 Senators to stop the debate. So we would start with the present rule; then we would go to a three-fifths majority; then to a majority of the Senators constitutionally sworn; then to a majority of the Senators present and voting. Who knows? We may get down to 10 percent after awhile. We never can tell.

But rule XXII ought to stay as it is. I adjure Senators that the motion to table ought to be supported.

Much pressure has been exerted. I presume some of our labor friends are in the galleries today. I hope they heard me read section 7 of the act on which I voted in May, 1946. I wonder what they think about it. Their delegations have been in my office. I remind them that I voted for that bill, the one great legislative mistake I made in my life, because I was the victim of the passion, the heat, and the emotionalism of the time. So it could happen again. If the representatives of labor are in the galleries, they ought to take notice.

I do not know that I need say anything more, except that the Senate has a rule which in an age of haste says to us, "Slow me down; I am going too fast." We have a Republic because we have not moved too fast. Someone has likened our Nation to an old scow: "It don't move very far; it don't move very fast at one time; but it never sinks."

Ours is the oldest Republic on the face of the earth having a written Constitution. I want to keep it.

I have only one other thought. It came back to me as I was driving in from the country this morning. I recalled that last September we observed the 175th anniversary of the Constitution. I go back and explore history once in a while. I think this is an authentic recollection. On the 17th of September, 1787, when those venerable gentlemen came out of that Hall in Philadelphia, the first one out was Benjamin Franklin. We observed his 257th birthday anniversary this month. As he came out, a woman grabbed him. She was the wife of a former mayor of Philadelphia. Her name was Eleanor Powell. Her husband had been mayor. Her husband's father had been mayor. She went right to the point.

She did not say, "Dr. Franklin, what have you fellows been doing in there ever since May?"

No. She said, "Dr. Franklin, what have we got—a monarchy or a republic?"

Then that venerable old man, one of the great, able——

The VICE PRESIDENT. The time of the Senator from Illinois has expired.

Mr. DIRKSEN. May I finish my sentence?

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the Senator from Illinois may finish his sentence.

The VICE PRESIDENT. The Senator from Illinois is recognized for an additional minute.

Mr. DIRKSEN. She said, "Dr. Franklin, what have we got—a monarchy or a republic?"

Like a flash, the 83-year-old man said, "A republic—if you can keep it."

And we will keep it if there is a brake in government—and that is spelled b-r-a-k-e. And the only real brake I know of is the rule which today is in the rule book of this body.

So I was delighted to conjoin with my friend, the majority leader, in offering the tabling motion; and I trust that it will be supported by an overwhelming majority of the Senate.

Mr. HUMPHREY. Mr. President, the Senator from Georgia [Mr. RUSSELL] and I entered into an arrangement, in the light of some speeches, to yield, jointly, 2 minutes each—or a total of 4 minutes—to the majority leader.

The VICE PRESIDENT. The Senator from Minnesota has 7 minutes remaining; the Senator from Georgia has 1 minute remaining.

Mr. HUMPHREY. Then we shall yield 2 and 1.

The VICE PRESIDENT. The Chair does not understand the Senator.

Mr. RUSSELL. Mr. President, I ask unanimous consent that the majority leader may proceed for 4 minutes.

The VICE PRESIDENT. Is there objection? The Chair hears none; and it is so ordered.

Mr. MANSFIELD. Mr. President, like the distinguished minority leader, I, likewise, recall the receipt of that message in the House of Representatives and that vote—and, in particular, my own vote. It is one of the votes I have really regretted in my lifetime. I think I made a terrible mistake then; and I so admitted to my folks when I went home, later that year. But, as the minority leader has said, had it not been for the Senate, had it not been for the delay in this body, it is quite possible that that proposed law would have been passed, with the result that the railroad workers and others who then were on strike would have been drafted into the Armed Forces of the United States.

Mr. President, shortly we shall cast the first Senate vote in the 88th Congress. It has been stated that the issue is obscure, that the question lacks color, that the press, the people and the Senators themselves have failed to respond to the debate as they would to a substantive cause. This is in large measure true. But the time for choice has come, and with it the slow realization that what we are going to vote on is elemental, not in the sense that it is easily decided, but in the sense that it touches the vital organs of our democracy. Let us be certain of one thing. What we vote on here today is not whether two-thirds, three-fifths, or a majority of Senators will be able to stop debate in the Senate. Important as that question is, the question we must now decide is, perhaps, even more crucial, for it seems to me that by this vote the Senate will declare its support or rejection of the following proposition: That, in order to have its will, the majority of this body, however transient, will ignore the parliamentary traditions of 174 years, the precedents of 87 Congresses, and the rules of procedure which it itself has adopted and observed through all that time; that the majority will accomplish this end by reading its own encouragement and authorization into an instrument that is assuredly silent on the matter, but which speaks out elsewhere again and again in opposition to the authoritarian rule of the majority.

That is the real proposition before this body.

As the Senator from Rhode Island so cogently pointed out earlier today, in 1959 the Senate agreed to change rule 22 in two important ways. One revision directed that the cloture procedure could thenceforth be used to accomplish a change in the rules. Rule 32 was correspondingly altered, so as to codify the generally accepted proposition that the Senate rules continue from year to year unless changed as provided in the rules. By adopting these two propositions, the Senate set forth a legal procedure by which the rules could be changed, and provided the logical correlative that the rules were to be considered permanent until so changed. By providing a method of ordered change, the rules followed the basic philosophy of law in a democracy. To abandon these procedures, or, even worse, to demand that an authority other than the Senate—indeed, a member of the executive branch of Government—should dictate new and unknown procedures, seems to me—and is—a very, very dangerous course.

When, under established procedures and by recognized and well-understood methods, the time comes for a vote on three-fifths cloture, I will vote for it. I understand and sympathize with those Senators in this body who feel the frustration of perennially trying and failing to pass legislation they feel is vital to the needs of Americans. But let us not, I say, forget the customs, the precedents, and the rules, in our attempt.

Mr. President, I shall vote to table the motion.

Mr. HUMPHREY. Mr. President, how much time remains available to me?

The VICE PRESIDENT. The Senator from Minnesota has 7 minutes remaining.

Mr. HUMPHREY. I thank the Chair.

Mr. President, I yield the remainder of the time available to me to the mover of the motion, the Senator from New Mexico [Mr. ANDERSON].

The VICE PRESIDENT. The Senator from New Mexico is recognized for 7 minutes.

Mr. ANDERSON. Mr. President, I have wondered, many times, what a person might say, at the end of this long debate, which might in some way persuade Senators that they should vote against this tabling motion. I have had part of the answer furnished me this afternoon. I listened to the recitals by the majority leader and the minority leader about what happened when a bill to draft the railroad workers was presented to Congress.

I suppose there is a belief by some persons that some sacred rule of the Senate protected the people of the United States at that time. I was then a member of the Cabinet of the President of the United States; and I know something about the circumstances under which he submitted his bill to the House of Representatives and had it passed, and I know something about the circumstances and about what happened to that bill when it came to the Senate and was not passed. It was not blocked by any two-thirds rule. It was blocked by the courage of Bob Taft, who said, "This shall not take place." He did not need any two-thirds rule.

"One man with courage," said the philosopher, "is a majority." And Bob Taft had courage. He needed nothing else. That bill was stopped in the Senate, not by a Senate rule, but by the courage of one person.

Earlier today, I also heard a recital about Edmund G. Ross, and about how brave he was in connection with the impeachment trial of President Andrew Johnson. Mr. President, I appointed the great-grandson of Edmund G. Ross to one of the military academies. I think I know the story of Edmund G. Ross as well as any other Member of the Senate, and I know how he was driven out of his home State because he had the courage to do what he did. Nevertheless, he cast an important vote in connection with a matter which required a two-thirds vote of the Senate; but it was required by the Constitution, not by Henry Clay or Alexander Hamilton or by someone in 1789. Edmund G. Ross had the courage to do what he felt was right.

I heard a Senator refer to the Teapot Dome scandal and I heard him say how important it was that the Teapot Dome scandal was detected. Mr. President, a recent book about Teapot Dome mentions that an Albuquerque newspaperman began the hunt to find what was wrong with Teapot Dome; and I know how hard it was to find Senators who would stand up at that time. But finally one was found—Thomas Walsh, of Montana. It was Thomas Walsh who defied the precedent which had been established in the Senate, and said, "I will not be bound by a rule of the Senate that is improper and unconstitutional."

What did he accomplish? As a result of his objections in 1917, both Republicans and Democrats caucused. They said, "We cannot have total anarchy. He is advocating a rewriting of the rules. We had better give him what he wants." So he was given a rule on cloture that permitted the Senate to stop debate when Senators thought it ought to be stopped.

Yes, he was a brave man, but he did not benefit by all the long traditions of 150 years. He benefited because he had in his own heart the essential courage to stand up and do what he thought was right.

That is all that is involved here today. Someone has said:

> Do you not think that what you are doing is a reflection on the Vice President?

If anyone in the Senate Chamber has the right to claim that he has not reflected and would not reflect wrongly upon the Vice President, I think I have that right. The story of the Los Angeles Democratic Convention is pretty well known. I know how certain delegates from New Mexico stood at that convention. Their vote never changed. They stayed by the then Senator from Texas.

I am the last one who would reflect upon the Vice President. What I have done is not a reflection. It is the Vice President's own request that the Senate itself pass upon a constitutional issue. To request the Senate to pass upon the issue as the Vice President has requested, one way or the other, is no reflection upon anyone. This is a mere request to say what we believe about it.

A play entitled "The Trial of Pontius Pilate," was written by Robert Sherwood, but was never produced. In that play Sherwood pointed out that Pontius Pilate was a fine young graduate from school and hoped that he might become a very important law officer of the Roman Empire. He hoped to be made procurator to Egypt. Unfortunately, when the assignments came out, he was given the miserable assignment, as he thought, of procurator to Judea.

While he was serving in Judea an incident occurred which affected his whole life. There was a clamor at night. He heard the story of what was going on. People came to him and said:

> Oh, Pontius Pilate, there is a great noise in the street.

Pilate said:

> What is the noise? A crowd is out there yelling, "Crucify him."

The reply was "Crucify him."

Pontius Pilate walked to the balcony and had his servant bring him some water and a towel. Then he said:

> I wash my hands of this event.

Mr. President, remembering the Dixon-Yates fight and a few other fights we have had, I thank God that I have not stood by and washed my hands on the balcony while those questions were before the people. Senators who wish to wash their hands today may do so. But let no one be fooled. The vote we are taking is to provide or reject a three-fifths cloture rule, and nothing else. Senators will not see the question before the Senate again this session. They will have no further opportunity this session to vote on that question.

The able minority leader, one of the very finest men in the Senate, and one whose long record has brought credit to him, stood up before us not long ago—1961—and told us:

> Senators need not worry about the motion to refer the proposal to the Committee on Rules and Administration. Everything will be wonderful. When in good faith the majority leader gives assurance to the Senate that he will bring the proposal back to the Senate, if for any reason those honorable efforts were to be obstructed, I believe it would be like falling off a log to get two-thirds of the Senators to vote for cloture.

He said it would be "like falling off a log."

I suggest to Senators that they pick up the RECORD and read what occurred. How did the vote on cloture result? How did some of those Senators who had endorsed the Senator's motion to refer the proposal to the Committee on Rules and Administration vote when the time came to vote? They voted against cloture, of course. They wanted to preserve the status quo.

Today a similar situation exists. We have one opportunity, and only one. That opportunity has come at the beginning of the present session. If Senators throw it away, I suggest that they not go home to their people and say, "We wanted a three-fifths provision, but we were caught in a parliamentary decision."

Senators are not caught. They can vote today. Senators will not be able

to vote on the issue tomorrow. We can vote today to see to it that the motion to table is rejected. We can vote today to see to it that Senators have an opportunity to establish their own rules. We can vote today as Thomas Walsh would have voted. We can vote today as Edmond Ross and some of the other former Senators we have been talking about would have voted. There is only one way to handle the issue at the present session, and that is to do it at this hour.

I know how easy it is to say, "There was a parliamentary decision and we thought so and so."

The parliamentary decision is not misunderstood by a single Senator in this Chamber. Not one. Every Senator here knows what he is doing. He can vote either for a three-fifths rule or something better.

I hope the motion to table will be defeated.

The VICE PRESIDENT. The time of the Senator has expired.

The Senator from Georgia has 1 minute remaining.

Mr. RUSSELL. Mr. President, inasmuch as I have been charged with filibustering, I am glad to yield back the 1 minute I have remaining.

The VICE PRESIDENT. All time for debate having expired, under the unanimous-consent agreement the clerk will call the roll to obtain a quorum.

The legislative clerk called the roll and the following Senators answered to their names:

[No. 14 Leg.]

Aiken	Gruening	Morse
Allott	Hart	Morton
Anderson	Hartke	Moss
Bartlett	Hayden	Mundt
Bayh	Hickenlooper	Muskie
Beall	Hill	Nelson
Bennett	Holland	Neuberger
Bible	Hruska	Pastore
Boggs	Humphrey	Pell
Brewster	Inouye	Prouty
Burdick	Jackson	Proxmire
Byrd, Va.	Javits	Randolph
Byrd, W. Va.	Johnston	Ribicoff
Cannon	Jordan, Idaho	Robertson
Carlson	Keating	Russell
Case	Kefauver	Saltonstall
Church	Kennedy	Scott
Clark	Kuchel	Simpson
Cooper	Lausche	Smathers
Cotton	Long, Mo.	Smith
Curtis	Long, La.	Sparkman
Dirksen	Magnuson	Stennis
Dodd	Mansfield	Symington
Dominick	McCarthy	Talmadge
Douglas	McClellan	Thurmond
Eastland	McGee	Tower
Edmondson	McGovern	Williams, N.J.
Ellender	McIntyre	Williams, Del.
Engle	McNamara	Yarborough
Ervin	Mechem	Young, N. Dak.
Fong	Metcalf	Young, Ohio
Fulbright	Miller	
Goldwater	Monroney	

The VICE PRESIDENT. A quorum is present. Does the leadership desire to have the yeas and nays ordered?

Mr. HUMPHREY. Mr. President, I ask for the yeas and nays on the question of tabling.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on the issue of tabling the question submitted on January 28 by the Vice President to the Senate under the uniform of precedents of the Senate, for its decision, namely:

Does a majority of the Senate have the right under the Constitution to terminate debate at the beginning of a session and proceed to an immediate vote on a rule change notwithstanding the provisions of the existing Senate rules?

If the above question is tabled, the question will then recur on the motion of the Senator from New Mexico [Mr. ANDERSON] to proceed to the consideration of Senate Resolution 9, submitted on January 15, 1963, a resolution to amend the cloture rule of the Senate.

