and development for the human hopes of all. And in June we reaffirm that threefold policy.

Aggression has increased, so that determination must be greater than ever.

Discussion is rejected, but our efforts to find a path to peace will not be stopped. We have welcomed the new initiative of Prime Minister Wilson and the Commonwealth conference and regret that it has received so little reception on the other side.

Beyond the terror of the aggressor and the firmness of our defense, we must, nevertheless, look to the day in which many new dams will be built, and many new schools opened, and fresh opportunities opened to the peoples of southeast Asia. For we must look beyond the battle to peace, past fear to hope, and over the hard path of resistance to the broad plain of progress which must lie ahead for the peoples of southeast Asia.

SENATE

TUESDAY, JULY 20, 1965

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

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

Almighty God, unto whom all hearts are open, all desires known, and from whom no secrets are hid, cleanse the thoughts of our hearts by the inspiration of Thy Holy Spirit, that we may perfectly love Thee and worthily magnify Thy Holy Name. Grant, we beseech Thee, to these chosen servants of the commonwealth clear vision, true insight, and pure hearts as, facing perplexing tasks and carrying the burden of great responsibilities, they ascend this holy hill of the Nation's life.

In these fateful days, for whose decisions the future will judge us, by Thine enabling might may we maintain our integrity, unsullied by animosities, prejudices, or personal ambitions, regarding always the stewardship of public office as a sacred trust.

We ask it in that Name that is above every name. Amen.

THE JOURNAL

On request by Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Monday, July 19, 1965, was dispensed with.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States, submitting a nomination, was communicated to the Senate by Mr. Geisler, one of his secretaries.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 1856) to authorize the Secretary of the Navy to sell uniform clothing to the Naval Sea Cadet Corps, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 3788. An act to revive and reenact as amended the act entitled "An act creating the City of Clinton Bridge Commission and authorizing said commission and its successors to acquire by purchase or condemnation and to construct, maintain, and operate a bridge or bridges across the Mississippi River at or near Clinton, Iowa, and at or near Fulton, Ill.," approved December 21, 1944;

H.R. 5519. An act to amend title 10, United States Code, to authorize language training to be given to a dependent of a member of the Army, Navy, Air Force, or Marine Corps under certain circumstances; and

H.R. 6790. An act to increase the limitation on emergency relief for the repair or reconstruction of highways under section 125 of title 23, United States Code.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred as indicated:

H.R. 3788. An act to revise and reenact as amended the act entitled "An act creating the City of Clinton Bridge Commission and authorizing said commission and its successors to acquire by purchase or condemnation and to construct, maintain, and operate a bridge or bridges across the Mississippi River at or near Clinton, Iowa, and at or near Fulton, Ill.," approved December 21, 1944; and

H.R. 6790. An act to increase the limitation on emergency relief for the repair or reconstruction of highways under section 125 of title 23, United States Code; to the Committee on Public Works.

H.R. 5519. An act to amend title 10, United States Code, to authorize language training to be given to a dependent of a member of the Army, Navy, Air Force, or Marine Corps under certain circumstances; to the Committee on Armed Services.

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

On request of Mr. MANSFIELD, and by unanimous consent, statements during the transaction of routine morning business were ordered limited to 3 minutes.

COMMITTEE MEETINGS DURING SENATE SESSION

On request of Mr. MANSFIELD, and by unanimous consent, the Subcommittee on Permanent Investigations and the Subcommittee on Executive Reorganization of the Committee on Operations; and the Subcommittee on Juvenile Delinquency and the Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary, were authorized to meet during the session of the Senate today.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be authorized to meet during the session of the Senate today.

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

AMENDMENT TO THE INTERSTATE COMMERCE ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 445, Senate bill 1148.

The VICE PRESIDENT. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 1148) to amend the Interstate Commerce Act to enable the Interstate Commerce Commission to utilize its employees more effectively and to improve its administrative efficiency.

The VICE PRESIDENT. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce with amendments on page 2, line 7, after the word "following:", to strike out "The following" and insert "In cases where such matters are assigned to individual employees of the Commission, any order or requirement of such individual employee shall be subject to the same provisions with respect to reargument and reconsideration, with respect to reversal or modification, with respect to stay or postponement pending disposition of the matter by the Commission or appellate division, and with respect to suits to enforce, enjoin, suspend, or set aside such order or requirement in whole or in part, as are contained in paragraphs (6), (7), (8), and (9) of this section with respect to orders or requirements of a board. The following"; in line 21, after the word "directors,", to insert "deputy directors,"; and in line 22, after the word "of", to insert "offices and"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 17(2) of the Interstate Commerce Act (49 U.S.C. 17(2)) is amended—

(1) by inserting immediately after the second parenthetical expression therein the following: ", and the Commission may also assign or refer those matters which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits to eligible individual employees of the Commission,"

(2) by striking the second sentence and substituting in lieu thereof the following: "In cases where such matters are assigned to individual employees of the Commission, any order or requirement of such individual employee shall be subject to the same provisions with respect to reargument and reconsideration, with respect to reversal or modification, with respect to stay or postponement pending disposition of the matter by the Commission or appellate division, and with respect to suits to enforce, enjoin, suspend, or set aside such order or requirement in whole or in part, as are contained in paragraphs (6), (7), (8), and (9) of this section with respect to orders or requirements of a board. The following classes of employees shall be eligible for designation by the Commission to serve on such boards, or to receive individual delegations: directors, deputy directors, or assistant directors of offices and bureaus, examiners, chiefs and assistant chiefs of sections, chiefs and assistant chiefs of branches, attorneys, accountants, transportation economists and special-

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ists, and such other qualified persons as the Commission may designate."

Mr. COOPER. Mr. President——

The VICE PRESIDENT. The Senator from Kentucky is recognized.

Mr. COOPER. Mr. President, has the bill been cleared on both sides of the aisle?

Mr. MANSFIELD. Yes; the bill has been cleared all around; it has the approval of the minority.

Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 461), explaining the purposes of the bill.

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

SUMMARY OF PROPOSED LEGISLATION

S. 1148 would permit the Commission to assign or refer to individual employees those matters which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits. The employees eligible for such delegation would include directors, deputy directors, or assistant directors of offices and bureaus, examiners, chiefs and assistant chiefs of sections, chiefs and assistant chiefs of branches, attorneys, accountants, and transportation economists and specialists.

NEED FOR LEGISLATION

The proposed legislation would allow individual Commission employees to process administrative matters, that is, those which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits. Examples of the type of matter that would be referred to individual employees are: the extension of dates for the filing of pleadings, the postponement of dates, the approval of changes in the form of tariffs or annual reports, and the approval of special permission tariff applications.

The Interstate Commerce Commission has advised the committee that it does not intend to delegate to individual employees any matter which would require an employee to decide the merits of a formal proceeding or any part of such a proceeding. Furthermore, although the matters that would be delegated are relatively routine and generally noncontroversial, the committee has added an amendment to the bill specifically preserving the right of appeal from any employee action under this bill.

The Commission indicated that enactment of S. 1148 would improve its overall administrative efficiency by allowing as many as 22,000 matters of a routine or specialized nature to be handled each year by qualified Commission employees.

Public Law 87–247, approved September 14, 1961, which allowed the Commission to authorize the delegation of certain duties to employee boards, has been quite helpful to the Commission in coping with an increasing caseload. The proposed legislation would similarly be of assistance by relieving Commissioners of the necessity of handling numerous matters of a relatively routine and specialized nature.

Hearings on this measure were conducted by the Surface Transportation Subcommittee starting on May 10, 1965. The Interstate Commerce Commission and the Department of Commerce testified in favor of the measure. The measure was also supported by the U.S. Chamber of Commerce. As amended, and with the Commission's expression that it does not intend to delegate decisions as to the merits of proceedings, there appears to be no opposition to the measure.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the committee amendments be considered en bloc.

The VICE PRESIDENT. Without objection, the committee amendments are considered and agreed to en bloc.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to consider executive business.

The VICE PRESIDENT. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGE REFERRED

The VICE PRESIDENT laid before the Senate a message from the President of the United States, transmitting the nomination of Arthur J. Goldberg, of Illinois, to be the representative of the United States to the United Nations with the rank and status of Ambassador Extraordinary and Plenipotentiary, and the representative of the United States in the Security Council of the United Nations, which was referred to the Committee on Foreign Relations.

EXECUTIVE REPORTS OF COMMITTEES

The following favorable reports of nominations were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

James P. Coleman, of Mississippi, to the U.S. circuit judge for the fifth circuit;

James F. Gordon, of Kentucky, to be U.S. district judge for the western district of Kentucky;

Donald H. Fraser, of Georgia, to be U.S. attorney for the southern district of Georgia; and

Thomas B. Mason, of Virginia, to be U.S. attorney for the western district of Virginia.

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

Livingston T. Merchant, of the District of Columbia, to be U.S. Executive Director of the International Bank for Reconstruction and Development;

Dr. Albert H. Moseman, of New York, to be Assistant Administrator for Technical Cooperation and Research, Agency for International Development;

David M. Bane, of Pennsylvania, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Gabon Republic;

Edward Clark, of Texas, to be Ambassador Extraordinary and Plenipotentiary to Australia;

George J. Feldman, of New York, to be Ambassador Extraordinary and Plenipotentiary to Malta;

Parker T. Hart, of Illinois, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary to Turkey;

John D. Jernegan, of California, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary to the Democratic and Popular Republic of Algeria;

David D. Newsom, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Kingdom of Libya;

Hugh H. Smythe, of New York, to be Ambassador Extraordinary and Plenipotentiary to the Syrian Arab Republic; and

Leonard H. Marks, of the District of Columbia, to be Director of the U.S. Information Agency.