A vote "yea" is to table; a vote "nay" is not to table.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METCALF (when his name was called). On this vote I have a pair with the junior Senator from North Carolina [Mr. JORDAN]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. MORSE (when his name was called). On this vote I have a live pair with the Senator from Tennessee [Mr. GORE]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HUMPHREY. I announce that the Senator from Tennessee [Mr. GORE] is absent on official business.

I further announce that the Senator from North Carolina [Mr. JORDAN] is necessarily absent.

Mr. KUCHEL. I announce that the Senator from Kansas [Mr. PEARSON] is necessarily absent and, if present and voting, would vote "yea."

The yeas and nays resulted:

[No. 15 Leg.]

YEAS—53

Aiken	Gruening	Mundt
Bartlett	Hayden	Pastore
Bennett	Hickenlooper	Pell
Bible	Hill	Prouty
Byrd, Va.	Holland	Robertson
Byrd, W. Va.	Hruska	Russell
Cannon	Inouye	Saltonstall
Carlson	Johnston	Simpson
Cotton	Jordan, Idaho	Smathers
Curtis	Kefauver	Sparkman
Dirksen	Long, La.	Stennis
Dominick	Mansfield	Talmadge
Eastland	McClellan	Thurmond
Edmondson	McGee	Tower
Ellender	Mechem	Williams, Del.
Ervin	Miller	Yarborough
Fulbright	Monroney	Young, N. Dak.
Goldwater	Morton	

NAYS—42

Allott	Fong	McIntyre
Anderson	Hart	McNamara
Bayh	Hartke	Moss
Beall	Humphrey	Muskie
Boggs	Jackson	Nelson
Brewster	Javits	Neuberger
Burdick	Keating	Proxmire
Case	Kennedy	Randolph
Church	Kuchel	Ribicoff
Clark	Lausche	Scott
Cooper	Long, Mo.	Smith
Dodd	Magnuson	Symington
Douglas	McCarthy	Williams, N.J.
Engle	McGovern	Young, Ohio

NOT VOTING—5

Gore	Metcalf	Pearson
Jordan, N.C.	Morse	

The VICE PRESIDENT. The question on the issue of tabling, submitted by the Vice President to the Senate for its decision—"Does a majority of the Senate have the right under the Constitution to terminate debate at the beginning of a session and proceed to an immediate vote on a rule change notwithstanding the provisions of the existing Senate rules?"—is therefore laid on the table by a vote of 53 to 42.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the question was tabled.

Mr. DIRKSEN. Mr. President, I move to lay that motion on the table.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Illinois [Mr. DIRKSEN] to lay on the table the motion to reconsider made by the Senator from Montana [Mr. MANSFIELD].

The motion to lay on the table was agreed to.

Mr. WILLIAMS of Delaware. Mr. President——

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

Mr. WILLIAMS of Delaware. I yield without losing the floor.

Mr. MANSFIELD. Mr. President, for the information of the Senate——

The VICE PRESIDENT. Will the Senator permit the Chair to state the question? The Senator from Delaware will then be recognized.

The question now recurs on the motion submitted on January 15 by the Senator from New Mexico [Mr. ANDERSON] that the Senate proceed to the consideration of Senate Resolution 9 to amend the cloture rule of the Senate.

ORDER FOR RECESS TO MONDAY NEXT AT 10 O'CLOCK A.M.

The VICE PRESIDENT. The Senator from Delaware is recognized.

Mr. MANSFIELD. Mr. President, will the Senator yield to me without losing the right to the floor?

Mr. WILLIAMS of Delaware. I yield.

Mr. MANSFIELD. Mr. President, for the information of the Senate, and after consultation with the distinguished minority leader, it is our intention to move very shortly that the Senate recess until 10 o'clock Monday morning.

I ask unanimous consent at this time that, when the Senate recesses today, it recess to meet on Monday next at 10 o'clock a.m.

The VICE PRESIDENT. Is there objection? Without objection, it is so ordered.

THE PRESIDENT'S TAX PROPOSALS

Mr. WILLIAMS of Delaware. Mr. President, last week the President sent to Congress a message requesting revision of the income tax law. Much to my regret, members of Congress were unable to get a copy of the message until after it had appeared in the papers. But today I want to call attention to some points in the message which if enacted will do great harm to a lot of people. This proposal was ballyhooed as a tax cut measure intended to help the elderly, but an examination shows quite the contrary.

During the past few days I have had staff members of the Joint Committee on Internal Revenue Taxation to analyze the message and prepare tables using hypothetical cases to show how it

will affect taxpayers in different positions and in different tax brackets.

Much to my surprise, I find that instead of a reduction there is proposed a substantial tax increase on those taxpayers who are living off pensions when those taxpayers are totally and permanently disabled. For example, a person who is drawing a disability pension of as low as $30 a week disability benefits under the existing law today pays no tax at all. But under the President's proposal he will be taxed to the extent of $216 in 1964, and for 1965 and thereafter his tax will be $195.

Just why the New Frontiersmen think that a disabled man, forced to live on a disability income of $30 per week should have such a tax increase is a question only the President can answer.

This tax would be levied even though the man is drawing only $30 a week in disability pension.

If his disability benefits are $40 he is taxed $262. A man who draws a disability pension of $100 per week would, under the President's proposal pay $779 in 1964 and in 1965 and thereafter he would pay $722. Under existing law none of these people drawing disability pensions of these amounts would be paying any tax whatever.

Since this message, much has been said to the effect that the President wanted to do something for the elderly and for those who were unable to take care of themselves. I am wondering if he did not make a typographical error and when he said he would do something "for" them he meant to say that he would do something "to" them. Certainly this is rather harsh treatment for a group of people who cannot protect themselves.

I ask unanimous consent at this point in my remarks to have printed in the RECORD the chart compiled by the staff of the Joint Committee on Internal Revenue Taxation showing how the President's proposal will affect those who are living on disability pensions.

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

Individual income tax under present law and under proposed tax program, 1964 and 1965

[Employees retired on disability pensions before retirement age. Other income equal to present law exemptions and standard deduction]

MARRIED COUPLE, NO DEPENDENTS

Weekly pension rate	Tax under present law	Tax under proposal	
		1964	1965
$30	0	$216	$195
$40	0	290	262
$50	0	368	334
$60	0	447	409
$70	0	527	484
$80	0	606	559
$90	0	690	638
$100	0	779	722

Mr. WILLIAMS of Delaware. The President's tax proposals also provide for tax increases on other groups of retired Government employees. This group would include employees of States and local governments, as well as of the Federal Government.

The first example I have is that of a married couple, age 65, with both of them retired, and both having worked for some State or Federal agency.

They have a combined pension of $6,053 a year. Under existing law, this couple both over 65, would pay no tax at all. However, under the President's proposal they would pay a tax of $44.64. In fact, all retired Government employees in this category who are drawing retirement benefits and whose gross income is between $5,800 and $7,822 a year get some tax increase.

A single worker aged 65 who is drawing a pension of $3,027 from either a State or Federal pension fund would be taxed $22.32 under the President's proposal.

Under existing law the same person would pay no tax.

The President said he wants to do something for these people. Based upon his tax proposal I would say he means to do something to them. I find that all taxpayers in this category who are drawing retirement pensions between $2,900 and $3,911 get a tax increase under the President's proposal.

A single retired Government worker at age 62, drawing a pension of $2,361 a year, would under existing law pay no tax, whereas under the President's proposal he would be forced to pay $213.76 on his pension of $2,361.

In every instance, all retired employees would get a tax increase under the President's proposal where their pension incomes were between $900 and $7,792 a year. Who said that the New Frontier has no interest in the elderly people? They must have been lying awake nights dreaming up this proposal to tax them.

It should be pointed out that the pension income referred to in these charts has reference to the taxable portion of the pension income, which amount would be over and above that part of the pension which represents return of paid-in contributions.

I ask unanimous consent that these two charts be printed in the RECORD at this point as a part of my remarks.

These charts show that what the President hailed as a "tax cut" is in reality a "tax increase" for this group of people.

It is ironical that this harsh treatment of these elderly people is proposed by an administration which has expressed such loud sympathy for their plight.

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

Married couple, age 65 (both retired), Government workers

	Existing law	Proposal, 1965
Pension	$6,053.00	$6,053.00
Exemption	2,400.00	1,200.00
Standard deduction	605.00	605.00
Taxable income	3,048.00	4,248.00
Tentative tax	609.60	644.64
Retirement income credit	609.60	600.00
Tax	0	44.64

NOTE.—Tax under the proposal would be higher than under the existing law if gross income is between $5,800 and $7,822.

Single Government worker, age 65

	Existing law	Proposal, 1965
Pension	$3,027.00	$3,027.00
Exemption	1,200.00	600.00
Deduction	303.00	303.00
Taxable income	1,524.00	2,124.00
Tentative tax	304.80	322.32
Retirement income credit	304.80	300.00
Tax	0	22.32

NOTE.—Tax will be higher under the proposal than under existing law if pension income is between $2,900 and $3,911, single.

Single retired Government worker, age 62

	Existing law	Proposal, 1965
Pension	$2,361.00	$2,361.00
Exemption	600.00	600.00
Standard deduction	237.00	300.00
Taxable income	1,524.00	1,461.00
Tentative tax	304.80	213.76
Retirement income credit	304.80	0
Tax	0	213.76

NOTE.—Taxes would always be higher under the proposal than under existing law where pension income is between $900 and $7,792.

Mr. WILLIAMS of Delaware. There is also a substantial increase in the amount of tax which could be paid by estates.

Again, much has been said about the provision in the President's tax proposal wherein the Federal estate tax will be reduced. That is just not true. The President would reduce the amount of one estate tax, but the total tax which would be paid by an estate upon the death of an individual would be greater in every case that we have checked. That is true because the President would add a new tax on estates.

We were unable to find one single situation where anyone would get any reduction on an estate tax under the President's proposal. On the contrary, the increase runs from 1 percent and 2 percent all the way up to 45 percent.

A specific example is the case of a man who dies and leaves a million-dollar estate. Assuming that $400,000 of it represents capital appreciation or unrealized capital gains, under existing law this man's Federal estate tax would be $116,500. Under the President's proposal his Federal estate tax would be $95,983. However, the catch is that under the President's proposal, before this estate tax is computed there would be a new capital gains tax of $71,240, making the total tax $167,223. This is over 40-percent increase in this case where he is leaving his estate to his wife.

Let us take exactly the same case where the man leaves his estate to his son or to some nonrelated person. We find that the increase is about 20 percent. In other words the tax under the existing law is $270,300, but under the President's proposal it would be $322,299 or $75,800 in capital gains tax and an estate tax of $246,499.

Under the President's proposal the increased tax on an estate such as I have just described, if left to his wife, is about 43 percent.

However, if he leaves his estate to his mistress his tax is increased by less than 20 percent.

I do not know what the Frontiersmen had in mind when they drafted any such formula under which they would increase the tax 40 percent on an estate when a man leaves it to his wife, but increased it only 20 percent if he leaves it to his mistress. Who said the New Frontiersmen had no imagination?

I ask unanimous consent to have this illustration of the impact of the proposal to tax appreciation at death printed in the RECORD at this point.

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

ILLUSTRATION OF IMPACT OF PROPOSAL TO TAX APPRECIATION AT DEATH

At the date of his death, decedent Z owned property having a fair market value of $1 million, which included $400,000 of appreciation. By his will, the entire property passed to his surviving spouse. In the year of his death, decedent Z had taxable income of $80,000 which was reported on a joint return with his spouse.

EXISTING LAW

After deducting the $60,000 statutory exemption and the $500,000 marital deduction, there would be a tentative Federal estate tax (assuming the estate was entitled to no further deductions) of $126,500. After allowing the maximum credit for State death taxes of $10,000, the net Federal estate tax would be $116,500, computed as follows:

Gross estate	$1,000,000
Federal exemption	—60,000
Net estate	940,000
Marital deduction	—500,000
Taxable estate	440,000
Tentative Federal estate tax	126,500
Credit for State taxes	—10,000
Federal estate tax	116,500

PRESIDENT'S PROPOSAL

Under the President's proposal, in addition to the estate tax, there would also be a capital gains tax imposed on the amount of appreciation in the value of property owned by decedents at the date of death.

Because of this new capital gains tax, the total Federal tax due with respect to the estate of decedent Z under the proposal is $167,223. This includes a capital gains tax of $71,240 and Federal estate tax of $95,983 computed as follows:

Capital gains tax

Appreciation in value of property owned at date of death	$400,000
Amount of appreciation included in taxable income (30 percent times $400,000)	120,000
Additional tax attributable to appreciation	71,240

Estate tax

Gross estate	$1,000,000
Statutory exemption	—60,000
Net estate	940,000
Deductions:	
Marital deduction	—500,000
Capital gains tax	—71,240
Taxable estate	368,760
Tentative Federal estate tax	103,703
Credit for State death taxes	—7,720
Federal estate tax	95,983

ILLUSTRATION OF IMPACT OF PROPOSAL TO TAX APPRECIATION AT DEATH

At the date of his death, decedent X owned property having a fair market value of $1 million which included $400,000 of appreciation. By his will, the entire property passed to his son. In the year of his death, decedent X has taxable income of $80,000.

EXISTING LAW

Under existing law, after deducting the $60,000 statutory exemption, there would be a tentative Federal estate tax (assuming the estate was entitled to no further deductions) of $303,500. After allowing the maximum credit for State death taxes of $33,200, the net Federal estate tax would be $270,300, computed as follows:

Gross estate	$1,000,000
Federal exemption	—60,000
Taxable estate	940,000
Tentative Federal estate tax	303,500
Credit for State death taxes	—33,200
Federal estate tax	270,300

PRESIDENT'S PROPOSAL

Under the President's proposal in addition to the estate tax, there would also be a capital gains tax imposed on the amount of appreciation in the value of property owned by decedents at the date of death.

Because of this new capital gains tax, the total Federal tax due with respect to the estate of decedent X under the proposal is $322,299. This include a capital gains tax of $75,800 and Federal estate tax of $246,499 computed as follows:

Capital gains tax

Appreciation in value of property owned at date of death	$400,000
Amount of appreciation included in taxable income (30 percent ×$400,000	120,000
Additional tax attributable to appreciation	75,800

Estate tax

Gross estate	$1,000,000
Statutory exemption	—60,000
Net estate	940,000
Deduction for capital gains tax	75,800
Taxable estate	864,200
Tentative Federal estate tax	275,454
Credit for State death taxes	—28,955
Federal estate tax	246,499

Mr. WILLIAMS of Delaware. Again, Mr. President, to show that this proposed increased tax on estates affects not only the man with a large estate, but even more drastically the man with a small estate I asked the staff to compute what would happen to a man who left an estate of $40,000. Under existing law the first $60,000 is entirely exempt from estate tax; therefore he would have no tax. The President's proposal would affect many in this category.