By Mr. MAGNUSON, from the Committee on Commerce:

Robert M. White, of Connecticut, to be Administrator, Environmental Science Services Administration; and

H. Arnold Karo, of Nebraska, to be Deputy Administrator, Environmental Science Services Administration, and to have the rank, pay, and allowances of a a vice admiral while holding such office.

The VICE PRESIDENT. If there be no further reports of committees, the clerk will state the nomination on the Executive Calendar.

DEPARTMENT OF THE INTERIOR

The legislative clerk read the nomination of Harry R. Anderson, of California, to be an Assistant Secretary of the Interior.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The VICE PRESIDENT. Without objection, the President will be notified forthwith.

LEGISLATIVE SESSION

On request of Mr. MANSFIELD, and by unanimous consent, the Senate resumed the consideration of legislative business.

EXECUTIVE COMMUNICATIONS, ETC.

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

THE TEACHING PROFESSIONS ACT OF 1965

A communication from the President of the United States, transmitting a draft of proposed legislation to provide fellowships for elementary and secondary school personnel, to improve the quality of teacher training programs, and to establish a National Teacher Corps (with an accompanying paper); to the Committee on Labor and Public Welfare.

REPORT ON OVEROBLIGATION OF AN APPROPRIATION

A letter from the Secretary of Agriculture, reporting, pursuant to law, on the overobligation of an appropriation within that Department; to the Committee on Appropriations.

REPORT ON NUMBER OF OFFICERS ASSIGNED OR DETAILED TO PERMANENT DUTY AT THE SEAT OF GOVERNMENT

A letter from the Secretary of the Air Force, reporting, pursuant to law, that as of June 30, 1965, there was an aggregate of 2,190 officers assigned or detailed to permanent duty in the executive part of the Department of the Air Force, at the seat of Government; to the Committee on Armed Services.

PUBLICATION OF NOTICE OF PROPOSED DISPOSITION OF CERTAIN NICKEL

A letter from the Administrator, General Services Administration, Washington, D.C., transmitting, pursuant to law, a copy of a notice to be published in the Federal Register of a proposed disposition of approximately 224,194,097 pounds of nickel now held in the national stockpile (with an accompanying paper); to the Committee on Armed Services.

REPORT ON PROVISION OF AVIATION WAR RISK INSURANCE

A letter from the Secretary of Commerce, transmitting, pursuant to law, a report on the provision of aviation war risk insurance, as of June 30, 1965 (with an accompanying report); to the Committee on Commerce.

REPORT ON GRANTS MADE TO NONPROFIT INSTITUTIONS AND ORGANIZATIONS FOR SUPPORT OF SCIENTIFIC RESEARCH PROGRAMS

A letter from the Assistant Secretary for Administration, Department of the Interior, transmitting, pursuant to law, a report on grants made to nonprofit institutions and organizations for support of scientific research programs, during the calendar year 1964 (with an accompanying report); to the Committee on Government Operations.

REPORT ON AWARD OF YOUNG AMERICAN MEDALS FOR BRAVERY AND SERVICE

A letter from the Attorney General, reporting, pursuant to law, on the award of Young American Medals for Bravery and Service, for the year 1963; to the Committee on the Judiciary.

REPORTS ON PETITIONS TO ACCORD FIRST PREFERENCE STATUS TO CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports on petitions to accord first preference status to certain aliens (with accompanying papers); to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHURCH, from the Committee on Foreign Relations, without amendment:

H.R. 8862. An act to amend the act of August 7, 1935, to increase the authorized annual share of the United States as an adhering member of the International Council of Scientific Unions and Associated Unions (Rept. No. 469).

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

H.R. 70. An act to provide for the conveyance of approximately 80 acres of land to the heirs of Adam Jones, Creek Indian not enrolled (Rept. No. 493);

H.R. 5860. An act to amend the law relating to the final disposition of the property of the Choctaw Tribe (Rept. No. 494); and

H.R. 9041. An act to restore to the heirs of the Indian grantor certain tribal land of the Iowa Tribe of Oklahoma (Rept. No. 495).

By Mr. BURDICK, from the Committee on Interior and Insular Affairs, with an amendment:

S. 34. A bill to make certain provisions in connection with the construction of the Garrison diversion unit, Missouri River Basin project, by the Secretary of the Interior (Rept. No. 470).

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, with an amendment:

S. 1938. A bill to amend the Indian Long-Term Leasing Act (Rept. No. 491).

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

S. 1904. A bill to authorize the Secretary of the Interior to give to the Indians of the Pueblos of Acoma, Sandia, Santa Ana, and Zia the beneficial interest in certain federally owned lands heretofore set aside for school or administrative purposes (Rept. No. 492).

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

S. 1413. A bill to provide for the termination of Federal supervision over the property of the Confederated Tribes of Colville Indians located in the State of Washington and the individual members thereof, and for other purposes (Rept. No. 490).

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

S. 192. A bill for the relief of Maria Liberty Burnett (Rept. No. 472);

S. 245. A bill for the relief of Athanasia Nikolopoulos and Soterios Nikolopoulos (Rept. No. 473);

S. 1273. A bill for the relief of Ana Folja (Rept. No. 474);

S. 1325. A bill for the relief of Dr. Oton Socarraz (Rept. No. 475);

H.R. 1987. An act for the relief of Nabhane M. Nickley (Nabhane M. Karam) (Rept. No. 476);

H.R. 1989. An act for the relief of Krystyna Stella Hancock (Rept. No. 477);

H.R. 2012. An act for the relief of Dr. Ignace D. Liu (Rept. No. 478);

H.R. 2351. An act for the relief of Teresita Centeno Valdez (Rept. No. 479);

H.R. 2360. An act for the relief of Dr. Antonio R. Perez (Rept. No. 480);

H.R. 2499. An act for the relief of Remedios Ocampo (Rept. No. 481);

H.R. 2913. An act for the relief of Lt. Thomas A. Ferrell, U.S. Navy, and others (Rept. No. 482); and

H.R. 4131. An act for the relief of Mrs. Phoebe Thompson Neesham (Rept. No. 483).

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

S. 1389. A bill for the relief of Dr. Angel Fernando Golderos (Rept. No. 484);

S. 1449. A bill for the relief of Dr. Enrique Ramon Ducassi (Rept. No. 485); and

H.R. 2305. An act for the relief of Zenaida Quijano Lazaro (Rept. No. 486).

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

S. 1137. A bill for the relief of Dr. Rafael P. Martinez (Rept. No. 487);

S. 1170. A bill for the relief of Chung J. Clark and her daughter, Anna Maria Clark (Rept. No. 488); and

S. 1186. A bill for the relief of Michiko Uehara (Rept. No. 489).

By Mr. FONG, from the Committee on the Judiciary, with amendments:

H.R. 1908. An act for the relief of Chester (Abramczyk) Hill (Rept. No. 471).

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

S. 1190. A bill to provide that certain limitations shall not apply to certain land patented to the State of Alaska for the use and benefit of the University of Alaska (Rept. No. 496).

Mr. GRUENING. Mr. President, to those who live in States where private ownership and management of land according to the wishes and best interests of the owner are taken for granted, it is difficult to comprehend the obstacles and niggling complications besetting those who would own property in public land States such as Alaska. In Alaska the Federal Government owns and exercises plenary authority over nearly the entire land area of the State. The Federal Government, in fact, owns more than 99 percent of Alaska.

The consequences of this state of affairs is that private ownership of land can, in general, only be attained by the grace of special dispensation from the controlling Federal agencies. It can be acquired only by painstaking and patient compliance with the requirements of myriad laws and regulations under which the public lands are administered.

Once acquired, even then, the owner may be required to comply strictly with Federal rules, regulations, policies and laws governing property transactions at such time as it may be desirable to transfer land.

So, in the case of the University of Alaska, the university is the beneficiary of a grant of 100,000 acres from the Federal Government—a conveyance intended to provide the school with resources necessary to support it.

While the Federal Government displayed welcome generosity in transferring 100,000 acres of its land to the University of Alaska, it tied strings to the gift in the form of restrictions on conveyance that have frustrated the purposes of the grant by presenting serious obstacles to free use of the land by the university.

The purpose of S. 1190 is to solve a particular problem arising from the university's inability to dispose of its land freely and without restrictions imposed by the terms of the land grant.

The land involved in S. 1190 is a tract of approximately 153 acres included in the grant to the school. After the land had been clear listed by the Department of the Interior for patent to the university, the Klukwan Iron Ore Corp. protested the transfer on grounds it held valid mining claims in the land. The Secretary of the Interior denied the protest of Klukwan, holding that once the land was clear listed, the Department had no further interest, hence no jurisdiction over the property. However, the United States retains, under the act granting the lands, jurisdiction to enforce its conveyance by the university in accordance with terms of the law.

After the final decision of the Interior Department, Klukwan Iron Ore Corp. sued in the State of Alaska Supreme Court to quiet title in itself to the property involved in S. 1190. Before conclusion of the litigation, Klukwan and the university agreed to settle the matter privately.

The parties have agreed on a negotiated disposal of the land of Klukwan Iron Ore on terms found mutually beneficial. The agreement cannot be consummated, however, without amendment of the granting act. That law, which is enforcible by the Department of Justice, requires lease or sale of university lands only on a competitive basis and forbids a negotiated transaction of the kind desired.

Accordingly, in order to carry out the basic purposes of the act under which the land was granted—which are to es-

tablish and promote the welfare of a State university—it is necessary to remove the Federal restriction for the limited purpose of this transaction.

Early passage of S. 1190 will remove a troublesome problem for the University of Alaska and place it in a stronger position than before to make its incomparable contribution to the education of young Alaskans.

BILLS INTRODUCED

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

Mr. DOUGLAS:

S. 2304. A bill for the relief of Saudi Rihan; to the Committee on the Judiciary.

By Mr. JAVITS:

S. 2305. A bill to amend the International Travel Act of 1961 in order to promote travel in the United States; to the Committee on Commerce.

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

By Mr. MAGNUSON (by request):

S. 2306. A bill to amend the Federal Power Act, as amended, to authorize the Federal Power Commission to issue licenses for facilities for the obstruction, diversion and reentry of water in navigable waters of the United States for cooling, condensing or other purposes connected with the operation of any existing or proposed installation or plant generating electricity by means other than hydroelectric generation; to the Committee on Commerce.

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

By Mr. JACKSON (for himself and Mr. MAGNUSON):

S. 2307. A bill for the relief of certain civilian employees and former civilian employees of the Bureau of Reclamation at the Columbia Basin Project, Washington; to the Committee on the Judiciary.

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

By Mr. JACKSON (for himself, Mr. MAGNUSON, Mr. MORSE, and Mrs. NEUBERGER):

S. 2308. A bill for the relief of the Beasley Engineering Co., Inc., Emeryville, Calif.; to the Committee on the Judiciary.

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

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

S. 2309. A bill to promote the economic development of the State of Alaska by providing for U.S. participation in the statewide exposition to be held in Alaska during 1967; to the Committee on Public Works.

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

By Mr. JACKSON (for himself and Mr. MAGNUSON):

S. 2310. A bill to authorize the Secretary of the Interior to determine that certain costs of operating and maintaining Banks Lake on the Columbia Basin project for recreational purposes are nonreimbursable; to the Committee on Interior and Insular Affairs.

By Mr. SCOTT:

S. 2311. A bill to amend the Internal Revenue Code of 1954 to provide for deduction of certain education expenses of teachers; to the Committee on Finance.

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

AMENDMENT OF FEDERAL POWER ACT

Mr. MAGNUSON. Mr. President, by request, I introduce, for appropriate reference, a bill to amend the Federal Power Act, relating to the issuance of certain licenses. I ask unanimous consent that the letter from the Chairman of the Federal Power Commission, requesting the proposed legislation, together with a section-by-section analysis of the bill, be printed in the RECORD.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The bill will be received and appropriately referred; and, without objection, the letter and section-by-section analysis will be printed in the RECORD.

The bill (S. 2306) to amend the Federal Power Act, as amended, to authorize the Federal Power Commission to issue licenses for facilities for the obstruction, diversion and reentry of water in navigable waters of the United States for cooling, condensing or other purposes connected with the operation of any existing or proposed installation or plant generating electricity by means other than hydroelectric generation, introduced by Mr. MAGNUSON, by request, was received, read twice by its title, and referred to the Committee on Commerce.

The letter and section-by-section analysis presented by Mr. MAGNUSON, are as follows:

FEDERAL POWER COMMISSION,
Washington, D.C., July 2, 1965.

Hon. HUBERT H. HUMPHREY,
President, U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: The Commission transmits for consideration 20 copies of a draft bill to amend the Federal Power Act. Included is a section-by-section analysis of the proposal.

At present the Commission's licensing jurisdiction under part I of the Federal Power Act is limited to projects for the generation of hydroelectric power. Increasingly in recent years diversion dams have been required in navigable waters of the United States to provide sufficient cooling water for steam-electric generating stations built adjacent to navigable streams. Under existing law such projects involving dams in navigable waters have required special authorizing legislation by Congress. This bill would authorize the Commission to issue licenses for the construction and maintenance of such water diversion facilities in or along any navigable waters of the United States.

The Federal Power Commission has administered a licensing program for water power projects for more than 40 years, applying the statutory standard of whether the proposed project or facility is in the public interest and consistent with the comprehensive development of the river basin. It is believed that such determinations concerning diversion facilities for steamplants are not of such a policy character as to require individual attention by the Congress. On the contrary the reasons which prompted Congress to delegate to the Commission its present licensing functions—the need for prompt and efficient handling by a single agency familiar with the complex technical problems involved, and qualified to weigh, choose among, or reconcile conflicting use patterns—are equally applicable to diversion dams.

Three points about the draft bill should be noted. First, the steamplants are not made subject to license. Second, the proposed bill does not purport to impose some of the controls applicable to major hydroelectric projects since such controls are not necessary in order to assure that diversion facilities are compatible with comprehensive river development. Third, the draft bill would include provisions to protect the United States from liability for damages to the licensed facilities which might result from subsequent water resource developments. Similar provisions have been included by Congress in the special laws which authorized particular projects.

The Commission believes that the additional licensing authority proposed in the draft bill will centralize the responsibility for the licensing of facilities in navigable waters used or useful in generating electric energy, will lighten the existing special burden upon Congress in passing on each water diversion authorization and thereby reduce the entailed delay, and will assist in the comprehensive development of navigable waters in the national interest.

Respectfully,

JOSEPH C. SWIDLER,
Chairman.

Enclosure No. 5929.

SECTION-BY-SECTION ANALYSIS OF DRAFT BILL TO LICENSE WATER DIVERSION FACILITIES OF STEAM-ELECTRIC AND OTHER ELECTRIC GENERATING PLANTS

General: The bill would add to the Federal Power Act a new part IV, comprising sections 401 through 408, to provide for the licensing of water diversion facilities for electric generating plants in or along navigable waters of the United States. The facilities are more precisely described in section 402. Since the provisions of part I of the Federal Power Act would be made applicable to part IV, with certain exceptions specified in section 403, the meaning of a number of general terms, such as person, corporation, State, or municipality, would be ascertained by reference to the definitions in section 3 of part I, and licensing would follow those procedures and standards of part I, as modified by sections 403 through 408.

Section 401 would make it unlawful for any person, corporation, municipality or State, to construct, operate, or maintain a water diversion facility without a Federal Power Commission license.

Section 402 defines a water diversion facility. The term covers principally dams across, along, or in navigable waters of the United States which divert, and reservoirs incidental thereto which store, water from such streams for cooling, condensing, or other purposes connected with the operation of steam-electric and other electric generating plants such as atomic powerplants. The definition would not apply to the electric generating plants that derive their source of energy from the power of falling water, which are already subject to license under part I of the Federal Power Act. The licensed facilities would also include any facilities incidental to the diversion dam which provide for the reentry of the diverted waters into the navigable stream.

Section 403 authorizes the Commission to issue licenses for water diversion facilities when in the public interest, and provides that licensing shall follow, and licenses shall be subject to, section 4(e) of the Federal Power Act and the other provisions of part I applicable to licenses or licensees under section 4(e), with certain enumerated exceptions.

In general, part IV licenses would be subject to the conditioning powers of the Commission under sections 4(e) and 10(a) of the act for improving or developing waterways for beneficial public uses, including the conservation of fish and other wildlife resources and the development of recreation; but would not be subject to a number of the

hydroelectric licensing controls of part I which do not appear necessary to assure that water diversion facilities are compatible with comprehensive river development, such as the preliminary permit requirements of sections 4(f) and 5, the governmental preferences or Federal development determinations of section 7, or the recapture provisions of section 14. Specifically, under part IV licenses would not be subject to sections 4(f) and 5—preliminary permits; 7(a)—preference clause; 7(b)—Federal development; 10(d)—20-year amortization reserves; 14—recapture; 15—new licenses (a subject covered in section 405); 19 and 20—regulation of rates and services (covered for interstate operations of public utilities by sections 205 and 207); 22—contracts extending beyond license terms; 23—"grandfather" clause (covered in proposed section 404), and declaration of intent procedure for projects in nonnavigable waters.

Section 404 is a grandfather clause designed to protect existing rights in water-diversion facilities previously authorized by statute, provided that application for a Commission license is made within 12 months after part IV becomes law. In such cases, the Commission would issue licenses for the existing facilities without the necessity for making findings or applying conditions otherwise required by sections 4(e) and 10(a) of the Federal Power Act, and without requiring the licensee to alter its existing facilities to provide various navigational facilities which might otherwise be required under sections 11, 12, or 18 of the act.

Section 405 is a provision for the issuance of a new license upon the expiration of a license issued under section 403 or 404. Under section 6 of the act, part IV licenses like part I licenses would be issued for a period not exceeding 50 years. Section 405 makes provision for further licensing at the end of the initial license period, similar to the provisions of section 15 of the act, but omitting reference to possible recapture by the United States to which the part IV licensee is not subject.

Section 406 is an adaptation of provisions in acts of Congress which have authorized construction of specific water-diversion facilities. Section 406 is intended to protect the United States against liability for damage to licensed facilities which might result from subsequent water resource developments.