I cite the following example:

ILLUSTRATION OF PROPOSAL TO TAX APPRECIATION AT DEATH

At the date of his death decedent Y owned a farm having a fair market value of $40,000, which included $30,000 of appreciation. By his will the farm passed to his son. In the year of his death, decedent had taxable income of $5,000.

EXISTING LAW

Under existing law there would be no Federal tax paid with respect to the estate of decedent Y.

PRESIDENT'S PROPOSAL

Under the President's proposal, in addition to the estate tax there would be capital gains tax imposed on the value of appreciation in property owned by decedent at the date of death. Because of this new capital gains tax, there would be Federal taxes due with respect to the estate of decedent Y of $2,880 computed as follows:

Capital gains tax

Appreciation in value of property owned by decedent at date of death	$30,000
Amount included in taxable income (30 percent times $30,000)	10,000
Additional tax attributable to appreciation	2,880

This estate would be completely exempt under the present law, but the President makes no provision for protecting the small estate.

The Frontiersmen who speak so eloquently of their interest in the forgotten man have under the President's tax proposal remembered him with a vengence.

Much propaganda has been released that the President's proposal would do much for those in the middle income brackets.

I had the staff of the committee compile several examples of how his proposal will affect some in this middle income bracket. I will incorporate in the RECORD this report showing how his proposal would affect persons with a $50,000 income. First, we assume the case of a man with an income of $40,000 from dividends and $10,000 from other sources. We find in several of these cases that these taxpayers in the $50,000 range would have their taxes increased rather than reduced.

For example, in one illustration a man would pay an increased tax in the first year of $478.

In another illustration the tax would be increased $1,171 in the first year. In the second year this man would get a decrease of $304. However, it would take 5 years before he would break even.

These charts all show that there is very little assistance, if any, given under the President's proposal to many taxpayers in the middle income brackets.

I did notice that if a taxpayer in the same category is drawing $40,000 from oil royalties and $10,000 from other income, he gets an immediate tax reduction of $1,341, or more than any other taxpayer in that income range.

I ask unanimous consent that these tables be printed at this point in the RECORD.

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

Individual income tax under present law and under proposed tax program 1964 and 1965

SINGLE PERSON, NO DEPENDENTS

	Under present law	Under proposal
Income ($40,000 dividends, $10,000 other income)	$50,000	$50,000
Less dividend exclusion	50	0
Adjusted gross income	49,950	50,000
Less:		
Itemized deductions	9,141	6,641
Personal exemption	600	600
Taxable income	40,209	42,759
Tax before dividend tax credit	19,884	18,359
Less dividend tax credit	1,598	0
Tax after credit in 1964	18,286	18,359
Tax increase in 1964 under proposal		73
Tax after credits in 1965	18,286	17,277
Tax decrease in 1965 under proposal		1,009

SINGLE PERSON, 65 YEARS OF AGE, NO DEPENDENTS

Income ($40,000 dividends, $10,000 other income)	$50,000	$50,000
Less dividend exclusion	50	0
Adjusted gross income	49,950	50,000
Less:		
Itemized deductions	9,141	6,641
Personal exemption	1,200	600
Taxable income	39,609	42,759
Tax before credits	19,470	18,359
Less:		
Dividend tax credit	1,584	0
Retirement tax credit	305	300
Tax after credits in 1964	17,581	18,059
Tax increase in 1964 under proposal		478
Tax after credit in 1965	17,581	16,977
Tax decrease in 1965 under proposal		604

MARRIED COUPLE, BOTH SPOUSES 65 YEARS OF AGE, NO DEPENDENTS

Income ($40,000 dividends, $10,000 other income)	$50,000	$50,000
Less dividend exclusion	100	0
Adjusted gross income	49,900	50,000
Less:		
Itemized deductions	7,385	4,885
Personal exemptions	2,400	1,200
Taxable income	40,115	43,915
Tax before credits	14,584	14,149
Less:		
Dividend tax credit	1,596	0
Retirement tax credit	610	600
Tax after credits in 1964	12,378	13,549
Tax increase in 1964 under proposal		1,171
Tax after credit in 1965	12,378	12,682
Tax increase in 1965 under proposal		304

MARRIED COUPLE, 2 DEPENDENTS

Income ($40,000 dividend, $10,000 other income)	$50,000	$50,000
Less dividend exclusion	100	0
Adjusted gross income	49,900	50,000
Less:		
Itemized deductions	7,385	4,885
Personal exemptions	2,400	2,400
Taxable income	40,115	42,715
Tax before dividend tax credit	14,584	13,573
Less dividend tax credit	1,596	0
Tax after credit in 1964	12,988	13,573
Tax increase in 1964 under proposal		585
Tax after credits in 1965	12,988	12,742
Tax decrease in 1965 under proposal		246

Illustration of tax on oil royalty income, single person, no dependents

	Existing law	Proposal
Income ($40,000 oil royalties, $10,000 other income)	$50,000	$50,000
Allowance for percentage depletion	11,000	11,000
Adjusted gross income	39,000	39,000
Less itemized deductions	9,141	6,641
Personal exemption	600	600
Taxable income	29,259	31,759
Tax	12,761	11,420
Tax reduction		1,341

Mr. WILLIAMS of Delaware. Mr. President, I sincerely hope that the administration will reexamine its hastily conceived tax proposal, which was conceived in the midst of the last political campaign. I understand it was given birth to in the Democratic National Committee. I strongly recommend that the administration get their eyes off the 1964 elections, take their pencils, sit down, and begin to figure how this tax proposal will affect individual taxpayers, rather than devoting so much time in planning how it will affect the 1964 election.

At the same time I wish they would figure how some of the Government expenditures might be reduced so that the deficit might be eliminated or reduced. Then we might be able to afford a real tax cut. It seems to me that it is the height of absurdity to talk about reducing taxes at a time when the Government is operating with a deficit of $12 to $14 billion.

At no time has any government—and it has been tried several times before—ever been able to relieve unemployment with deficits. It has never been possible for an individual or a government to spend itself into prosperity with borrowed money. That was tried by the New Deal from 1933 to 1940. Yet, notwithstanding all these deficits, in 1940 14.6 percent of the employable people in this country were still unemployed. The unemployment problem was not solved by deficit spending then; I do not think it can be solved in that way now.

This administration had better reexamine its hastily conceived tax bill and consider it carefully. This administration had also better start planning some real economy in the operations of the Government. Unless some degree of fiscal sanity is restored at the executive level our country can soon be confronted with a real dollar crisis.

This administration must assume the full responsibility if another gold crisis develops.

CASUALTY LOSSES

One further example of how the administration's tax bill will have an adverse effect on certain taxpayers is found in the manner in which it would change the allowance for casualty losses. For example, a taxpayer lives in an ocean resort community. A hurricane, accompanied by high water, completely destroyed his home, resulting in a casualty loss to him of $20,000. Taxpayer has income from wages of $10,000 and other itemized deductions of $1,000.

Under existing law, the casualty loss would be fully deductible.

Under the proposal, casualty losses would be deductible only to the extent they exceed 4 percent of the taxpayer's adjusted gross income. In this case, $400 of taxpayer's casualty loss would not be allowed as a deduction. In addition, the proposal to disallow itemized deductions except to the extent that they exceed 5 percent of the taxpayer's adjusted gross income would further reduce the amount of the deductible casualty loss by an additional $500. Thus, $900 of the taxpayer's casualty loss is disallowed as a deduction in the year it is incurred. Although casualty losses in excess of the taxpayer's income may be carried back or forward and deducted in another year, it is not clear whether the 4-percent rule and the 5-percent rule would apply again with respect to the same loss in another year further reducing the amount which can be deducted.

The President has asked the youth of our country to place greater emphasis upon physical fitness. The youth of our country will soon be asking our President to place greater emphasis upon fiscal fitness.

COMMITTEE MEETINGS DURING SENATE SESSION ON MONDAY, FEBRUARY 4, 1963

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations may meet on next Monday while the Senate is in session.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. CANNON. Mr. President, I ask unanimous consent that the Subcommittee on Privileges and Elections of the Committee on Rules and Administration be permitted to meet on Monday next during the session of the Senate.

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

TAX RELIEF FOR SMALL CORPORATIONS

Mr. FULBRIGHT. Mr. President, on January 22, I made a statement in which I expressed my pleasure at the provision in the President's tax bill which will provide tax relief for small corporations.

Under the bill, effective January 1, 1963, the rate on the first $25,000 of corporate income will be reduced from 30 to 22 percent, while the 52 percent on corporate income over $25,000 is retained. For calendar year 1964, the corporate surtax would be reduced to 28 percent, and for calendar year 1965 and thereafter it would be reduced to 25 percent, thereby lowering the combined corporate rate to 47 percent.

I pointed out that I had sponsored a proposal identical to the first step in the President's corporate tax relief measure in 1956.

The Wall Street Journal of January 25 contains an article summarizing a nationwide survey of small firms and includes the following statements:

Most small businesses are enthusiastic about President Kennedy's proposed early tax cuts for them and plan to plow any benefits back into their operations by expanding, purchasing new equipment, or enlarging inventories.

The President has argued that tax cuts would spur economic activity. Although the spending of small businesses is only a limited segment of the economy, the comments of small businessmen indicate that this segment, at least, will indeed be encouraged to expand.

I ask unanimous consent that the entire article be printed at this point in the RECORD.

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

[Wall Street Journal, Jan. 25, 1963]

MOST COMPANIES PLAN TO SPEND ANY TAX-CUT FUNDS ON IMPROVEMENTS—DRUG MAKER WOULD BUY NEW PILL MACHINE; BAR MULLS ADDING $5,000 RATHSKELLER—LESS HELP FOR BIG CONCERNS?

Most small businesses are enthusiastic about President Kennedy's proposed early tax cuts for them and plan to plow any benefits back into their operations by expanding, purchasing new equipment or enlarging inventories.

That's the chief finding of a Wall Street Journal nationwide survey of small firms. Among businesses, small companies would get the earliest and proportionally largest benefits from the tax cuts if they go through in the form outlined by Mr. Kennedy in his tax message to Congress yesterday.

The President has argued that tax cuts would spur economic activity. Although the spending of small businesses is only a limited segment of the economy, the comments of small businessmen indicate that this segment, at least, will indeed be encouraged to expand.

A NEW RATHSKELLER

"We've been thinking of putting a rathskeller in the basement," says George Heichel, president of the corporation that owns the Village Inn, a cocktail lounge in Park Forest, Ill. "It would cost about $5,000, but it sure would help business. The tax cut might be just what we need to start building."

"We could buy a $2,500 tablet-making machine," says Robert C. Jobe, assistant general manager of Goodrich-Wright, Inc., a small Dallas producer of pharmaceutical preparations. "It would help give us the capital we need to expand. This is something we've been dreaming about for a long time."

Bennett's Exotic Fish Farm, a pet supply wholesale firm in Atlanta, would expand inventories, says Owner J. C. Bennett. He would like to add a $15,000 stock of supplies for dog owners. "A few thousand dollars in tax savings would at least get us underway," he says.

Under Mr. Kennedy's plan, the 500,000 U.S. corporations earning $25,000 a year or less would have their tax bill reduced to 22 percent of taxable income, retroactive to January 1 this year. They now pay 30 percent. They could thus save up to $2,000 a year. Proprietorships and partnerships would benefit from proposed reductions in personal taxes.

Corporations making more than $25,000 a year also would have the 8 percentage points lopped off their tax on the first $25,000 of earnings. But this year they would continue to pay the present rate of 52 percent on earnings over $25,000. Next year the 52 percent would fall to 50 percent and in 1965 it would drop to 47 percent.

The President proposes to close a tax "loophole" as he widens the spread between the tax paid on business earnings under $25,000 and the rate on earnings over $25,000. In the words of a Boston management consultant, "many principals now own four or five separate corporations to keep their incomes in the 30-percent tax bracket." The Internal Revenue Service has sought to curb this method of tax avoidance. To help eliminate it, the President yesterday proposed that only one company of such multiple corporations under a single ownership be permitted to take the lower tax rate on the first $25,000 of income.

Some proprietorships and partnerships say the prospect that small corporations will get a bigger tax cut has caused them to consider incorporating. A Birmingham banker says he knows of three small businesses that have incorporated during the last 10 days to be eligible for a larger reduction.

But most firms doubt that any extra tax savings would be worth the redtape of incorporating unless there were other benefits. "There are a lot of disadvantages for the little guy incorporating," says George F. Brice, president of Security Bank of Oregon in Portland. "It means another set of books and more taxes if he wants to liquidate."

FIGHTING CAPITAL SHORTAGE

Most small businesses say that a tax cut would help them combat their perennial problem of getting enough capital to do the things they want to do.

"See that cooler back there?" asks Lewis Timko, pointing to the rear of a liquor store he operates in a Chicago suburb. "That's a milk cooler and the shelves keep falling down; the very first thing I would do is spend $500 to $600 on a beer cooler. I would also like to buy a new delivery car and I would like to spend a little more to improve our competitive position—step up advertising a bit and perhaps lower some prices."

In a nearby sports equipment store, manager Lionel Williams says a tax cut might enable him to set up a ski shop. "We would need about $10,000 to set up a decent department."

"The tax cut would open the door for us to buy several pieces of equipment that we've been needing," declares Harry S. Kaplan, president of ABCO, Inc., a Dallas bookbinding company. "We badly need a new folding machine which would probably cost $8,000 to $10,000."

Many small businessmen are skeptical that they will ever see the tax reduction. "I don't believe Congress will ever pass it," says Wilbur Ihlenfeldt, who recently incorporated his drive-in restaurant chain in Detroit.

Some businessmen see the possible benefits as too small to do them much good. It would be "nothing that would make us jump with joy," says Alex M. Cadman, Jr., president of Cadman Manufacturing Co., a Pittsburgh producer of raw castings for the steel industry.

"Personally, I'd rather pay my taxes and see the money go to balance the budget," says Richard C. Schwertner, president of a Philadelphia contracting firm.

W. D. Williamson, president of Williamson Adhesives, Inc., Skokie, Ill., and secretary of the Illinois Small Businessmen's Association, is more emphatic. "The thing that concerns me is the cockeyed economics of what's going on in Washington and the tragedy is that it will be the small businessman that suffers when the whole thing blows up."

VISIT TO WASHINGTON BY AMINTORE FANFANI, PRIME MINISTER OF ITALY

Mr. FULBRIGHT. Mr. President, Washington had a most distinguished guest earlier this month. I refer to the Prime Minister of Italy—and one of our country's greatest friends—Mr. Amintore Fanfani. Prime Minister Fanfani was here for only 2 days, and at a time when the Congress had just returned and was beginning to reorganize. I regret that this gifted statesman's schedule did not permit a longer stay in Washington, so that more Members of both Houses of Congress could have had an opportunity to meet him and gain the benefit of his broad and stimulating views.

Mr. Fanfani has been Prime Minister of Italy since July, 1960. Prior to this present term, he had been Prime Minister briefly in 1954, and again in 1958 and early 1959, during which time negotiations on the stationing of Jupiter missiles in Italy took place.

It has been during his present term that Mr. Fanfani, in an effort to broaden the electoral base of his country's democratic center and to isolate Italy's considerable Communist Party, negotiated a rapprochement with the Socialists. The hope is that with the Communists divorced from the Socialists, Italy's democratic government will be able to launch the programs that reflect national requirements.

Mr. Fanfani was for many years the secretary of the Christian Democratic Party of Italy. Down through the years, he has used his influential position, both as Prime Minister and party leader, on behalf of programs designed to promote broader welfare in his country and greater security for all the members of the Western Alliance. Indeed, he is prominent among that group of enlightened Western leaders on either side of the Atlantic who recognized long ago the essential interdependence of the members of this alliance and the need to foster more productive means of cooperation between North America and Western Europe, as well as greater cooperation among the Europeans.

In that context, I should like to call attention to press reports from Rome indicating that certain high level officials of the Italian Government, instead of merely dispairing the gesture of the French Government in Brussels, are proposing increased Western solidarity, with or without France, in the various areas of our common interest. Indeed, Italy has for weeks been the leader in advancing such wise counsel.

Such initiative, I believe, is fully consistent with the courage and vision that have characterized the career of the Prime Minister of Italy.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a statement on foreign policy, dated January 26, 1963, by Prime Minister Fanfani.

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

STATEMENT BY PRIME MINISTER AMINTORE FANFANI ON FOREIGN POLICY, JANUARY 26, 1963

Speaking to the House prior to a vote which defeated a no-confidence resolution introduced by the Italian Communist Party, Prime Minister Amintore Fanfani made the

following statement concerning foreign policy:

"This Chamber has unanimously evaluated a most tense situation in Europe—because of certain recent French attitudes as well as an even more recent Franco-German treaty—and a most relaxed one in the world because of the farsighted firmness shown by President Kennedy during and after the Cuban crisis and because of the recent acceptance by the Soviet Premier of inspections insuring the implementation of a nuclear test ban.

"The Government shares the Parliament's assessment and, having predicted the present unrest and having long hoped for the improvements that have come to pass, has taken timely action within its possibilities in order to avert the former and promote the latter.

"Ever since 1961 we have reminded our Common Market partners of the political appropriateness of favoring Great Britain's admission. In April 1962 and again in July we have calmly, privately and amicably warned Paris that it would have been a fatal mistake by all 6 countries to oppose the positive conclusion of negotiations for Great Britain's entry into the Common Market. In May we told the Bonn Government through diplomatic channels, and in September and October we personally pointed out to the French leaders what a mistake it would be to follow the Franco-German rapprochement with the formalization of a closer, particular cooperation which neither Italy nor the Benelux countries would subsequently enter, thus causing a split far from fruitful for the Common Market and the political unity of Europe.

"After many months of intense participation by Industry Minister Colombo and Agriculture Minister Rumor to the negotiations for Great Britain's entry into the Common Market, Foreign Minister Piccioni has recently been doing all that was in his power both in Bonn and in Brussels to bring the talks to a successful conclusion. In spite of the parallel action of the Benelux countries and later of West Germany itself, the results are those we all know because of the political attitude of France which was followed almost immediately by the treaty with West Germany. This treaty, apart from its content, because of its particular timing cannot but worsen certain characteristics of its presentation which are the cause of today's polemics and will tomorrow remain a stumbling block against the admission of other countries to the market. In the last analysis this will create a particularism harmful to the Common Market, harmful to the furthering of European union and harmful to the internal balance of NATO, in spite of the best intentions of its signatories.

"The Council of Ministers has confirmed the active participation of Italy in the Common Market, has approved the action undertaken to date, has agreed to the policies aimed at supporting in all instances Britain's entry into the Common Market. These will be the policies which our delegates will follow on January 28 in Brussels. On February 11, when we will be honored by the visit of Prime Minister Macmillan, we shall again tell him and his Government Italy's disappointment in seeing that a favored British participation which would certainly bring greater economic prosperity and stronger political solidarity is instead causing, because of procedural delays—determined also by Great Britain's domestic problems—and unexpected vetoes, a discomfort that, if not promptly overcome—as we propose to do with wisdom, prudence and firmness—could cause severe damage to everybody.

"Also in the field of disarmament Italy has acted with timeliness in New York, Geneva, and elsewhere, first under the lead of President Segni and more recently under that of Foreign Minister Piccioni. In Washington we recently had the satisfaction of verifying the perfect agreement of our views with those of our major ally concerning the efforts that need to be made in order to enhance the acceptance by Premier Khrushchev of the principle of inspection, to find a concrete agreement and to make this the first important opening for wider negotiations leading finally to the study and solution of the major international problems still pending.

"Let me tell you how happy I was in recent days to have written President Kennedy—who had honored me by requesting my views on that matter—on the first day of the Cuban crisis that, apart from the necessity of a quick solution, the crisis should have been considered as an appeal to relinquish all spent efforts to patch-up torn particular and local situations and take instead a courageous pledge to face the situation as a whole, so that where the responsibilities are greater stronger should be the commitments to make all efforts to prove that we have learned the lesson of technology. This lesson teaches that the era of the Horatii and Curiatii is over for it is impossible, once the nuclear confrontation is unleashed, to insure at least the survival of the women needed to impose the armistice.

"We do not hold nor wish to impart illusions about peace. Difficulties are still enormous. But the still greater disaster that may loom at the horizon demands that reason, on all latitudes and under any regime, take over above instinct and impose upon itself the only solution worthy of human beings.

"The lack of illusion—while hopes are still alive—has advised us to bring to a conclusion the examination of the American proposal to move toward the creation of a multilateral nuclear force and in this framework to consider the preliminaries of the no longer new problem of modernization of armaments.

"As told in the Washington communique and approved by the Council of Ministers, we have positively evaluated the proposal for the creation of a NATO multilateral nuclear force. For the time being we accepted to take part in the study and, upon its conclusion, in its creation, direction and control, in accordance with the known principle that has always inspired our action within the alliance not to entrust our responsibilities to any directorate whatsoever and in the effort to avoid proliferation of nuclear weapons.

"Concerning modernization of weapons, in particular in the field of nuclear strategy, the defense of NATO's southern sector will no longer rest upon bases equipped with obsolete Jupiter missiles, but upon Polaris-equipped submarines operating in the Mediterranean, however not from Italian bases.

"I heard the Honorable Togliatti's plea intended to deprive Italy of any internal or external nuclear defense. This plea is wrong on several counts, first of which that of not being coupled with a similar invitation to other countries far more equipped than we are with those weapons to set the example. It is the lack of this preliminary invitation in Signor Togliatti's statement that makes it impossible to submit it to the consideration of governments who, because of their constitution and their mandate, are bound by two basic duties: that of providing for the defense of their own countries, and that of deterring the threats against all by promoting agreements capable of diverting or at least reducing the dangers.

"I told and proved to the Chamber of Deputies that in Washington I had the opportunity and the honor to advance in both sectors at the same time: in encouraging and pledging our support to all constructive efforts being made toward disarmament, or at least toward the beginning of a nuclear test ban; in accepting to take part in consultations aimed at substituting the disintegration and dispersion of nuclear armaments with a multilateral force and the replacement of means affording a quicker and effective defense. Thus, while preparing disarmament agreements and deterring in the meantime all possible external threats, we have worked to promote peace and security for Italy, Europe, and the world. This was done in the framework of our alliances and at a time when we were confirming the closest friendship with the United States—a basic element in order to play an authoritative role in the current developments toward European unity, Atlantic solidarity, and internal detente.

"I wish to express the hope that the forthcoming negotiations at Geneva will bring the world the surprise that the current talks among the United States, the Soviet Union, and Great Britain have finally succeeded in paving the way to an agreement. May it be the crucial point in that series of agreements that will have to be reached so that all the people may start coexisting in good faith, all searching together the true conditions for free progress and peace in security.

"Thanks to the constant and discreet action we are carrying out we are informed of symptoms which encourage us to believe that both in the West and in the East there is an ever-growing eagerness to foster with facts—and not only in the political field—the dawn of a new confidence. This confidence will lead to reasonable agreements making for a true society of humans in whose attainment Italy feels deeply committed."

(NOTE.—The no-confidence resolution introduced by the Italian Communist Party was defeated by the House on January 26, 1963, by a vote of 292 to 173, with 60 abstentions.)

Mr. FULBRIGHT. Mr. President, I ask unanimous consent to have printed at this point in the RECORD an article on the same subject, entitled "Italy Reacts Strongly to End of Talks," written by Leo J. Wollenborg and published in the Washington Post of January 30, 1963.

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

ITALY REACTS STRONGLY TO END OF TALKS

(By Leo J. Wollenborg)

ROME, January 29.—Although the breakdown of the Brussels negotiations was expected here, Italian Government circles reacted strongly tonight to the final collapse.

Resentment over the French refusal to let Britain enter the Common Market mingles with a growing realization that vigorous countermeasures are required to prevent President Charles de Gaulle from forcing through his political and military concept of Europe.

Attention is being called to the proposals made some weeks ago by Minister of the Budget Ugo la Malfa.

La Malfa called for the formation of a European alinement, including Italy, Britain and the Benelux countries to work out a policy of its own.

This policy would directly contrast with De Gaulle's approach on all matters pertaining to the organization of Europe, development of a multilateral nuclear force for the West, relationship between Europe and the United States and the future of the Common Market itself.

The policies of such an alinement would be based on the closest solidarity with the United States and would enable the democratic forces in West Germany to neutralize the negative effects of the French-German treaty signed last week by De Gaulle and Chancellor Konrad Adenauer.

Even those sectors of the Italian governmental alignment that do not fully share La Malfa's ideas are expected to agree on the need to move quickly, in close cooperation with the other Common Market countries and with the United States, to meet

De Gaulle's challenge both in the political and in the economic field.

No action is contemplated to take Italy out of the Common Market. But there is general agreement that the latest French moves have smashed all hopes to achieve a European political union in the foreseeable future, and have crippled the Common Market itself.

The latest developments have further increased the importance of the talks that British Prime Minister Harold Macmillan is scheduled to have with the Italian leaders here beginning February 1.

The Vatican press has also voiced increasingly deep concern over De Gaulle's policies.

In an almost unprecedented attack against the policies of a Catholic chief of state, Osservatore Della Domenica, the Sunday addition of the Vatican paper Osservatore Romano, wrote in its latest issue:

"Atlantic solidarity, which has protected so far the security of Western Europe, is now in serious danger * * *. One is strongly tempted to conclude that if a De Gaulle had not existed as a force expressed or endured by the French people, Soviet diplomacy could not have found anything better to split what it calls the capitalistic world."

Mr FULBRIGHT. Mr. President, I had the honor and privilege of visiting and speaking with Prime Minister Fanfani both in Rome and in New York, and also in Washington during his recent visit to this city.

I think Mr. Fanfani has demonstrated an unusual capacity, both as a political leader in bringing to Italy a stability in its Government which has been very rare among European countries, and also in having the wisdom and foresight which we usually associate with great statesmen. So it gives me great pleasure to have the opportunity to say these few words about the Prime Minister of Italy.

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

Mr. FULBRIGHT. I yield.

Mr. PASTORE. I deem it a privilege to be associated with the remarks just made by the distinguished chairman of the Committee on Foreign Relations. I think his observations are timely and appropriate. I congratulate him upon his statement.

Mr FULBRIGHT. I thank the Senator from Rhode Island.

Mr. McCARTHY. Mr. President, will the Senator from Arkansas yield?

Mr. FULBRIGHT. I yield.

Mr. McCARTHY. Mr. President, I join with the Senator from Arkansas in paying tribute to the Prime Minister of Italy. Mr. Fanfani has been a man of great political influence, even when he has been out of office, in setting patterns of ideas and patterns of action, not only for his own country, although primarily for his own country, but also for the whole of western Europe and for the western alliance.

I first came to know him about 25 or 30 years ago, when he was writing on economic, political, and social theory. He has moved on through the years to become an increasingly positive force for stability, for sound government, and for broader international relations in his own country, in western Europe, and throughout the whole western alliance.

I commend the Senator from Arkansas for providing the opportunity for this tribute to Prime Minister Fanfani today.

Mr. FULBRIGHT. I thank the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, will the Senator from Arkansas yield?

Mr. FULBRIGHT. I am glad to yield.

Mr. HUMPHREY. I thank the chairman of the Foreign Relations Committee for yielding, and also for his excellent statement relating to one of our good friends, a strong ally, and one of the truly gifted and talented political leaders of the Western Alliance and, I believe, of the free world.

A year ago it was my privilege to visit in Rome and to have an opportunity to talk at some length with the Prime Minister, Mr. Fanfani. On that occasion, I was informed of the possibility of the formation of the coalition government which subsequently came into power.

The present government of Italy represents a progressive political attitude and program, and yet a strong adherence to the principles of the North Atlantic Treaty Organization—the NATO Alliance. I feel that we are very fortunate to have leadership of that kind in Italy. Of course what the Italians have done in recent months with their economy has been nothing short of miraculous; and sound and enlightened political leadership and economic stability contribute to that great economic growth.

Therefore, I am happy on this occasion to join in our commendation of a friend and a great leader in a free country; and I thank the chairman of the Senate Foreign Relations Committee for the initiative he has taken in connection with this matter.

Mr. FULBRIGHT. Mr. President, I appreciate the remarks of the Senator from Minnesota. I think it most remarkable—when we look at all of Europe—that this one man has been able to do so much under a truly democratic system. There are very few left in Europe.

THE THREAT OF COMMON MARKET RESTRICTIVE POLICIES TO AMERICAN AGRICULTURE

Mr. HRUSKA. Mr. President, the recent testimony of Mr. Christian Herter, the President's special representative on trade matters, before the Senate Foreign Relations Committee indicates an encouraging awareness of the enormity of the threat posed to American agriculture by the restrictive policies of the Common Market nations.

Governor Herter's sober and guarded assessment of the damage that might be visited upon the U.S. farmer is cause for hope that this country may at last be ready to assert with vigor its position on behalf of the farmer, who, until now, has become something of a forgotten man in trade negotiations.

Despite President Kennedy's state-of-the-Union warning against protectionism and restrictionism by the Common Market, and despite Secretary Freeman's recent meetings with representatives of the European Economic Community, the painful fact remains that American agriculture is being damaged, perhaps irreparably, by the high-handed protectionist policies of the six Common Market nations.