Section 407 corresponds to section 14 of the Federal Power Act, and expressly reserves the right of the United States, or any State or municipality, to condemn facilities licensed under part IV upon payment of just compensation.

Section 408, like section 28 in the case of part I, reserves the right to alter, amend, or repeal part IV without adversely affecting outstanding licenses.

RELIEF OF CERTAIN EMPLOYEES AND FORMER EMPLOYEES OF BUREAU OF RECLAMATION

Mr. JACKSON. Mr. President, on behalf of my senior colleague from the State of Washington [Mr. MAGNUSON], and myself, I send to the desk for appropriate reference a bill for the relief of several employees and former employees of the Bureau of Reclamation at the Columbia Basin project in Washington.

These employees, wholly without fault or responsibility on their part, received certain overpayments of salary. Such overpayments are described by the Commissioner of Reclamation, who is the head of the Bureau, as "administrative errors," and he agrees these employees should not be required to make restitution, in the circumstances.

Mr. President, I ask unanimous consent that the letter of Commissioner Dominy respecting this matter be printed in the RECORD at this point in my remarks along with the text of the bill.

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

The bill (S. 2307) for the relief of certain civilian employees and former civilian employees of the Bureau of Reclamation at the Columbia Basin project, Washington, introduced by Mr. JACKSON (for himself and Mr. MAGNUSON), 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) each of the following employees, former employees, and estates of deceased employees of the Bureau of Reclamation at the Columbia Basin Project, Washington, who received the overpayment of compensation listed opposite his name for the period from July 16, 1951, through April 24, 1965, inclusive, or any portion or portions of such period, which overpayment resulted from administrative error, is hereby relieved of all liability to refund to the United States the amount of such overpayment:

Name:	*Overpayment*
Adams, Harley G	$35.84
Atlee, William E	2,090.46
Avery, Clifford W	19.20
Baumann, Florence I	4.00
Bean, Jerome H	112.53
Bishop, Fae C	3.27
Carpenter, Doris N	180.89
Carter, Helen L	508.72
Click, Oliver L	18.40
Cole, Charles B., Jr	28.00
Culp, Mary A	8.00
Dennis, William E	12.63
Deurbrouck, Robert L	7.20
Dixon, Lloyd E	1,518.56
Drittenbass, Florence A	4.00
Dull, Leah K	4.00
Eaton, Joseph L	690.10
Edyvean, Frances G	487.40
Ernest, John L	680.12
Farwell, Ruth	102.65
Fees, John N	125.01
Ferguson, Roy	19.73
Fretwell, Lloyd G	120.00
Gardner, Ray R	5.60
Gardner, Roy A	5.60
German, Gilbert A	705.60
Gilbert, Forrest J	41.60
Gimlin, Dorothy F	296.87
Greenwood, Walter P	1,201.29
Gilbert, Forrest J	41.60
Guffey, Clifford W	24.96
Hay, Bill N	67.20
Howe, Oran J	25.84
Indreland, Rasmus E	6.40
Kammayer, Walter R	1,448.00
Kidston, George W	134.40
King, Everett L	41.60
Long, Cecil I	218.40
Mackey, Robert W	6.40
Mowery, Orville A	583.38
Myers, Esther G	129.80
Neilson, Vernal J	250.48
O'Brien, Harvey P	237.44
Oliver, Floyd E	19.20
Osborn, Betty F	8.00
Parker, Margie E	944.92
Paul, Edward T	284.80
Pearl, Dean D	20.00
Pontsler, Dean S	654.40
Pryor, Rick L	8.00
Robbins, Esther	$330.27
Rohwein, Theodore P	6.40
Romary, Charles E	34.48
Rorvik, Joseph	481.91
Rose, Anthony	1,094.65
Roudebush, Charles D	26.80
Schmidt, Alfred	4.00
Shay, Harold	798.19
Sheck, Ethel P	39.20
Smith, Russell D	11.20
Spencer, Jesse L	88.48
Stevens, Bob J	25.28
Straalsund, George H	908.80
Tellinghuisen, John W	610.38
White, Doris N	8.80
Williams, Glenn D	13.26
Winn, Charles L	5.60

Each such employee or former employee who has at any time made any repayment to the United States on account of any such overpayments made to him (or, in the event of his death, the person who would be entitled thereto under the first section of the Act of August 3, 1950 (5 U.S.C. 61f)), shall be entitled to have an amount equal to all such repayments made by him refunded if application is made to the Project Manager, Columbia Basin Project, within two years after the date of enactment of this Act.

(b) For purposes of the Civil Service Retirement Act and the Federal Employees' Group Life Insurance Act of 1954, each overpayment for which liability is relieved by subsection (a) of this section shall be deemed to have been a valid payment.

SEC. 2. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States full credit shall be given for any amounts for which liability is relieved by the first section of this Act.

The letter presented by the Senator from Washington [Mr. JACKSON] is as follows:

U.S. DEPARTMENT
OF THE INTERIOR,
BUREAU OF RECLAMATION,
Washington, D.C., June 4, 1965.

Hon. HENRY M. JACKSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JACKSON: On March 31, 1965, we acknowledged your inquiries concerning salary overpayments to several employees of the Columbia Basin project. We have now made a complete study of the situation, including a comprehensive audit of all personnel and payroll records. Our findings are outlined below.

Of the 1,123 classified employees who are now serving or who have served on the Columbia Basin project since January 1960, 66 were found to have received salary overpayments. Eleven of these cases can be traced to a misinterpretation of personnel and pay regulations that developed during a routine audit conducted by the General Accounting Office in June 1960. The others were caused by further misinterpretations of applicable civil service regulations. These errors developed as a result of inadequate supervision at all levels of this Bureau.

Of the 66 overpayments, 38 resulted from miscalculations of the time-in-grade requirements for periodic step increases; 18 from erroneous credit given toward time requirements for longevity step increases; 4 from incorrect selection of salary step upon promotion to a higher grade; 3 were from misinterpretation of instructions for salary adjustments under one of the Federal employee pay acts; 1 from a promotion in violation of the time-in-grade requirement; 1 from an erroneous lump-sum payment for leave not available because of less than 90 days' service; and 1 from granting an engineering technician a salary rate available only to professional engineers. These errors occurred between the period July 16, 1951, through April 24, 1965, inclusive.

In recognition of the fact that the overpayments resulted from administrative errors and the employees were in no way responsible, we do not believe they should be required to make restitution. Although we have temporarily suspended action to collect the overpayments, we are without legal authority to relieve the employees of responsibility for repayment. Legislation will be necessary if this is to be done. In accordance with your request, a draft bill for that purpose will be sent to you by the Department's legislative counsel.

A list of the employees involved showing the amount of overpayment made to each is enclosed. All but 15 are still employed on the project. Of those who are gone, six resigned; three transferred within the Bureau; four retired with one of these having since deceased; and two are employed by other agencies of the Federal Government.

The above information is also being furnished to Senator MAGNUSON and Congresswoman MAY, who have written to us concerning this matter.

Our audit also disclosed several instances of employees who have been underpaid. These will be corrected promptly by administrative actions which are within our authority.

We view this entire situation with utmost gravity and are taking immediate steps to insure that there will be no recurrence of such errors in the future.

We appreciate your interest in the Bureau of Reclamation and its employees. Please let us know if we can be of further assistance.

Sincerely yours,

FLOYD E. DOMINY,
Commissioner.

Enclosure.

Personnel-payroll audit of Columbia Basin project, April 1965

OVERPAYMENTS

	Gross amount of overpayment
Adams, Harley G., GS–459–5	$35.84
Atlee, William E., GS–810–7	2,090.46
Avey, Clifford W., GS–081–6	19.20
Baumann, Florence I., GS–312–3	4.00
Bean, Jerome H., GS–818–4	112.53
Bishop, Fae C., GS–318–4	3.27
Carpenter, Doris N., GS–525–6	180.89
Carter, Helen L., GS–318–6	508.72
Click, Oliver L., GS–450–9	18.40
Cole, Charles B., Jr., GS–201–11	28.00
Culp, Mary A., GS–322–3	8.00
Dennis, William E., ungraded	12.63
Deurbrouck, Robert L., GS–341–9	7.20
Dixon, Lloyd E., GS–809–7	1,518.56
Drittenbass, Florence A., GS–301–4	4.00
Dull, Leah K., GS–312–3	4.00
Eaton, Joseph L., GS–459–9	690.10
Edyvean, Frances G., GS–2040–3	487.40
Ernest, John L., GS–802–11	680.12
Farwell, Ruth, GS–501–5	102.65
Fees, John N., GS–307–4	125.01
Ferguson, Roy, GS–459–7	19.73
Fretwell, Lloyd G., GS–810–11	120.00
Gardner, Ray R., GS–802–4	5.60
Gardner, Roy A., GS–459–4	5.60
German, Gilbert A., GS–817–7	705.60
Gilbert, Forrest J., GS–362–11	41.60
Gimlin, Dorothy F., GS–525–6	296.87
Greenwood, Walter P., GS–850–11	1,201.29
Guffey, Clifford W., GS–459–5	24.96
Hay, Bill N., GS–301–9	67.20
Howe, Oran J., GS–459–5	25.84
Indreland, Rasmus E., GS–471–9	6.40
Kammeyer, Walter R., GS–802–7	1,448.00
Kidston, George W., GS–813–9	134.40
King, Everett L., GS–1810–11	41.60
Long, Cecil I., GS–802–4	218.40
Mackey, Robert W., GS–816–7	6.40
Mowery, Orville A., GS–459–8	583.38
Myers, Esther G., GS–305–4	129.80
Neilson, Vernal J., GS–459–9	250.48
O'Brien, Harvey P., GS–813–9	237.44

Personnel-payroll audit of Columbia Basin project, April 1965—Continued

OVERPAYMENTS

	Gross amount of overpayment
Oliver, Floyd E., GS–471–9	$19.20
Osborn, Betty F., GS–322–3	8.00
Parker, Margie E., GS–341–9	944.92
Paul, Edward T., GS–802–9	284.80
Pearl, Dean D., GS–459–5	20.00
Pontsler, Dean S., GS–1670–7	654.40
Pryor, Rick L., ungraded	8.00
Robbins, Esther, GS–203–4	330.27
Rohwein, Theodore P., GS–1371–5	6.40
Romary, Charles E., GS–459–5	34.48
Rorvik, Joseph, GS–301–5	481.91
Rose, Anthony, GS–809–7	1,094.65
Roudebush, Charles D., GS–890–7	26.80
Schmidt, Alfred, GS–802–5	4.00
Shay, Harold, GS–459–5	798.19
Sheck, Ethel P., GS–305–3	39.20
Smith, Russell D., GS–810–11	11.20
Spencer, Jesse L., GS–301–5	88.48
Stevens, Bob J., GS–459–5	25.28
Straalsund, George H., GS–810–11	908.80
Tellinghuisen, John W., GS–459–7	610.38
White, Doris N., GS–312–3	8.80
Williams, Glenn D., GS–301–5	13.26
Winn, Charles L., GS–510–11	5.60
Total gross overpayment	18,638.59

BEASLEY ENGINEERING CO., INC.

Mr. JACKSON. Mr. President, I send to the desk for appropriate reference a bill I am introducing for myself and Senators MAGNUSON, MORSE, and NEUBERGER, for the specific purpose of granting relief to the Beasley Engineering Co., Inc. The company incurred expenses without recourse while repairing, reconstructing, and restoring a portion of The Dalles irrigation works which were damaged by an act of God—severe floods and high waters.

The sponsors of this proposed relief legislation are convinced that the company has an equitable case, and we commend it to the attention of the appropriate committees and the Congress.

Mr. President, I ask unanimous consent that the text of the bill be printed as a part of my remarks at this point in the RECORD.

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

The bill (S. 2308) for the relief of the Beasley Engineering Co., Inc., Emeryville, Calif., introduced by Mr. JACKSON (for himself and other Senators), 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 the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the Beasley Engineering Company, Incorporated, whose permanent legal address is 1265 Sixty-fifth Street, Emeryville, California, the expenses reasonably incurred by the Beasley Engineering Company, Incorporated, in repairing, reconstructing, and restoring portions of The Dalles irrigation works being constructed under Bureau of Reclamation contract No. 14–06–D–4014, Specifications No. DC–6004, which were damaged or destroyed as a result of floods and high waters during December 1964 and January 1965: *Provided,* That such expenses shall not in any case exceed the sum of $155,000. The Secretary of the Interior is authorized and directed to review and approve the contractor's justification of costs, prior to payment by the Secretary of the Treasury pursuant thereto.

A GREAT PAST, A GREATER FUTURE

Mr. BARTLETT. Mr. President, in 1867 the United States purchased from Russia a territory which was to become its 49th and largest State.

In modern parlance, that purchase was a good deal, ranking among the top buys of all time.

For $7.2 million, the United States purchased a territory rich in natural resources and strategically situated for the military defense of the Nation. Even the most farsighted of the solons arguing for the purchase in 1867 grossly underestimated the value of Alaska to the United States. The Alaska purchase has proved to be more than a good deal. History has shown the transaction to be of historic national and international importance.

The 100th anniversary of the purchase will occur in 1967. Plans are afoot to commemorate the historic transaction. The State of Alaska and local communities are preparing for the observance. Already 21 projects are in the works and a State-local matching program has been approved by the legislature. Alaska officials have been in contact with the U.S. Department of State to develop cultural exchange programs with the Soviet Union. Other nations which have played a part in the history of Alaska will be invited to take part in the observance.

Mr. President, it is important to note that the purpose of the observance is more than temporary exhibits. In keeping with suggestions outlined by the U.S. Department of Commerce, the projects are designed to aid the development of Alaska.

The missing partner in this plan is the Federal Government.

Today the junior Senator from Alaska [Mr. GRUENING] and I introduce a bill authorizing Federal participation in the program.

Taking its cue from the purchase price of Alaska, the bill would authorize $7.2 million for development projects. The Federal share would never be greater than 50 percent of the cost of any project. Industrial, agricultural, educational, research and commercial facilities would qualify for Federal funds, as would certain permanent tourist attractions.

The chairman of the Federal Field Committee for Development in Planning in Alaska would approve projects for Federal funds. A State department, to be designated by the Governor, would coordinate and approve all State and local plans.

The bill also authorizes $600,000 for Federal exhibits throughout the State. The chairman of the Federal Field Committee would have full control of these funds to be spent on displays and exhibits commemorating the vital role the Federal Government played in the first 100 years of Alaska history under the U.S. flag.

Mr. President, the purchase of Alaska was a transaction of national and international importance. The Federal Government should take part in the observance, particularly in light of the fact that the thrust of the plans is for permanent development in the State.

A successful observance will aid the Nation as a whole as did the historic good deal of 1867.

I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

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

The bill (S. 2309) to promote the economic development of the State of Alaska by providing for U.S. participation in the statewide exposition to be held in Alaska during 1967, 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:

S. 2309

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in recognition of the national and international significance of the purchase of Alaska by the United States from Russia in 1867, the Congress hereby declares that it is the purpose of this Act to provide for appropriate United States participation in the 1967 exposition, jointly with the State of Alaska, through economic development projects such as industrial, agricultural, educational, research or commercial facilities, or facilities which serve as permanent tourist attractions or otherwise assist in the creation of long-term employment opportunities in Alaska.

SEC. 2. (a) Upon application approved and submitted by the Department of the State of Alaska designated by the Governor of Alaska, (hereinafter in this Act referred to as the "Department") on behalf of the State of Alaska or any political subdivision of the State or its exposition committee, the Chairman of the Federal Field Committee for Development Planning in Alaska (hereinafter in this Act referred to as the "Chairman") is authorized to make grants upon approval by the Department, to the State, or political subdivision, to provide for economic development projects within the area of the political subdivision for which a grant is requested. Included under these projects, the State of Alaska, or any political subdivision or its exposition committee, may erect buildings and other structures which can be used for ceremonies and exhibits as part of the exposition.

SEC. 2. (b) The amount of any project grant shall not exceed the applicable percentage of the aggregate cost (excluding administrative costs) of the project but in no event shall the non-Federal share of the aggregate cost be less than fifty per centum of such cost.

SEC. 2. (c) There are hereby authorized to be appropriated for the purposes of this section not to exceed $7,200,000.

SEC. 3. Applications for grants under section 2 shall be eligible for approval by the Chairman only after—

(1) the Chairman has received from the Department approval of the project request together with detailed plans including a statement of estimated cost (excluding administrative costs) with the amount to be financed from non-Federal sources; and

(2) the Chairman receives assurances that (A) there will be proper and efficient administration in carrying out the project, (B) such records as the Chairman shall prescribe will be kept, including records which fully disclose the amount and nature of that portion of the total cost of each of such projects, and the amount and nature of that portion of the cost of each of such projects furnished by non-Federal sources, and (C) such records will be made available for audit with respect to such grants.

SEC. 4. (a) The Chairman may provide for appropriate participation by the United States in ceremonies and exhibits which are a part of the exposition, whenever the national or international significance of any event of the exposition will be enhanced by such United States participation.

(b) In carrying out the purposes of this section, the Chairman may—

(1) provide for the display of Federal exhibits at one or more sites in the State of Alaska in buildings or structures furnished to the United States, during the period of the exposition, except that the Chairman may utilize United States owned mobile geodesic-domed exhibition buildings or structures erected on land owned by the State of Alaska or any political subdivision thereof and furnished to the United States, without cost, during the period of the exposition;

(2) incur such expenses as may be necessary to carry out the purposes of this section, including but not limited to expenditures involved in the selection, purchase, rental, construction, and other acquisition of exhibits and materials and equipment therefor and the actual display thereof, and including but not limited to related expenditures for costs of landscaping, transportation, insurance, installation, safekeeping, maintenance and operation, and dismantling;

(3) enter into such constructs as may be necessary to provide for United States participation in appropriate ceremonies and exhibits which are a part of the exposition;

(4) appoint, without regard to the civil service laws and the Classification Act of 1949, such persons as he deems to be necessary to carry out the provisions of this section, except that no person appointed under this paragraph shall receive compensation from the United States at a rate in excess of that received by persons under the Classification Act of 1949 for performing comparable duties;

(5) procure services as authorized by section 15 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 55a), but at rates for individuals not to exceed $75 per diem; and

(6) accept any gifts, donations, or devises, or loans other than of money, to be used in carrying out the purposes of this section.

(c) In determining the exhibits to be installed by the United States during the exposition and in selecting the site or sites in the State of Alaska for such exhibits, the Chairman shall consult with the Alaska State Centennial Commission.