This should come as no surprise to anyone who has in the least interested himself in the problem of American farm exports over the past year or more. The surprise, indeed, is that the situation has been allowed to come about at all.

Let us consider some events of the recent past:

In January of 1962, meeting in Brussels with representatives of European nations, negotiators for the United States reached agreements to cut tariffs on a wide variety of industrial goods; but so far as agricultural products were concerned, the decision was merely an agreement to discuss the subject at a later, but indefinite, time. The effect has been virtual surrender on the part of our negotiators.

Shortly after the Brussels meeting, some of us protested, and called on the Secretary of Agriculture and his Under Secretary, Mr. Charles Murphy, who represented agricultural interests at the meeting, to take a firmer stand, and not to complete the sacrifice of American agriculture in order to get the agreements on industrial products.

In May, Representative Burr Harrison, of Virginia, proposed to the House Ways and Means Committee an amendment of the Trade Act to prohibit tariff-cutting concessions to countries maintaining nontariff barriers against the entry of American farm goods. The administration successfully resisted this amendment. Reluctantly, it accepted a watered-down provision allowing the President discretion in applying U.S. sanctions when such nontariff barriers were imposed.

On May 23, 1962, the distinguished chairman of the Senate Foreign Relations Committee [Mr. FULBRIGHT] rose in this Chamber to warn against the effect of the proposed Common Market restrictions on farm products. He said, in part:

The loss of agricultural exports which may result if the Common Market agricultural proposals are imposed on our agricultural products will weaken our ability to carry the heavy financial burden which the United States now assumes in the effort to protect and strengthen the free world.

The barriers proposed by the Common Market would destroy the competitive position our farm products have gained through efficiency. They are the antithesis of freer trade and can only operate to create frictions within the free world.

Other Members of the Congress from agricultural States were raising similar inquiries and protests to the short-shrift handed U.S. farmers.

In late July, the EEC struck a disastrous blow to American agriculture by adopting what is called a variable import fee. I shall not burden the Senate with a complicated explanation of how these fees work. Those who are interested are referred to my remarks which appear in part 11, volume 108, page 15471 of last year's CONGRESSIONAL RECORD. It is sufficient to note that the result of such action is that farm imports are allowed to furnish the current shortage,

or deficit, in needed supply of certain farm products, but always at a price just a little higher than the price support of that product within the importing country.

But throughout that period Secretary Freeman and Under Secretary Murphy were strangely quiet in this regard. On February 18, 1962, Mr. Freeman had professed optimism about the prospects for agriculture in the Common Market. He told a press conference in Omaha that American farm products would be highly competitive with Common Market countries because support prices of products within those countries are generally substantially higher than ours.

After the Secretary returned from his most recent trip to Paris, he addressed the Farmers Union Grain Terminal Association, in St. Paul, Minn. With an attitude of pained surprise, he described himself as "troubled by the mounting evidence that the EEC is leaning toward a highly protectionist, inward looking trade restrictive policy."

Mr. President, I ask, What mounting evidence? The evidence was there all the time. It was there more than a year ago, when Under Secretary Murphy, of Mr. Freeman's Department, failed in his negotiations with the European nations; and it was nailed down last summer, when the walls began to rise against American farm products.

And what does Mr. Freeman mean when he says the Common Market is leaning toward protectionism. They had long before shown great vigor in their move to shut us out of their farm markets.

Mr. Freeman was either too naive to see these things, or he is the most inept Secretary of Agriculture upon whom the farmers of America ever depended.

As recently as last August, when the Secretary was before the Senate Finance Committee, he seemed not to apprehend the real problem. Here is what he said in his prepared statement:

> To a considerable extent, the Common Market is good for American agriculture * * * It appears that on the basis of trade value, about $700 million worth of U.S. farm products annually, or approximately 70 percent of U.S. exports to the area, can be sold in the Common Market without difficulty.

The other 30 percent, he acknowledged, almost as an afterthought, would give us some problems. But on balance, he said, the Common Market was just about the best thing that ever happened.

In the past several weeks, Mr. Freeman seems to have discovered the Common Market problem all over again, and has been telling anyone who would listen that we had better do something about it.

Mr. President, the time to "do something" was more than a year ago, at Brussels, when the meeting was allowed to end without agreement on farm produce.

What does the action of the Common Market mean in terms of dollars and cents?

It means, Mr. President, that in Holland, the import levy on a bushel of wheat, to take one example, has been jumped from 8.7 cents to 90.6 cents, an increase of more than tenfold. In Germany, the increase has been from $1.16 to $1.67 a bushel.

This means that last fall the United States was delivering a bushel of Nebraska wheat to the German border for $1.92 a bushel. But the prevailing import levy pushed the price of that Nebraska wheat in Germany to $3.62 a bushel. At the same time, West Germany's own wheat was selling for $3.10 a bushel—scarcely a competitive price.

What does it mean for the poultryman?

The Common Market countries shoved up tariffs on United States broilers, so that the rate in West Germany, our biggest market, jumped from 4.8 cents a pound to 13 cents on 30-cent birds. Fruit tariffs went up by 36 percent.

Grain and flour tariffs, in which my people are most interested, skyrocketed. In the Netherlands, the duty on flour went from $13 a ton to $40.

The respected national farm magazine, Farm Journal, recently sent its economics editor, Claude Gifford, to Europe to study the Common Market situation. It was the second such trip for Mr. Gifford within a year.

He concludes his report:

> But what has been noticeably lacking, a well-known and highly placed European told me, "is a consistent, day-after-day, strong, unrelenting pressure built on a studied policy that would convince the Europeans that the United States means business."
>
> A case in point: The 18-month Geneva Conference on GATT tariff negotiations was closed this year before we got satisfactory terms from the Common Market on farm matters. President Kennedy signed the document consenting to end the Conference. This tipped off the astute Europeans that our Government—at the top level—wasn't as serious as we'd been talking.
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> A second case in point: Only after the German poultry duty skyrocketed did President Kennedy write a letter to Chancellor Adenauer protesting the move. This kind of "we're serious" pressure should have come before, not after, the duty was hiked. The letter coming as it did after the deed had been done, caught the Germans by surprise, embarrassed them, made them angry—and so far the duty hasn't been changed.
>
> A third case in point: Our State Department is calling most of the shots in Common Market negotiations—and the State Department is so engulfed in political considerations in Europe that U.S. farm considerations are buried.
>
> If we're going to save the day in Europe, say those close to the scene, we need a yell to go up—and a purpose to set in—in Congress, at the State Department, and at the White House; places where these have been most noticeably lacking up to now.

Mr. President, from these facts, one of two conclusions is inescapable:

Either Secretary Freeman seriously underestimated the seriousness of the threat to American agriculture caused by the protectionist moves of the Common Market, or he was outmaneuvered and overruled by the Department of State, which, in its eagerness to conclude trade agreements with the EEC, was willing to sacrifice the farmer.

In either case, the result is tragically the same for the men who produce America's food. During last fall's congressional campaigns, President Kennedy said Mr. Freeman "will be remembered as one of America's great Secretaries of Agriculture." Similar extravagance has been voiced by other members of the Secretary's party.

Mr. Freeman will no doubt be remembered, Mr. President, but quite likely it will be as the man who forgot about the farmer.

I ask unanimous consent, Mr. President, to have printed in the RECORD Mr. Gifford's article, as published in the January issue of Farm Journal, together with an editorial, in the same issue, entitled, "Will We Fight for U.S. Farmers?"

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

WAKE UP—OR BE "WALLED OUT"

(By Claude W. Gifford)

"You Americans had your chance. When you could have pressured the European Common Market to keep its doors open to American farm products, you did very little. Now the trade doors are closing in Europe—and farmers in the United States are going to get hurt."

That is how one of Europe's largest grain importers sums up the meaning of the European Common Market (EEC) for U.S. farmers.

This importer reflects the private opinion of many important Europeans whom I interviewed recently in a 3-week tour of the Common Market countries—the second such trip that I have made for Farm Journal in the last 2 years.

My latest mission: Find out whether Great Britain (England, Wales, Scotland and North Ireland) is going to enter the Common Market. And size up what this and other late developments in the Common Market mean to U.S. farmers.

What I have to report from this survey made in the capitals of five European countries is not good news for American farmers—as things now stand. The consensus is that unless the United States wakes up soon and fights harder for its trade in Europe:

We'll see a shrinking market for U.S. farm goods in the part of the world where we ship two-thirds of the farm exports that we sell for dollars.

Our international monetary exchange balance, already in trouble, will suffer—since farm products account for $1 out of $4 of our exports.

Common Market countries will also be hurt in the long run.

The trouble is this: Western Europe is building one big tariff wall around the outside of the Common Market. Meantime, they're tearing down the tariff walls between the countries inside (Germany, France, Italy, Belgium, the Netherlands and Luxembourg). They'll trade freely with one another—but buy less from the outside.

They seem more determined than ever to build an abnormally high tariff wall around the outside to keep out certain farm goods, including ours.

For us, it means that it will be harder to vault farm stuff over the wall—particularly wheat, feed grains, poultry, rice, tobacco, and fruits and vegetables. We suspected this when we printed an article last February entitled "You'll Pay for the Common Market." It looks even more likely now. And the harm doesn't stop there.

Great Britain is loosening her age-old ties with the Commonwealth and is rushing headlong into the Common Market—after centuries of standing aloof from continental Europe. Now her government is working hard to find a way to join what is intended to be a United States of Europe.

Great Britain feels that she cannot stand idly by and be shut out of the rich industrial market at her front door while European nations trade freely with each other. Already the EEC economy is humming while Great Britain does little more

than tred water. And unless Great Britain joins the Common Market, she will have less and less say about how European political matters will be decided in the future.

When Great Britain joins, this will make the Common Market an economic giant with even more people than in the United States. It will be by far the world's biggest importer of raw materials and export trader. And it will slide the world's largest single food importer—Great Britain—behind that same high Common Market tariff wall.

The countries slated for the Common Market import more than half of the world's exports of corn, butter, barley, wool, vegetable oil and fats, cheese, and meat. And just under half the world's exports of eggs and tobacco.

These same countries now buy 52 percent of our U.S. exports of feed grain; 43 percent of our poultry exports; 37 percent of our oversea sales of wheat and flour; and 28 percent of our tobacco exports—all for dollars; all of which will be hurt.

As this happens, it seems that every country affected—except the United States—is fighting tooth and nail for the interests of its farmers—and is yelling bloody murder.

I was in London during the history-making meeting of the Commonwealth Prime Ministers. They were probably presiding over the breakup of the historic British Commonwealth. The Prime Ministers from one Commonwealth country after another took turns pounding the table demanding that their farmers be protected when Great Britain enters the Common Market.

The Commonwealth representatives explained how they now ship most of their farm stuff into Great Britain at lower tariff rates than other countries must pay (including the United States). They are deathly afraid that their trade preferences will be shut off when Great Britain joins the Common Market.

"Duties on our goods would shoot up, and the European countries behind the tariff wall would then have first call on the big British food market," one of the representatives told me.

"We are fighting for our very lives," says New Zealand's Prime Minister K. J. Holyoake, himself a farmer. "We sell 91 percent of our exported butter and 94 percent of our cheese and mutton exports to Great Britain." New Zealand has 9 million acres in pasture, and the land is little suited for other use. Their economy depends on cows and sheep. And 60 percent of all their nation's exports go to the protected market in Great Britain.

Australia is also up in arms. "A third of our trade with Great Britain would be seriously affected (wheat, beef, lamb, butter, and sugar) and another third (canned and dried fruits) would be grievously disrupted," says Australia's Deputy Prime Minister J. McEwen.

U.S. farmers need to be just as concerned. We supply nearly one-half of Great Britain's feed-grain imports; more than half of her lard imports; and about one-sixth of her wheat imports.

We also have a stake in the big food exports that New Zealand, Australia, and Canada send to Great Britain. If the British outlet is closed down to them, these exports from the Commonwealth countries—mainly dairy products, mutton, beef, and fruit—will come banging on our door to get in. They've got to go somewhere.

The Commonwealth countries are asking that they be guaranteed a quota of imports into the expanded Common Market—based on what they have been selling to Great Britain. "This may be the best solution for us, too," says a U.S. official. "It would be better to have these Commonwealth exports going into the Common Market than to have them pounding on our door or competing with us in markets around the world."

Nor do our troubles stop there. I called on Karl Skytte, Minister of Agriculture for Denmark. "What will Denmark do if Great Britain joins the Common Market?" I asked.

"We will press to get in immediately," he said, explaining why: "Denmark is an agricultural nation, and a good one. She not only takes care of her own food needs, but exports two-thirds of her output—mostly livestock and poultry products. She has tripled her poultry meat production in the last 5 years, and expects to produce substantially more of this and other products in the future."

Four-fifths of this goes to Great Britain and the six continental Common Market countries.

Naturally, she wants behind the tariff wall; it doesn't pay to be on the outside if you want to sell food to Western Europe.

Norway also will surely press for membership when Great Britain joins. "These two countries, Denmark and Norway, probably will be accepted with little fuss or trouble," says Dr. Sicco L. Mansholt, vice president of the Common Market, and head of its agricultural affairs. Ireland probably will be taken in, too.

Other European countries may apply for associate membership in the EEC—neutral countries such as Sweden, Austria, and Switzerland. They appear to want to have the economic advantages of being EEC members but want to avoid political affiliations. Leaders in the various capitals say that this doesn't jibe with the goals of the Common Market.

These officials tell you that the present economic cooperation between nations within the Common Market is merely a prelude to final political unification—including a single parliament, a single currency, a single defense force, and even in the long-term future a common language (probably English). Any European country that can't, or won't, fit into that political framework will have hard sledding getting into the "European Club."

Any agreements to take in African nations as "associated territories," say EEC officials, will merely be a form of economic aid offered by the EEC to these developing countries. However, this can lead to such countries supplying more of Europe's needs—particularly for commodities such as tobacco, feed grains, and vegetable oils.

That, then, is the last-minute picture I brought back of what the entry of Great Britain means to U.S. farmers.

The second important part of the picture is this: There is a determined drive within the Common Market to (1) build that outside wall unreasonably high, and (2) to set abnormally high price supports on their farm production.

"This is fraught with danger for us—unless we do something about it, and soon," says one of our trade specialists.

"Your trouble is that your State Department wants a Common Market so badly that the United States neglects to negotiate for more favorable terms for your farmers," said the big grain importer I mentioned earlier.

Circumstances support his view. Two years ago the Common Market was talking a good game of keeping its doors open to American farm products. But when the chips were down this summer—as they set their first common tariff rates for that outside wall—Common Market officials hiked several farm tariffs. And they were high before as an aftermath of recovery from World War II.

Here's what happened late this summer: They shoved up tariffs on our broilers so that the rates in West Germany, our biggest outlet, jumped from 4.8 cent a pound to 13 cents on 30-cent birds. They hiked fruit tariffs in the Six by 36 percent. They pushed up duties on grain and flour—in the Netherlands the duty on flour shot up from $13 a ton to $40. And tobacco tariffs that averaged 19 percent of value in 1958 are now 28 percent.

Another important test is at what level the Common Market will place farm price supports. They are moving toward one common price level across all countries for each farm commodity supported. They'll complete this by 1970, or earlier, and if they follow the present trend they'll push these support levels higher than the present average in the Six.

A tipoff is the support range from high to low that the EEC already has drawn up for wheat. By 1970, the final common support level in all Common Market countries must be somewhere in between the high and the low. And they set the upper limit even higher than the present German level, which is one of the highest in the world ($3 per bushel).

Why does this matter to us? Simply because (1) high supports over there mean high tariffs raised against us, and (2) more farm production over there, with less need of our imports.

Why is the Common Market going in this direction? People there say it is because they have a "small farm" problem—more than half of the farms in the present six EEC countries are 12 acres or less in size. Naturally, farm income is low.

A loud and influential cry has gone up for what appears to be an easy solution: Clamp down on food imports; raise the tariff wall; push up farm price supports; and raise more themselves.

They propose to do it with a "variable duty"—which will always be slightly more than the difference between the fluctuating world price of farm goods outside the wall, and the support price inside the wall. That way, nothing can come in at less than the effective support level.

This approach, say trading experts, is a tariff of the most vicious kind. If outside countries have no "say" over the price support level, and if the importing country will not put a limit on how big the variable duty can be, then there can be no competition from the outside. This kind of absolute control can't even be negotiated in international tariff hearings where countries meet to "trade off" protection to promote greater trade.

"But this is a Frankenstein that will hurt them in the long run," says one of our officials on the scene. He explains that high supports will simply bring more retaliation from the rest of the world. It will raise food prices inside the Common Market, which in turn will raise wages, since negotiations there are based directly on the cost of living.

Higher wages will raise the cost of Common Market industrial goods and make it harder for them to export. And these countries must rely on heavy industrial exports to stay prosperous.

Moreover, higher farm supports won't help Europe's small farms much—their volume is too small to benefit greatly.

Abnormally high price supports are shadowed by the specter of overinflated land values; overmechanization that can't replace itself profitably; government controls that will interfere with healthy adjustments of their small farms; high tax costs; and depressed prices when surpluses spill over at home and on world markets.

In short, thinking Europeans admit that the Common Market's best future does not lie in high price supports to protect an inefficient agriculture—an agriculture whose efficiency U.S. farmers can beat with one hand tied behind them.

The Common Market's future lies in its industrial efficiency, which can now match the very best in the world, including our own.

"What the Common Market really needs is an overall program to reverse centuries of political, social, family and legal customs

that have led to smaller and smaller farm holdings," say one official. Top Common Market technicians see this, but they are bucking a strong tide at home.

The economic fact of life is that the European mind is still trade restrictionist. And the political fact of life is that the European farm population that is affected by these agricultural policies is abnormally high—as high as 30 percent of the total population in some countries, compared with 9 percent here. And most of these European farms are small.

These numerous, small farmers are politically potent—even more powerful than their numbers suggest.

Something that isn't openly talked about much—but which has vital meaning for the future—is the matter of the outward look of the Common Market toward the rest of the world. The Common Market countries have a choice, as sized up by one of our representatives in Europe: They can isolate themselves, become self-centered and nationalistic, and eventually itch unmercifully inside their self-imposed wall—as some European nations have done in the past—with unfortunate results for all the world.

Or the Common Market can join the United States in taking on global responsibilities, be outward looking, trade freely, and tie itself to promoting world peace.

This is exactly why many European government officials privately hope that the United States will wake up—before it's too late—and use its vast prestige, power, and leadership to help lead the Common Market into a more reasonable farm trade program.

Some people, especially in our State Department, say that we have been putting on the pressure. After all, Secretaries Benson and Freeman have both gone to Europe to talk to the Europeans about their tariffs. We have competent professional people representing our viewpoint in Brussels, the Common Market capital. In many ways, we've made our views known.

But what has been noticeably lacking, a well-known and highly-placed European told me, "is a consistent, day-after-day, strong, unrelenting pressure built on a studied policy that would convince the Europeans that the United States means business."

A case in point: The 18-month Geneva conference on GATT tariff negotiations was closed this year before we got satisfactory terms from the Common Market on farm matters. President Kennedy signed the document consenting to end the conference. This tipped off the astute Europeans that our Government—at the top level—wasn't as serious as we'd been talking.

A second case in point: Only after the German poultry duty skyrocketed did President Kennedy write a letter to Chancellor Adenauer protesting the move. This kind of "we're serious" pressure should have come before, not after, the duty was hiked. The letter coming as it did after the deed had been done, caught the Germans by surprise, embarrassed them, made them angry—and so far the duty hasn't been changed.

A third case in point: Our State Department is calling most of the shots in Common Market negotiations—and the State Department is so engulfed in political considerations in Europe that U.S. farm considerations are buried.

If we're going to save the day in Europe, say those close to the scene, we need a yell to go up—and a purpose to set in—in Congress, at the State Department, and at the White House; places where these have been most noticeably lacking up to now.

[Farm Journal's Opinion]

WILL WE FIGHT FOR U.S. FARMERS?

It's not surprising that American farmers, busy with their daily affairs, have been largely oblivious of a threat to their livelihood that now looms in Europe. That's why we shout on page 24 of this issue: "Wake up or be walled out." Walled out of a large share of your foreign market for wheat, feed grains, poultry, rice, tobacco, and some fruit and vegetables. Not only do you need to wake up, but our Government needs to, and it's up to you to do the arousing. Your Senators and Congressmen happen to be at home right now.

Farm Journal thinks this important enough that twice within the year we have sent our economics editor to Europe to see how the Common Market is shaping up. Claude Gifford's article gives you the straight dope.

What's happened, in a nutshell, is that countries which once warred with one another are now forming a Western European club designed to advance trade with each other, promote peace in Europe and raise their standard of living. They are abolishing tariffs against each other; later they hope to achieve actual political federation.

We've applauded all this. It's good for our friends, the Western Europeans, and it could be good for us. If Europe prospers she can be an even better customer of ours. And she can put a powerful block in the path of communism. The danger is that in their understandable zeal to help themselves they may pay scant regard to the damage they do the rest of the world—including us. They appear headed toward raising the highest tariff wall against us seen in modern times. The six—France, Germany, Belgium, Holland, Italy, and Luxembourg—are currently indicating that they may be pretty tough about it.

At which point, to use that old Missouri expression, this gives us every right to rise and say: "Now just a darned minute."

We've had a good deal of regard for other countries in our trade relations—too much sometimes. The very word "trade" indicates a two-way deal. We've traded concessions at the GATT meetings (General Agreement on Tariffs and Trade). We've refrained from dumping our farm surpluses. Even in our vast giveaways we've been careful not to harm farmers of other countries. We've taken in a lot of foreign food, even when it hurt. Last year, according to USDA, we exported $5 billion worth, of which only $3½ billion was sold for a full cash price. We imported $4 billion worth, and more than half of that was in products that compete with ours. The figure does not include noncompetitive agricultural stuff, such as coffee, tea and rubber.

What can we do about it? Well any farmer who ever got into a tough dicker knows that you don't start out with threats. You try to sell, persuade and show the other fellow that the trade would be to his advantage. (In this case it actually would be. High tariffs over there would mean high food prices, higher wages and hence a poorer competitive position for the industrial goods Europe wants to export.) But it's also essential in a dicker to have a good bargaining position and let the other fellow know that you certainly intend to use it. He respects you for it.

Secretary Freeman did some of this in Paris the other day when he reminded the Europeans that the last Congress passed a law "which directs the President to take all appropriate steps . . . including retaliation if necessary." What he meant was that Europe can't sell industrial stuff here if we can't sell farm stuff there. This game can work two ways if, unhappily, that should be the way Western Europe wants it.

The question now is whether the President, the State Department and—most of all—Congress, will fight for American farmers the way every other nation fights for its farmers.

We've been pretty wishy-washy so far, but it's not too late if farmers get aroused enough. That's why we say "Wake Up"—and wake your Government up.

THE RISE OF COMMUNISM IN THE WESTERN HEMISPHERE

Mr. CURTIS. Mr. President, my concern because of the rise of communism in the Western Hemisphere mounts daily, and I regret that reports available to us do not lessen it. The Secretary of State has recently been quoted concerning the Soviet combat strength presently in Cuba, and has expressed his concern over this and the Soviet air power, which he points out is capable of delivering nuclear munitions. Premier Castro is undoubtedly making the most of the current hands-off policy which the United States is affording him, and there is no doubt that his satellite island is teeming with activity. It is the beachhead for Communist buildup in Latin American nations.

Recently, I received a report concerning the alleged transfer of arms manufactured in Czechoslovakia from Cuba to British Guiana. This clandestine act is in concert with meetings in recent months between Soviet representatives and Premier Cheddi Jagan.

Yesterday, I received in my office a well prepared document sent to me by Dr. Manuel A. de Varona, ex-President of the Senate of Cuba. Information reaching him is, in effect, that five high-ranking and well-trained Soviet generals today control Cuba. In his opinion, Soviet missiles may still be present in Cuba, in support of the Russian combat force which we know to be on the island.

I assume that this document reached many other senatorial offices and I invite my colleagues to give it careful attention. In the opinion of Dr. de Varona, Venezuela, Brazil, the Dominican Republic, Guatemala, Costa Rica, Peru, and Nicaragua are reeling under the onslaught of Castro's agents.

While we may have gained a brief breathing spell during the third week of October, we must not be lulled into any sense of confidence which would permit us to err in believing that Castro in any way has blunted his efforts to communize Latin America.

I am inserting in the RECORD a letter which I sent yesterday to Secretary Rusk, concerning the matter of subversion in British Guiana and seeking advice as to the ability of the United States to cope with this and similar acts. The letter is as follows:

U.S. SENATE,
Washington, D.C., January 30, 1963.

Hon. DEAN RUSK,
Secretary of State,
Department of State,
Washington, D.C.

DEAR MR. SECRETARY: An intelligent source, which I find consistently reliable, reports that there is great concern among nations in the Western Hemisphere because of an apparent buildup of weapons coming from Cuba to British Guiana. It is my understanding that arms of Czechoslovakian manufacture have been landed on the Atlantic coast of British Guiana by ships which originated in Cuba.

This report also indicates a Soviet trade mission having recently been in British

Guiana and that representatives of the Soviet Government have met on many occasions in recent years with Premier Cheddi Jagan.

Because of the pro-Communist character of Premier Cheddi Jagan and the substantial interest of the free powers in the economy of that territory, I would appreciate knowing whether this matter is one under the surveillance of your Department and of other appropriate authorities of the U.S. Government. If the foregoing is fact, it indicates that current measures may be insufficient to cope with Cuba's continuing efforts, as a satellite of the U.S.S.R., to communize nations throughout Latin America. If the alleged withdrawal of Soviet missiles from Cuba relieves Cuba of any responsibility for conduct short of actual missile armament, this fact will undoubtedly occasion a continuation of grave problems throughout Latin America similar to the one now reported in British Guiana.

I will appreciate very much your thoughts and direction on the foregoing.

With highest personal regards, I am,

Sincerely yours.

I then signed that letter.

Mr. President, it seems to me that our State Department and the administration generally should be more concerned about the preservation of human liberty in Latin America than they are in relying upon promises and commitments of outlaws in the world who have never yet kept their word or abided by a treaty.

THE FARM MESSAGE

Mr. HUMPHREY. Mr. President, the farm message sent to the Congress today by President Kennedy strongly illustrates both the progress that has been made in American agriculture the past 2 years and the need for new legislation in order that this progress may continue.

Let us first look at the gains that have been made. And in this connection I want to congratulate and commend my good friend Secretary of Agriculture Orville Freeman. Secretary Freeman took on this difficult job 2 years ago in the face of decreasing farm income and rapidly increasing agricultural surpluses. Today—2 years later—President Kennedy can say in a message to the Congress that:

Net farm income at the end of 1962 was $1.8 billion a year more that it was in 1960. Gross farm income is $3.5 billion higher.

Average net income per farm has risen 21 percent, from $3,044 to $3,690, the highest level in our history.

The increase in farm income has generated added business for rural industries and farm communities—indeed, for the entire Nation—putting millions of dollars into Main Street cash registers and adding at least 200,000 jobs to the national economy.

At the same time—and this is, I think, of singular importance—Government stockpiles of surplus grain have been reduced by 929 million bushels from their 1961 peak. It seems to me that that is a rather remarkable record for a short period of 2 years.

And, finally, over this same 2-year period, the proportion of consumer income required to purchase food has declined to the lowest ratio in history—19 percent of take-home pay.

That figure indicates the great job that the American farmer is doing in providing the American people with the highest quality and the greatest quantity of food in the world, at reasonable prices.

Of course, that is a commentary upon the entire food industry, one of the great industries of our Nation.

Mr. President, this is a splendid record. It is a tribute to the ability, the insight, and the devotion of Secretary Freeman and the Department of Agriculture. It is a fine feeling to be secure in the knowledge that the chairs of both the President of the United States and the Secretary of Agriculture are occupied by men who recognize and appreciate the value of America's family farms and farmers and who intend to help rural America rather than take advantage of it—to thank our farm citizens for seeing that we are a well-fed people rather than scold them for their efficiency.

I make that statement because in other years there was a good deal of chastisement of the American farmer merely because he was a good producer.

But with all this there is much more that needs to be done and we in the Congress are charged with the duty of seeing that it gets done. In the area of commodity programs, we are badly in need of feed grains, dairy, and cotton legislation. President Kennedy in his message also calls for progressive expansion of the food stamp program, continuation of the food-for-peace program, federally insured loans for rural housing, vocational and other educational training to rural citizens unable to finance this training through other means, more adequate development of available water and related land resources for multiple use, an expanded land use adjustment program and establishment of a Rural Electrification Administration loan account in order to reflect the true net cost of the REA loan programs.

In the main, these are sensible requests which I am confident the Congress will want to meet, and I believe that we will take rather prompt action in fulfilling these requests.

Mr. President, Minnesota is not a cotton-producing State. But I know that in a spirit of concern for our entire agricultural economy my friends from the South share with me an interest in providing producers of all commodities, regional though they may be, a standard of living which will reflect the hard work and high investment that goes into the production of these products. I, therefore, hope that we will accept the recommendations of the President for a cotton program and that these recommendations can be signed into law early in order that it may be in effect for the 1963 crop.

By the way, this is a matter of rather urgent legislative business.