(d) The head of each department, agency, or instrumentality of the Federal Government is authorized—

(1) to cooperate with the Chairman with respect to United States participation in the ceremonial aspects of the exposition, and

(2) to make available to the Chairman from time to time, such personnel as may be necessary to assist the Chairman in carrying out his functions under this section.

(e) There are hereby authorized to be appropriated for the purposes of this section not to exceed $600,000.

SEC. 6. The Chairman shall report to the Congress within six months after the date of the official close of the exposition concerning the activities of the Federal Government pursuant to this Act, including a detailed statement of expenditures. Upon transmission of such report to the Congress, all appointments made under this Act shall terminate.

Mr. GRUENING subsequently said: Mr. President, I am most pleased to join with my able and distinguished colleague [Mr. BARTLETT] in sponsoring S. 2309, a bill designed to promote the economic development of the State of Alaska by providing for U.S. participation in the statewide exposition to be held in Alaska during 1967.

This legislation is a result of a study made by the Department of Commerce pursuant to authority contained in Public Law 88–610, which, as S. 49, I introduced, with the cosponsorship of Senator BARTLETT, on January 14, 1963, to "provide for the establishment of the Alaska Centennial Commission, to cooperate with the State of Alaska to study and report on the manner and extent to which the United States shall participate in the celebration in 1967 of the centennial anniversary of the purchase of the Territory of Alaska." This bill, as passed and becoming Public Law 88–610, authorized the Department of Commerce to report to the Congress on the extent to which the Federal Government should participate in Alaska's centennial.

The year 1967 marks the 100th anniversary of the purchase of Alaska from Russia.

The State of Alaska is moving steadily ahead with its local and State planning efforts to take due note of this event. Two years ago, in April 1963, a State centennial commission was established.

The Department of Commerce, in its report of May 27, 1965, as a result of its study, recommended Federal participation in the 1967 Alaska Centennial. It also recommended consideration by the Congress of the advisability of providing "appropriate Federal assistance in addition to that available under existing [Federal] programs."

It was also recommended by the Department of Commerce that "while the Federal Government should participate in such observances as ceremonials and exhibits, it should place primary emphasis on participation in programs contributing to the long-range development of Alaska."

The further recommendation is made by the Department of Commerce that the "State of Alaska should have the basic responsibility for planning and execution of all centennial-related programs and projects, and the Federal contribution should be generally commensurate with local efforts."

The bill, S. 2309, is designed to carry out these recommendations. As the preamble to the bill states, the purpose of the bill is to "provide for appropriate U.S. participation in the 1967 exposition, jointly with the State of Alaska, through economic development projects such as industrial, agricultural, educational, research or commercial facilities, or facilities which serve as permanent tourist attractions or otherwise assist in the creation of long-term employment opportunities in Alaska."

To insure that the Federal effort will be commensurate with that of the State and local effort the authorized amount of Federal funds—$7,200,000—will be made

available on a matching basis with at least 50 percent to be State and local funds.

It is entirely fitting that the Federal Government should participate actively in the celebration of this important event—as will, I hope, other nations such as Britain, France, Spain, and Russia which have, in one way or another, had a role in Alaska's past.

With the purchase of Alaska in 1867, the thrust of the United States turned east. That thrust is illustrated best by recent events in Alaska in its ever-growing trade with Japan.

The international significance of the purchase of Alaska can in no way be better illustrated than in the growing importance of Alaska as the international air crossroads of the world. Flights across the pole, stopping over in Alaska, are constantly growing in numbers so that more and more people from foreign climes are beholding the majestic beauties in Alaska.

While the amount of Federal funds requested for participation in the Alaska exposition by this bill is not large as such sums go, the event to be marked is of great significance. For those who doubt that statement, I would ask them to consider the present strategic situation of the "lower 48" States if Alaska had remained under the Russian flag until today.

Therefore, the people of the United States have much to celebrate in 1967 when they participate in the celebration of the centennial of Alaska's purchase.

DEDUCTION OF CERTAIN EDUCATION EXPENSES OF TEACHERS

Mr. SCOTT. Mr. President, I introduce for appropriate reference a bill to amend the Internal Revenue Code of 1954 to provide for deduction of certain education expenses of teachers.

The purpose of this legislation is to correct an inequitable situation arising from existing regulations of the Internal Revenue Service. Under these regulations, a teacher can deduct educational expenses only if the additional education is necessary for him to maintain his current position. Teachers who return to college to become better qualified teachers cannot deduct their educational expenses. If, however, his supervisor threatens him with loss of certification unless he returns to college, he can then deduct these same expenses. Initiative for self-improvement and advancement of skills is thus stifled, whereas the teacher who returns to college only under the threat of losing his job may deduct his expenses. Thus lethargy receives a tax benefit while initiative is penalized.

I propose to correct this confusing situation by providing that deductions by teachers for educational expenses be based directly on the Internal Revenue Code. Accordingly, my bill defines deductible education expenses as first, tuition and fees; second, directly related travel expenses; and third, up to $100 annually for books and related materials. Such deductions could be claimed by full-time or part-time teachers who undertake academic training in accredited institutions of higher learning.

Teachers would benefit from my bill in three ways:

First, they would be encouraged to upgrade their skills voluntarily and thereby advance themselves in their profession by making it easier for them to acquire the necessary additional academic training.

Second, graduate students working as part-time teachers of undergraduate courses would benefit from the extension of the allowance of deduction to part-time teachers.

Third, allowance of a deduction for travel necessary in connection with a course of study or work on an academic degree would help the teacher working on a thesis or dissertation which requires experimentation and field research away from the school.

I believe that this bill can make a significant contribution toward the promotion of excellence in education by upgrading the skills of our school system's most important component, its teachers.

Mr. President, I urge its early consideration.

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

The bill (S. 2311) to amend the Internal Revenue Code of 1954 to provide for deduction of certain education expenses of teachers introduced by Mr. SCOTT, was received, read twice by its title, and referred to the Committee on Finance.

THE JUNK AUTO AMENDMENT

AMENDMENT NO. 359

Mr. DOUGLAS. Mr. President, today I am resubmitting my proposal to get rid of those unsightly automobile graveyards which are littered across our country.

The Senate approved an amendment I offered to the excise tax reduction bill which would have diverted 1 percent of the tax on new cars into a special fund to be used for disposing of junked autos. The House bill would have eliminated the entire tax by 1969. When the bill went to conference we did manage to save the 1-percent tax, but the language authorizing the use of the revenues to dispose of junk autos was stricken from the bill. So although we have the revenues, they go into the general fund where they can be used for any purpose whatsoever. As King Pyrrhus sadly observed after his costly defeat of the Roman army at Asculum in 279 B.C., "One more such victory over the Romans and we are utterly undone."

Apparently the House managers felt that the excise tax bill was not a proper vehicle for enacting a new program into law. The claim was made that the proposal should have been considered instead by the Public Works Committees.

I believe our action was proper but since we did not prevail I am willing to follow the procedure suggested by our learned colleagues in the other body. I therefore send to the desk the same proposal in the form of an amendment to the administration's highway beautification bill which has been referred to the Committee on Public Works. I ask that this amendment be printed and I am hopeful that it will be considered by the Committee on Public Works along with the President's recommendations on highway beautification.

BACKGROUND TO THE JUNK CAR PROBLEM

For those who are interested in the background to the junk auto problem, let me refer them to a speech I made which appears on page 11338 of the CONGRESSIONAL RECORD for May 24 and a fact sheet on page 13638 of the RECORD for June 15.

In brief, the basic problem of how to dispose of junked automobiles is economic. A few years ago, most junked cars were processed into scrap and used by the steel mills in making new steel. However, the supply of junked cars is rapidly increasing, and due to technological developments in the steel industry, the demand for scrap steel made from old cars is decreasing. As a result, the price of scrap has fallen and does not always cover the cost of converting an old car into usable steel scrap. It is often cheaper to let an old auto rust away on a junk heap. It is also frequently cheaper to leave a brokendown wreck upon a highway or street than it is to tow it to a junkyard. Each year our cities are forced to cart away thousands of abandoned cars—some as many as 25,000.

There are about 15,000 auto junkyards scattered across the country, and estimates of the number of junked cars range from 10 to 40 million. Whatever the precise number, it is clear that each year the number of junk cars increases.

In addition to their inherent ugliness, junked autos also represent a waste of natural resources. Every ton of scrap used in making new steel saves 3 tons of valuable raw materials such as iron ore, coke, and limestone.

WHAT THE JUNK AUTO AMENDMENT WOULD DO

The amendment I have submitted would do two things:

First, it would authorize a program for disposing of junk cars. Some of the ways this may be done include direct subsidy payments to facilitate the processing of old cars into usable scrap, price supports to create a better market for scrap made from junk cars, grants to States which have developed their own program of junk auto disposal, and research into better processing methods and alternative uses of scrap.

The amendment establishes an appropriation ceiling of $25 million during the first year in order to provide experience for a full-scale program. In subsequent years the bill would authorize whatever funds were necessary to carry out the purposes of the act.

Second, the amendment would establish a special Automotive User Fund in the Treasury into which the revenues from the existing 1-percent excise tax on autos would be deposited. This fund would be available to finance the cost of the junk car disposal program as well as other programs associated with the use of autos which the Congress may, from time to time, designate. It may very

well be that the entire 1-percent tax will not be needed for disposing of old cars and Congress may wish to designate other programs to be financed from the fund. In any event, all funds not appropriated will ultimately be transferred to the general fund.