In September of last year I said in the Senate that the 1963 feed-grain program would provide a solid foundation for permanent voluntary feed-grain legislation for the 1964 and subsequent crops. The President in his message calls for a voluntary program, flexible enough to meet varying conditions and needs and based upon the same basic principles which have proven successful in the last 2 years.

Mr. President, I feel that the approach that has been recommended, based upon the experience of the past, will prove not only workable but sound and, indeed, effective in raising farm income and in providing a much better balance between supply and consumption.

The President in his message points to a surplus reduction from 85 million tons to 57 million tons as a direct result of the voluntary 1961 and 1962 feed grains program. This reduction has resulted in a savings of nearly $1 billion in handling and storage charges. This is a good program, a popular program, and a sound program. It was further refined and improved last year when the Congress introduced the new feature of a direct payment to cooperators.

Mr. President, I was one of those who urged direct payments to cooperators. I believe very strongly in the direct-payment method for many crops. I really believe, in respect to cotton, that in the long run the cotton producer and the textile manufacturer would be in better positions if we would follow the formula laid down so ably by the junior Senator from Georgia [Mr. TALMADGE]. I have been one of those who have encouraged the Senator from Georgia [Mr. TALMADGE], from time to time, to keep working on his proposal of the so-called compensatory payment program. I know of no other way to give both a fair price to the cotton producer and a reasonable price for the cotton consumers in processed goods, while at the same time saving the textile industry, because at the present time the American textile industry is experiencing rather severe difficulties.

Mr. President, it seems to me that now is the time to use these programs as a basis for permanent feed grains legislation. The feed grains program is a proved success.

I ask my colleagues to read very carefully the portion of the message the President sent to us on feed grains, because in that message he cites:

> The emergency and temporary feed grain legislation of 1961 and 1962—which covers this crop year as well—has been successful. It has earned wide bipartisan support. Savings already assured by 2 years of surplus reduction will amount ultimately to nearly $1 billion.

The President goes on to explain in his message the reduction in our surpluses. The President in his message tells of the alternative to a failure to enact new feed grains legislation this year. Under the law, the feed grain program for 1964 would automatically revert to unlimited, excessive production and disastrously low prices. This also would affect other commodities, because as feed grain prices go down and feed grain stocks pile up, this would directly affect the livestock industry and the poultry industry, through a lowering of prices for those commodities. So every Senator is affected either directly or indirectly with repect to what happens in the feed grains program.

It is time that the unsuccessful permanent feed grains law of 1958 be stricken from the books and that a program which shows a history of success be substituted for it. Every taxpayer in this country ought to know that the 1958 Corn Act was the No. 1 economic boobytrap, the No. 1 boondoggle project, among all that have ever been foisted upon the American taxpayer.

I stood in this Chamber, at the desk which is the second from the corner, and warned Members of this body that the surpluses would pile up, that farm prices would be depressed, and that the taxpayers would be subjected to unbelievable burdens. I claim no prophetic vision, but in that instance I took a good look at the future through a bad set of circumstances that were developing.

Mr. President, the principles of the feed grain program can also be applied to the dairying industry. I was pleased to see what President Kennedy had to say about dairying. He demonstrated a wide knowledge of the difficulties which the dairy industry faces. The President said in his message:

> The accomplishments of the American dairy industry, from processor to distributor, have been far too little recognized. Any American family can depend upon the availability of pure, nutritious milk and dairy products anywhere in the United States. This accomplishment is the product of hard work, skill and know-how, and heavy capital investment.

The President went on to say:

> New dairy legislation is urgently required for the benefit of both the farmer and the taxpayer.

Last year the President recommended that the Congress enact certain farm legislation. It did not do so, and as a result surpluses have continued to pile up and dairy income has not been what it should have been.

President Kennedy, himself a notable consumer of dairy products, says in his message that new dairy legislation is urgently required, as I stated, for the benefit of both the farmer and the taxpayer.

While most family homes start the day with a cup of coffee, the White House starts the day with a glass of good milk. I have been at the White House breakfasts. In order to prove my allegiance not only to the dairy industry, but also to the Alliance for Progress, I have both milk and coffee.

I commend the President for being the best salesman the milk industry has ever had.

Mr. President, our Chief Executive calls for a program of voluntary supply management under which producers who cooperate by reducing their marketings would receive, through market prices and payments, a return on their marketings substantially greater than the noncooperators who choose not to join the program. In other words, the program would be one of incentives for cooperation.

I come from an important dairy State. I am a heavy consumer of dairy products. If Senators do not believe so, they can look at my milk bill. Furthermore, I know what kind of hours our dairy farmers work, how much they must invest in their equipment, and how little they receive for their products.

Therefore, Mr. President, I intend to sponsor in this body, and to work for, effective voluntary dairy legislation this year. I appeal to my colleagues and to the spokesmen of the dairy industry—the producers, the processors, and the distributors—to join with me in this effort. I should like to see a program which incorporates the principles of voluntary cooperation.

I took that stand in the Senate last year. I assured my colleagues that I would speak to the President and to the Secretary of Agriculture, and urge that none of the mandatory, compulsory, regulation be incorporated in the proposals which came to us from the White House or from the Department. I have kept my word. I have offered my counsel, even if, at times, it was not wanted. I hope it was wanted. It has at least been received with some respect.

I find in the message today the spirit of the voluntary program everywhere, in connection with every program.

One commodity which is not included in the President's message this year is wheat. We produce wheat in Minnesota.

A great deal of wheat is produced in Maryland, I say to the distinguished Presiding Officer (Mr. BREWSTER in the chair). I add that many high quality dairy products are produced in Maryland.

We all know how important farm legislation is to the general public and to each of our States. The reason wheat is not included is because the Congress last year passed a permanent wheat program—the so-called wheat certificate plan—which will become effective beginning with the 1964 crop. This program is the result of 6 years of effort to improve the wheat program. But this legislation must receive the approval of two-thirds of the wheat producers in a referendum this spring in order to become effective. President Kennedy states in his message that with such approval the present income of our wheat farms will be protected and surpluses will be further reduced. But he also says that failure to approve the program will leave the wheat farmer "at the mercy of unlimited production and unprotected prices." This referendum should be approved.

I take this opportunity in the Senate to call upon the producers of wheat to cast an affirmative vote in the wheat referendum. Approval is in the farmers' interest, and in the national interest. I concur in the President's statement that new legislation for wheat is neither necessary nor feasible this year. We already have a good wheat program. We ought not to be deceived or in any way fooled. Congress has a good permanent wheat program. That program provides for a national referendum. The farmers themselves can vote either for approval or rejection. I believe it is in the interest of the farmer, the consumer, the Nation, and, indeed, the world market, that the wheat referendum have a resounding vote of approval. It takes a big vote—two-thirds of the farmers voting in that referendum.

President Kennedy also talks about exports of agricultural commodities in his message.

I was interested in the comments of the distinguished junior Senator from Nebraska [Mr. CURTIS], who is present in the Chamber. I am sure the senior Senator from Nebraska has the same concern.

Returning to my comments on the agricultural message, President Kennedy has given the farmers of America his personal assurance that this Government intends to take every step necessary to protect the full rights due American agricultural exports.

This is one Senator who is going to insist that no concessions be made in our trade dealings at the expense of American agriculture. As a matter of fact, it is high time we emphasized the increasing of our exports. The markets are there and we must develop the ways and means to get them. But we cannot do it by sitting back and talking about it at the same time we are watching them virtually being stolen right from under our noses. Our thoughts must be put into action. In other words, we must become competitive. We are great producers of agricultural products.

All we need is to be given the opportunity to work in the market. Of course, this gets into the problem of the European Economic Community, the Common Market. It also gets back to the problem of developing new market areas in Latin America, Asia, Africa—indeed, the entire world.

The shrewd minds that exist in our business community should be put to work on this problem. Throughout our history the wealthiest of men have not attained their riches by sitting around and daydreaming. They were men of action. Their success stories could well be applied to our present trade situation.

Mr. President, I intend to introduce several pieces of agricultural legislation this session of Congress. I already have introduced the National Milk Sanitation Act, which would prohibit the use of artificial barriers set up by individual States in order to keep milk out.

I also will introduce legislation this year which will set up a commission responsible to the President, and reporting through him to the Congress, to study the entire subject of necessary reserves of food. This is a matter of the greatest national and international importance. Such a commission could greatly assist the Congress in establishing legislative guidelines to the Secretary of Agriculture, to the Department of Defense, to the Department of State, to the National Security Agency, on the management of supplies in the national interest and in the interest of the free people of all nations. I am extremely interested in the overall subject of food reserves—how much do we really need; where should it be placed? I noticed that during the Cuban crisis of last year there was a lot of talk about adequate supplies of food. It seems our abundance is taken for

granted until we are faced with a situation that makes us think about our very survival.

The civil defense authorities put it right on the desk of every official of this country, including the President, as to what would happen in case of an attack, because of the unequal distribution of food supplies.

This is a matter I consider of the highest priority, and I am hopeful I will have the cooperation of the Congress and the Government agencies in bringing about such a study.

Mr. President, agriculture is on the move. But a better day is still ahead if we act in a responsible manner and accept the recommendations set forth by the President in his farm message today. I hope this will be done.

I shall accept them on the basis that they make a distinct contribution to our understanding of what are the agricultural problems, challenges, and opportunities. I have never believed it was desirable for a Member of Congress or for any individual to accept any recommendation without some consideration of it. We should look at those recommendations and study the facts involved. Responsibility for consideration of legislation for feed grains, wheat, cotton, the school lunch program, the emergency milk program, and the food stamp program rests in the Congress of the United States.

I am confident that, with the sense of direction we have received in this message, we will come forth with appropriate legislation to further improve our agricultural economy and thereby strengthen our Nation.

Mr. CURTIS. Mr. President, apropos the disposal of surpluses, I ask unanimous consent to have printed in the CONGRESSIONAL RECORD at this point an article which appeared in the Washington Daily News of today, January 31, 1963, by Samuel Stafford.

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

REPORTER WAITS FOR "LEFTY" AND A BRIBE BUYS FREE SURPLUS FOOD

(By Samuel Stafford)

Although I am a well-fed newspaperman with a steady income, I have just been issued a month's ration of free Government groceries by the District of Columbia Welfare Department's surplus-food-for-the-needy program.

I accomplished this obvious swindle by arranging to have a small bribe ($6) placed in the right hands. Exactly whose hands, I don't know.

I did it to demonstrate what weeks of close, undercover investigation had convinced me was true:

That something very rotten was going on at the welfare department's surplus food division.

That food intended for hungry Washington citizens—the poor, the aged, the infirm, and the helpless—was being siphoned off by money-hungry bums.

I needed help and got it from an intermediary I'll refer to only as "Lefty" because he is afraid of being hurt for cooperating with the Washington Daily News' investigation.

"Lefty" knows the hustlers—the men who deliver this free food to the needy, for a fee—and he knows welfare employees in the department's surplus food division.

He said he would buy me an official surplus food card from an inside connection who would put any name and address on the card without checking my eligibility.

DAILY NEWS' ADDRESS

The official card I bought bears my own name. The address is that of the Washington Daily News. I was even assigned a phony case number.

Here's how it came about:

Our swindle was perpetrated on January 21.

"Lefty," I, and another man were sitting in a southeast home and I asked "Lefty," "Can anybody get a surplus food card by paying for it as you've said you and others have done?"

"It's easy," he said.

He called the surplus office and asked for a welfare employee whose name I knew. The conversation was guarded. "Lefty" asked if the man was free to talk. The figures "5" and "2" were mentioned. "Lefty" kept assuring the person at the other end that the buy was for himself.

Then "Lefty" carefully spelled out my name and gave the newspaper's address. He hung up and said, "It'll be ready at 1 o'clock." It was then a little after 11 a.m.

"Lefty" and I drove to the welfare department surplus office, now in southwest Washington, but then at 469 C Street NW. We parked in the lot next door.

"Lefty," with this newspaper's $6 in his pocket, entered the office as I went across the street to observe. He came out after a minute and walked to the parking lot. I recrossed the street to the lot and stood behind a car.

Then "Lefty" muttered and ran toward the surplus office entrance. I followed, crossing the street. A man I recognized as a welfare surplus employee was running down C Street in the opposite direction, coat flapping, anxiously looking back over his shoulder every few steps. "Lefty" didn't catch him for half a block.

As I followed, they turned left, cutting through the block to Pennsylvania Avenue and entered a nearby waffle shop, where they talked.

I returned to the parking lot, got the car and drove around the block. After the welfare employe returned to the office, I picked up "Lefty" on Pennsylvania Avenue. He gave me my brand-new food card.

He told me that he had paid the man $6 and that the man had told him he could handle more such business.

The card was dated January 21, the same day. The food distribution center would be closed in less than 2 hours.

I took a cab to the distribution center at 357 Virginia Avenue SW.

At this point I will tell you how I, the swindler, was swindled once, and almost twice.

My understanding of the deal through "Lefty's" phone negotiations with the welfare employe led me to believe that I would get two cans of peanut butter and two five-pound boxes of high-grade processed cheese for my money, along with the other goodies.

ALLOTMENT CUT

But the card made up by the welfare man bore only a "1" in the peanut butter and cheese space—meaning a single order of each item.

I entered and went to the counter. There was no line at that time of day.

A squat colored man grabbed my card, squinted at me and asked, "You Sam?"

I said I was and he flipped the card onto the counter.

Another man looked at it carefully, looked at me carefully, then slammed a food bag onto the counter. Then he walked back and puttered around with other bags.

"Get you your lard in a minute," he said.

He fetched lard (shortening) and butter, then returned to the pile of bags which he poked at idly. The other man was some place else by now.

I waited for perhaps 45 seconds for him to bring my peanut butter and cheese. When it became clear that he had no intention of doing so, I cleared my throat.

"Don't I get peanut better and cheese, too?" I asked.

The man turned, plucked my card out of a sheaf in his hip pocket, studied it, glanced up, gaging my knowledge about figures on the card.

After a while, he sighed like a man who has lost a daily double he didn't expect to win anyhow, checked the card again, muttered, "Oh, yes, so you do," and heaved the missing items my way.

As I left, I wondered what might have happened to the peanut butter and cheese if I had said nothing. To a bookkeeper's eyes, the items would appear to have been picked up, whether they had or not.

Would I have been able to get the two items at all if, instead of being a reporter, I had been a little old lady afraid to talk back for fear of losing her relief check?

DOUBLE CHECK

Back in the office, I checked the supplies. A 10-pound bag of flour had been broken, possibly when it was slammed onto the counter.

Otherwise, everything was in good shape: 4½ pounds of dry milk, nearly 4 pounds of chopped meat in two cans, two pounds of peanut butter, 3 pounds of vegetable shortening, a pound of butter, and 5 pounds of cheese.

Where was my rice and corn meal? Numbers below names of these items on my card indicated that I should have received them.