Mr. President, I first made this proposal nearly 2 months ago. Since that time it has gathered a large amount of support including that of the White House Conference on Natural Beauty, the Institute of Scrap Iron and Steel, the United Auto Workers, the U.S. conference of mayors, and many others. Many mayors and Governors have written expressing their support. The administration endorsed the provision when it was part of the Senate passed excise bill, and when President Johnson signed the bill he said he hoped some of the revenues from the 1-percent auto excise tax could be used for getting rid of auto graveyards.

Mr. President, I cannot think of a single action which would beautify America more than getting rid of our unsightly scrap heaps of junked automobiles. Every year, millions of old wrecks are tossed upon the junk pile and if we continue this indiscriminate waste of resources, we will soon run out of space. Why not solve the problem now before it escalates into a crisis. Let us get rid of these rusting auto corpses that are a disgrace to America. Let us make our country a more beautiful place in which to live.

Mr. President, I ask unanimous consent that the text of this amendment be printed in the RECORD following my remarks, together with several letters I have received from State and local officials.

Additional letters in support of this proposal may be found on pages 13463–13465, and 13638 of the CONGRESSIONAL RECORD.

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

The amendments (No. 359) were referred to the Committee on Public Works, as follows:

On page 9, after line 3, add the following new title:

"TITLE V

"Short title

"SEC. 501. This title may be cited as the 'Junked Auto Disposal Act of 1965'.

"Disposal of junked automobiles

"SEC. 502. (a) When duly appropriated therefor, moneys covered into the fund established under section 503 of this title shall be available for expenditure by the President for carrying out a program to alleviate the blight caused by the ever-increasing number of aged or wrecked motor vehicles which have been abandoned or relegated to scrap or salvage. In pursuance of such program, the President may make payments to individuals, to corporations or other business entities, and to public bodies or instrumentalities to carry out approved programs for the alleviation of such blight. In carrying out the authority conferred upon him by this subsection, the President—

"(1) shall take into consideration the effect of any action taken pursuant to such program on the market for iron and steel scrap;

"(2) may prescribe such rules and regulations as may be necessary to carry out the provisions of this section; and

"(3) may delegate any power or authority conferred upon him by this section to one or more officers or agencies of the Government.

"(b) The authority conferred upon the President by this section shall include the following:

"(1) to make payments to individuals, corporations or other business entities, upon application therefor, pursuant to such regulations as he may prescribe, to develop and facilitate the processing of old and wrecked automobiles into usable scrap for the making of steel;

"(2) to increase the market for iron and steel scrap by initiating a program for the purchase, storage, and resale of the usable scrap processed from old and wrecked automobiles upon such terms and conditions, including resale at a loss, as the President determines will carry out the purposes of this section;

"(3) to initiate and conduct research and development programs for improved processing techniques for such scrap, and for alternative uses of such scrap: *Provided*, That not to exceed 5 per centum of the moneys appropriated pursuant to this section may be expended for such research and development projects; and

"(4) to make grants to any State or locality, upon application therefor, for the payment of part of the cost of practical programs for the disposal of old or wrecked automobiles if he determines, in accordance with such regulations as he may prescribe, that—

"(A) the program will initiate a feasible and economic method for such automobile disposal or significantly expand and improve such a program already in existence;

"(B) the program will include adequate provisions for the screening or the relocation of automobile junkyards located along non-Federally aided highways;

"(C) the program will provide adequate public supervision of such program submitted; and

"(D) the program will provide such fiscal control and accounting procedures as he deems necessary.

"(5) The grants made under paragraph (4) above shall be subject to the following conditions:

"(A) Distribution of assistance among the several States shall be as equitable as practical;

"(B) No payments made shall exceed 90 per centum of the cost of such program; and

"(C) The term "State" means a State, the District of Columbia, and the Commonwealth of Puerto Rico.

"Establishment of automotive user fund

"SEC. 503. (a) In order to finance programs associated with the use of automobiles including the disposition of aged or wrecked motor vehicles as specified in section 502 of this title, there is hereby established in the Treasury of the United States an Automotive User Fund (hereinafter referred to as the 'Fund'), into which shall be covered for each fiscal year beginning after June 30, 1965, amounts equivalent to so much of the taxes received by the Treasury after such date under section 4061(a)(2) of the Internal Revenue Code of 1954 (relating to tax on passenger automobiles and trailers) as is attributable to so much of the tax imposed on articles taxable under such section as does not exceed a rate of one per centum. For purposes of the preceding sentence, amounts received during the fiscal year ending on June 30, 1966, shall be taken into account only to the extent attributable to liability incurred after June 30, 1965.

"(b) The Secretary of the Treasury shall from time to time transfer from such Fund to the general funds of the Treasury amounts equal to the amounts of credits or refunds (or the proper portion thereof) of the taxes under such section 4061(a)(2) allowed or paid under such Code.

"Appropriations

"SEC. 504. (a) Moneys covered into the Fund shall be available for expenditure for carrying out the provisions of section 502 (and for other programs relating to the use of automobiles which Congress may, from time to time designate) only when appropriated therefor. Such appropriations may be made without fiscal year limitation. Moneys covered into this Fund not subsequently appropriated by the Congress within two fiscal years following the fiscal year in which such moneys had been credited to the Fund, shall be transferred to miscellaneous receipts of the Treasury.

"(b) There is hereby authorized to be appropriated from such Fund such sums as may be necessary to carry out the purposes of section 502 of this title: *Provided*, That appropriations for the fiscal year beginning July 1, 1965 shall not exceed $25,000,000.

"Reports

"SEC. 505. The President shall prepare and submit to the Congress at least once in each fiscal year a comprehensive and detailed report on the administration of this title.

"Effective date

"SEC. 506. This title shall take effect on July 1, 1965."

On page 1, line 4, strike out "That section" and insert in lieu thereof "SECTION 101. Section".

On page 4, line 20, strike out "That chapter" and insert in lieu thereof "SEC. 201. Chapter".

On page 6, line 20, strike out "SEC. 2." and insert in lieu thereof "SEC. 202."

On page 7, line 2, strike out "That section" and insert in lieu thereof "SEC. 301. Section".

On page 7, line 21, strike out "SEC. 2." and insert in lieu thereof "SEC. 302.".

On page 8, line 5, strike out "SEC. 3." and insert in lieu thereof "SEC. 303.".

On page 8, line 14, strike out "That section" and insert in lieu thereof "SEC. 401. Section".

The letters presented by Mr. DOUGLAS are as follows:

CITY OF ALBUQUERQUE,
Albuquerque, N. Mex., July 2, 1965.

The Honorable PAUL H. DOUGLAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOUGLAS: Thank you for your letter of June 4 and the enclosed material in regard to the problem of disposing of junked automobiles. We certainly agree with your idea of saving a portion of the existing excise tax on automobiles to help eliminate unsightly auto junkpiles.

We are concerned not only with the unsightly auto salvage yards but are also trying to prevent the open-fire burning of these car bodies which contributes to the air pollution problem in our area. It is our understanding that the scrap metal dealers will not accept a car body unless it is free of all contamination such as upholstery, wood and asphaltic material. Consequently, the most practical solution for the salvage yards is to burn these car bodies prior to delivery to the scrap metal dealers.

We would like to suggest the possibility of using a portion of this special fund to assist a city in constructing and operating an auto-body incinerator. These junked car bodies could be collected by the city or delivered by the salvage yards to a conveniently located incinerator. Such an auto-body incinerator might consist of a crane, hammermill, natural gas-fired cylindrical furnace and a final quencher. Auto bodies from which engine blocks, camshafts, glass, fiber, wood, etc., have been removed are sent into a crusher

then to the mill which shreds the metal and then into the furnace. Essentially all of the wood, fiber and other residual organics would be burned off leaving pieces of metal varying in size and weighing 1 to 2 pounds. An operation such as this would reduce very substantially air pollution emissions as compared to the present practice of the open-fire burning of car bodies. An alternate method or process might be to burn several whole auto bodies simultaneously and then bale or press this body tin into compact cubes. We estimate that there are approximately 40 auto salvage yards in our metropolitan area with an average size of about 2 acres per yard. The present inventory of wrecked vehicles in our junk yards is approximately 10,000 and we estimate that 30,000 car bodies are junked in our metropolitan area per year. The estimated cost for the construction of an approved auto-body incinerator to process the car bodies for a metropolitan area of our size would vary from $50,000 to $100,000. We might also mention that some of these salvage yards contain not only junked car bodies but also discarded hot water heaters, washing machines, refrigerators, etc.

We are very much interested in your idea of eliminating unsightly auto junkpiles and certainly hope for the successful passage of your bill.

Very truly yours,

ARCHIE WESTFALL,
Chairman, Albuquerque City Commission.

EAST BATON ROUGE PARISH,
Baton Rouge, La., June 18, 1965.

Hon. PAUL H. DOUGLAS,
U.S. Senator, Vice Chairman, Joint Economic Committee, Washington, D.C.

DEAR MR. DOUGLAS: Your letter of June 4, 1965, addressed to Mayor-President Woodrow W. Dumas, and having reference to a bill which you have introduced designed to deal with the junk automobile problem, has been referred to this office for consideration and reply.