(Harold Popkin, a welfare surplus official, said in a later interview that recipients get rice and corn meal every month. The full de luxe single orders, he and John Olsavsky, surplus manager, said, was worth about $12.)

The Daily News will return the food in good condition to District surplus officials for use by the genuine needy.

In a similar way, with the exception that I didn't accompany "Lefty" to the surplus office, I bought a food card for a lady to replace one that expired about 20 days before.

This was a special kind of welfare rule-breaking. Deadline for the lady to pick up food was December 28 on the original card.

After January 1, under welfare rules, which seems to apply to everybody but the hustlers, who do a healthy business in delivering food and taxing recipients for a fee, the card was dead. No December food. Possibly she could get January's a little earlier.

(I know this is an inflexible rule because, posing as a private social worker, I had been in Mr. Olsavsky's office when he denied 5 women—1 a mother of 12 who "had it tough over Thanksgiving"—their month's food because their cards had expired a few days from the end of October and it was then November 1.)

(Mr. Olsavsky said he couldn't give them the food becaue of regulations, and, at another time, made this "Agriculture Department regulations." An Agriculture Department spokesman yesterday said distribution methods are largely left up to the States and that the Department's main interest is in seeing that the poor get needed food.)

"Lefty" said he paid a welfare employe $4 for the 20-day late food card.

WE GET A SCHEDULE

He said he paid $3 for a mimeographed delivery schedule which shows day by day

the areas of the city in which recipients' surplus cards are about to fall due.

As I looked at the schedule with numbers and dollar signs penciled in by somebody at the top, I recall a recent talk with surplus officials.

They seemed puzzled that anyone would think there were schedules around, but did say that nobody in the office sold schedules and that hustlers had no access to them.

I gathered from these officials that hustlers each day just magically sense the right area for moneymaking from the needy. Unless a welfare employee whispers the secret around. And, of course, this can't be so.

EXTENSION OF TIME FOR SPECIAL COMMITTEE ON AGING TO FILE REPORT

Mr. McNAMARA. Mr. President, in accordance with Senate Resolution 238, the Special Committee on Aging has prepared its report for submission to the Senate. I ask unanimous consent that the time for the filing of this report be extended to Friday, February 8, 1963, in order that we may receive and combine with this report individual, minority, or supplemental views.

The PRESIDING OFFICER. Is there objection?

Mr. CURTIS. Mr. President, reserving the right to object, has that request been cleared with the ranking minority member of the committee?

Mr. McNAMARA. It has been held up by the minority.

Mr. CURTIS. No. Has it been cleared with the ranking minority member of the committee?

Mr. McNAMARA. No; it is at the request of the minority that it is being held up.

Mr. CURTIS. Very well.

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

THE PRESIDENT'S FARM MESSAGE

Mr. ELLENDER. Mr. President, the President's message on agriculture is a very thought-provoking document. It covers the whole of our agriculture and rural areas. It deals specifically with several very troublesome problems such as dairying, cotton, and feed grains. It also points the way for an expanded use of our agricultural abundance, both at home and abroad. In addition, it emphasizes the favorable effects on farm income that the programs enacted during the last 2 years have had. It points out further that there has been a substantial reduction in the Government stockpiles of surplus agricultural commodities. For example, specifically, the statement indicates that Government stockpiles of surplus grain have been reduced by 929 million bushels from the 1961 peak.

The President also points out, and rightly so, the importance to farmers of the wheat referendum which is to be held this spring. I am delighted that the President is advocating favorable action by wheatgrowers in this referendum. In my humble judgment it would be calamitous to the wheat farmers of the Nation if a negative vote is cast, because Congress cannot and should not take action to further deal with the wheat problem for this year. Last year the Senate Committee on Agriculture and Forestry spent about 7 months trying to develop a program satisfactory to the wheatgrowers. Such a program was finally enacted into law on September 27, 1962. The wheat certificate program is fair and realistic to all concerned. It will improve farm income on the one hand, while on the other it will reduce Government stocks.

The President advocates a further extension of the so-called emergency feed grain program with some changes. In my opinion a voluntary program affecting the production of corn and other feed grains may well be advisable for another year. However, I feel that the rate of payment made to farmers for taking land out of production should be much reduced. A well conceived program could provide for a reduced payment and lower price supports, while at the same time protecting the income of feed grain producers.

Cotton presents a problem that may be costly and difficult of solution. Stocks have been increasing. As a matter of fact the latest report by the Department of Agriculture indicates that the carryover at the end of this marketing year will be 10 million bales, the largest since 1957. Something must be done. However, I do not like the idea of direct payments. A program which subsidizes both domestic and foreign consumption would appear to me to be more costly. I would hope that a more reasonable and realistic approach could be found which would achieve the aims of the President.

Dairying presents the most vexing problem. I have advocated that the producers and their representatives, as well as the handlers and others interested in the dairy industry, get together in an attempt to devise a program which would be less costly to the Government and still be fair and reasonable to producers. I still hope that this can happen, for unless a positive approach is made, Congress will have to devise a program on its own. It is my intention to hold hearings on dairy legislation at an early date. I hope that we will be successful in the development of a realistic program. While the President's recommendation of a voluntary program appears reasonable, it does not assure that there will be a downward adjustment in the production of milk. If safeguards can be developed which will assure a decrease in production and a savings to the Government it might well be that Congress would act affirmatively.

Other parts of the President's message deal with domestic and foreign food distribution, rural area development and rural electrification, water, land use adjustment, and electricity. These recommendations should be given careful thought and consideration.

All in all, I think that the President has submitted a very fine message to the Congress, one that could well lead to further Government savings and increased farm income.

RECESS TO MONDAY NEXT AT 10 A.M.

Mr. HUMPHREY. Mr. President, if there is no further business to come before the Senate, I now move, in accordance with the previous order, that the Senate stand in recess until 10 a.m. on Monday next.

The motion was agreed to; and (at 5 o'clock and 40 minutes p.m.), under the order previously entered, the Senate took a recess until Monday, February 4, 1963, at 10 o'clock a.m.

NOMINATIONS

Executive nominations received by the Senate January 31 (legislative day of January 15), 1963:

COMMODITY CREDIT CORPORATION

Roland R. Renne, of Montana, to be a member of the Board of Directors of the Commodity Credit Corporation, vice Frank J. Welch, resigned.

SUBVERSIVE ACTIVITIES CONTROL BOARD

Frank Kowalski, of Connecticut, to be a member of the Subversive Activities Control Board for the term expiring August 9, 1966.

FEDERAL COMMUNICATIONS COMMISSION

Kenneth A. Cox, of Washington, to be a member of the Federal Communications Commission for the unexpired term of 7 years from July 1, 1956, vice T. A. M. Craven, retiring.

Kenneth A. Cox, of Washington, to be a member of the Federal Communications Commission for a term of 7 years from July 1, 1963.

DEPARTMENT OF COMMERCE

Richard H. Holton, of California, to be an Assistant Secretary of Commerce, vice Hickman Price, Jr., resigned effective January 31, 1963.

U.S. ADVISORY COMMISSION ON INFORMATION

Sigurd S. Larmon, of New York, to be a member of the U.S. Advisory Commission on Information for a term of 3 years expiring January 27, 1966, and until his successor has been appointed and qualified.

IN THE NAVAL RESERVE

The following-named officers of the Naval Reserve for temporary promotion to the grade of rear admiral subject to qualification therefor as provided by law:

LINE

Richard D. Adams

CIVIL ENGINEER CORPS

Edward H. Gessner

IN THE AIR FORCE RESERVE

The following-named officers for appointment in the Air Force Reserve to the grade indicated, under the provisions of chapter 35 and section 8373, Title 10 of the United States Code:

To be brigadier generals

Col. Donald J. Campbell, [redacted], Air Force Reserve.

Col. Joseph J. Lingle, [redacted], Air Force Reserve.

Col. James H. McPartlin, [redacted], Air Force Reserve.

Col. Roger W. Smith, [redacted], Air Force Reserve.

Col. John A. Lang, Jr., [redacted], Air Force Reserve.

Col. Charles E. Heidingsfelder, Jr., [redacted], Air Force Reserve.

WITHDRAWALS

Executive nominations withdrawn from the Senate January 31 (legislative day of January 15), 1963:

SUBVERSIVE ACTIVITIES CONTROL BOARD

Frank Kowalski, of Connecticut, to be a member of the Subversive Activities Control Board for the term expiring April 9, 1967, which was sent to the Senate on January 17, 1963.

FEDERAL COMMUNICATIONS COMMISSION

Kenneth A. Cox, of Maryland, to be a member of the Federal Communications Commission for the unexpired term of 7 years from July 1, 1956, which was sent to the Senate on January 15, 1963.

Kenneth A. Cox, of Maryland, to be a member of the Federal Communications Commission for a term of 7 years from July 1, 1963, which was sent to the Senate on January 15, 1963.

HOUSE OF REPRESENTATIVES

THURSDAY, JANUARY 31, 1963

The House met at 12 o'clock noon.

Dr. L. D. Johnson, First Baptist Church, Greenville, S.C., offered the following prayer:

Jeremiah 9: 23–24—revised standard version:

Thus says the Lord: "Let not the wise man glory in his wisdom, let not the mighty man glory in his might, let not the rich man glory in his riches; but let him who glories glory in this, that he understands and knows me, that I am the Lord who practice kindness, justice, and righteousness in the earth; for in these things I delight," says the Lord.

Almighty God, our Heavenly Father, we bow before Thee in grateful acknowledgment that Thou art the Author and Sustainer of all our life. We thank Thee for Thy gracious providence and pray that we may be worthy of Thy continued favor. We pray for the President of the United States, for the Speaker and Members of this House now in session, and for all men and women in places of high trust.

O Thou who art the source of all wisdom, grant us wisdom for the problems which perplex us. Grant us understanding to perceive the truth, and minds that discern the difference between right and wrong, nobility and shabbiness, the permanent and the passing.

O Thou who art the source of all might, before whom the pride of empires falls, grant us strength for the struggle of our time, and courage to live and die as freemen.

O Thou who art the source of all wealth, grant us to know wherein true wealth lies: in integrity, humility, charity.

In the name of Jesus Christ, our Lord. Amen.

THE JOURNAL

The Journal of the proceedings of Monday, January 28, 1963, was read and approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Ratchford, one of his secretaries.

ELECTION OF MEMBERS TO COMMITTEES

Mr. BOGGS. Mr. Speaker, I offer a privileged resolution (H. Res. 215), and ask for its immediate consideration:

The Clerk read as follows:

Resolved, That the following-named Members be, and they are hereby, elected members of the following standing committees of the House of Representatives:

Committee on Education and Labor: GEORGE E. BROWN, JR., of California.

Committee on Merchant Marine and Fisheries: JACOB H. GILBERT, of New York.

The resolution was agreed to.

A motion to reconsider was laid on the table.

FRANKLIN DELANO ROOSEVELT BIRTHDAY ANNIVERSARY

The SPEAKER. The Chair recognizes the gentleman from Louisiana [Mr. BOGGS].

Mr. BOGGS. Mr. Speaker, first let me thank the gentleman from Ohio [Mr. KIRWAN] for the beautiful white carnations symbolic of this day. I take this time to salute the spirit of a great American, a great President of the United States. If Franklin Delano Roosevelt were still alive he would have celebrated his 81st birthday on yesterday. Though he is not alive I am sure that his spirit lives and is ageless. That spirit lives in the hearts of millions of Americans and millions of people throughout the world; those who knew him personally as a friend and millions upon millions who knew him as a symbol of freedom.

That spirit dwells with all sorts of Americans; with loggers and lawyers, with sodbusters and surgeons, with millhands and with millionaires.

What is that spirit, Mr. Speaker? It seems to me it is the spirit of a man who gave America courage when we needed courage, hope when we needed hope; who gave us confidence when we were confronted with fear, who gave us vision when we needed vision, who was able to weld together the freedom-loving people all over this earth of ours.

It was just 30 years ago that President Roosevelt took office as our Nation's 32d President. He came to this Capitol on a cold and cloudy Saturday, a day that seemed to reflect the state of the Nation, and he launched on that occasion a movement that brought the people of this Nation to their feet and served notice to the world that America was on the move again. He led us literally from the depth of domestic despair to high plateaus of national achievement, and then he led us through the grim days of World War II, until one of the grimmest days of all, April 12, 1945, when unexpectedly he was called to his reward.

Before closing, Mr. Speaker, it would also be most appropriate for me to say that there was a woman in his life, a beloved woman, a woman of singular dedication to her country and to humanity throughout the world. After the death of President Roosevelt his wife, Eleanor Roosevelt, carried on her humanitarian efforts without stint for many years, until her own death last fall. So in paying tribute to the memory of President Roosevelt this week, I would like to pay a double tribute to the President and his beloved wife, the two Americans who inspired and led our Nation at a time when it desperately needed inspiration and leadership.

Now, Mr. Speaker, I yield to the gentleman from Alabama [Mr. RAINS].

Mr. RAINS. Mr. Speaker, a few days ago our friends in the minority paid tribute to a great American, President McKinley. I think it altogether fitting and proper, Mr. Speaker, that we pause often to pay tribute to those men who have had a great deal to do with the building of this Nation. In fact, it seems it would help us as Representatives of the American people to talk about our heroes and our statesmen more often. So I am pleased, I will say to my distinguished colleague from Louisiana, to have this opportunity to pay my tribute to the memory of one of the greatest Presidents of all time, Franklin Delano Roosevelt.

When Roosevelt assumed the office of President, our Nation was suffering from the greatest economic catastrophe in our history. Millions of American men and women were walking the streets looking for jobs, but there were none to be had. Here in the greatest Nation the world has ever known, millions went hungry and homeless. It was a time when many would have refused the awesome responsibilities of the Presidency, but we can all be truly grateful that the American people in this time of trouble elected a man who was equal to the task. The tragic circumstances of the great depression, and the leadership of President Roosevelt, altered the course of American history. Unquestionably future historians will divide America's development into pre-Roosevelt and post-Roosevelt periods. Under him our Government faced up to its responsibilities for the welfare of the Nation. I would not say that it assumed new responsibilities, but rather it accepted the duties which were inherent in a democratic society.

A generation is growing up now which never knew the suffering and privations of the economic collapse after the great crash of 1929. Those of us who knew those dark days at first hand have a solemn obligation to keep alive the memory of the man who guided our Nation through those troubled times. They were times not only of deep suffering but also of great danger to our democratic institutions. Many people in their desperation were prepared to abandon their freedoms in their search for a solution to their economic problems. Had a lesser man than Franklin Roosevelt assumed national leadership at that time, America might be a different country than it is today. Just as England had Winston Churchill, our Nation was blessed with Franklin Roosevelt in our hour of crisis.