There is no question but that the junk automobile problem is one which requires immediate and serious attention, and we share with you your concern in developing a solution to it. In the Baton Rouge area we have attempted through the use of zoning regulations to restrict the junk automobile business to limited areas of the community, and have further provided regulations designed to improve the appearance of these businesses, even where permitted. However, the policing of these regulations is most difficult, and we have not obtained satisfactory results from our efforts.

We believe, therefore, as do you, that the disposition of junk automobiles can only be handled under a national policy which includes a means of disposing of these automobiles without depending upon the scrap demand to do so. Such a plan as yours would permit this, and we hope that your proposal, or some modification of it, will receive favorable consideration at an early date.

Very truly yours,

R. GORDON KEAN, Jr.,
Parish Attorney.

CITY OF CHICAGO,
June 16, 1965.

Hon. PAUL H. DOUGLAS,
U.S. Senator, Joint Economic Committee, Old Senate Office Building, Washington, D.C.

DEAR PAUL: This is the first opportunity I have had to acknowledge your letter of June 4 and to thank you for sending on a copy of the bill you introduced which could bring about a great forward step in solving the national problem of automobile junkpiles.

I think this legislation is good and could achieve positive results in eliminating the junkpiles and unsightly conditions which I have long been trying to eradicate in the city of Chicago.

Commissioner Smith of the building department, has some statistical information, such as you requested, and I have asked him to send it on to you.

Regards and good wishes.

Sincerely,

RICHARD J. DALEY,
Mayor.

CITY OF CLEVELAND, *July 7, 1965.*

Hon. PAUL H. DOUGLAS,
U.S. Senate, Washington, D.C.

DEAR SENATOR DOUGLAS: Your efforts toward the elimination of the "junk car" nuisance are commendable and have my full support. These derelict autos are an eyesore, a hazard, and a blight upon our Nation. They are a real headache for the police, other motorists, and even pedestrians, since they are hiding spots for street thugs and purse snatchers.

We have given this problem serious attention through our police tow truck division. Since January 1, 1964, our police have removed 8,300 junk or abandoned cars from our streets. Owners have reclaimed about 1,300 of these vehicles, and the rest have been sold to junk operators on condition that these cars be junked, baled, and sold as scrap metal only. They are not to be resold for use on city streets or to stand idle in the junkyards.

If the police first can find the owner, he is fined and made to haul the car away at his own expense. Most abandoned cars, however, cannot be traced, forcing the police to haul them away to a nearby lot. These lots, in turn, become cluttered with cars and create another community eyesore and hazard. Towing these cars off the streets is only one step in the elimination of these eyesores. It seems to me that the auto manufacturers, who turn out millions of these cars yearly, must concern themselves directly with this problem. They make these cars; certainly they can help in a program of reclamation or reprocessing them when they are of no further use.

We will be happy to assist you in any way possible in the passage of your bill aimed at eliminating this national nuisance.

Kindest personal regards.

Sincerely,

RALPH S. LOCHER,
Mayor.

CITY AND COUNTY OF DENVER,
Denver, Colo., June 17, 1965.

Hon. PAUL H. DOUGLAS,
Congress of the United States,
Senate Office Building, Washington, D.C.

DEAR SENATOR DOUGLAS: Thank you for your recent letter concerning the bill you are introducing in the U.S. Senate which would reserve a portion of the existing excise tax on automobiles for disposal of autos when they are junked. Denver, like all other heavily populated areas, has a junk automobile disposal problem.

We are able to get the majority of junk cars in the city and county of Denver removed from streets, alleys, or land owned by a governmental agency. There are many problems involved in getting them removed from private property. However, all junkers still wind up in a junkyard and create an esthetic problem, since there is no practical method of disposing of them.

Presently, our Intercounty Regional Planning Commission is making a detailed and analytical study of the volume of junk cars, how they are disposed of, new methods of disposal, etc. This committee has just had two meetings and has no completed reports as yet. We have representatives on this committee, as do all the surrounding counties. Health and air pollution agencies, city managers, trash and garbage collection personnel, automobile junkyard dealers, also have representation. I will be most happy to forward reports of this committee to you.

It is possible that the price of scrap metal may go up to the point that junk car dealers can economically afford to process a junk car and sell the body for a reasonable price. This seems to be one of the prime reasons for the huge stockpiling now going on. Either a price rise or a revolutionary cheap way to dispose of junk car bodies is needed to eliminate the problem.

We heartily agree with you that these junk car graveyards are eyesores and are a national problem. Perhaps we can do something about getting the areas fenced within the city and county of Denver, so that they are not so obvious.

Sincerely yours,

TOM CURRIGAN,
Mayor.

ERIE, PA.,
June 14, 1965.

Hon. PAUL H. DOUGLAS,
Congress of the United States,
Joint Economic Committee,
Washington, D.C.

DEAR SENATOR DOUGLAS: I appreciate your thoughtfulness in sending me the substance of your bill which will help us get rid of the auto junkpiles. The situation in the vicinity of Erie is very likely about the same as it is in any urban area of approximately 200,000 population and we, unfortunately, have done very little about the problem. We are contemplating some local legislation which may alleviate the problem in the city of Erie, but would be very grateful for any aid which would be provided by Federal legislation and action.

Sincerely,

CHARLES B. WILLIAMSON,
Mayor.

FRESNO, CALIF.,
June 25, 1965.

Hon. PAUL H. DOUGLAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOUGLAS: I was very much interested to receive your recent letter enclosing a copy of the bill which would help finance the elimination of unsightly automobile junkyards.

You may be interested to know that in the Fresno metropolitan area there are some 60 auto wrecking operations. This is one wrecking yard for each 5,000 population. As the city expands into the areas where the auto wrecking yards exist on the fringes, the adverse effect on the city increases.

I hope these comments are of some use to you. Please be assured that I support your objective very strongly.

Sincerely,

FLOYD H. HYDE,
Mayor.

HONOLULU, HAWAII,
June 17, 1965.

Hon. PAUL H. DOUGLAS,
Vice Chairman, Senate Joint Economic Committee, Senate Office Building, Washington, D.C.

DEAR SENATOR DOUGLAS: This is in reply to your letter of June 4, 1965, addressed to Mayor Neal S. Blaisdell and relating to the problem of providing for the orderly disposal of derelict automobiles.

Senate bill 2019 could possibly provide the necessary financing so much needed for the disposal of junked automobiles by hundreds of communities in the United States. In fact, a local tax on automobiles upon first registration has been suggested but not as yet presented to the State legislature in the form of a bill.

The problem in this city and county is similar to that being experienced by all communities in our country. We are extremely aware of esthetic values in Hawaii and have been carrying on a continuous

beautification program for years. For example, billboards and oversized and obnoxious commercial signs are prohibited or ruled out by popular opinion. However, it is incongruous but a fact nevertheless, that automobile "graveyards" are located off the main highway to Honolulu International Airport and at otherwise scenic areas along the highway around the island.

In 1964 registered cars in the city and county totaled 215,000. Transfers of ownership totaled 105,000 and new cars registered for the first time numbered 20,888. It is estimated that as many as 8,000 vehicles may be abandoned and junked annually on this island (Oahu). The police department is preparing to auction approximately 100 cars towed in off the highways and if they cannot be sold they will be disposed of by the refuse division. A report dated June 3, 1965, shows that 48 derelict cars were removed by the police from the highways and 19 from private property in a period of 3 weeks. For the first 5 days of June, 10 derelict cars were hauled away by the police.

Local dealers sell scrapped and baled automobiles to the local steel mill, or ship the scrap to the mainland or Japan. Disposal depends a great deal on the price of steel. The situation here is complicated because burning is generally prohibited to prevent air pollution. The cost of an incinerator meeting fire department standards is very high and none for the purpose of processing scrapped automobiles has been purchased by any of the local salvage concerns.

We are currently making a complete review of our situation with plans to eliminate all junkyards from the proximity of principal highways and to provide for the orderly and continuous disposal of derelict vehicles to prevent any future unsightly accumulation of said material.

We are 100 percent behind the national beautification program.

Sincerely,

ROBERT F. ELLIS,
Acting Mayor.

CITY OF HOUSTON, TEX.,
June 16, 1965.

Hon. PAUL H. DOUGLAS,
U.S. Senator, Illinois,
Senate Office Building,
Washington, D.C.

DEAR SENATOR DOUGLAS: Mayor Louie Welch is on vacation and he has asked me to reply to your letter of June 4, 1965, regarding auto junkyards.

The city of Houston, as you perhaps know, has no zoning laws and there are no city-wide regulations governing the operation of auto junkyards in the city; therefore there are no reliable statistics available as to how many there are within the city limits. From observation, however, it appears that most of the larger junkyards operate outside the city limits for the reason that most of them make a practice of burning autos and this is forbidden within the city limits.

The mayor agrees with you that junkyards are unsightly and mar the beauty of the landscape in many areas. He is always in favor of legislation that will encourage natural beauty. Your bill has a laudable purpose, and there does not appear to be any reason why it will not work. However, the mayor believes that we must keep in mind that the scrap metal industry and the auto parts industry fulfill a vital role in our economy and their rights must be considered in legislation adopted in this field. Your bill will appear to make provision for the protection of these industries and would likewise appear to provide for local control of this problem. That being true, the mayor is in favor of the legislation as it is presently drafted.

Very truly yours,

BUD HADFIELD,
Executive Assistant to the Mayor.

CITY OF LOUISVILLE, KY.,
June 22, 1965.

Senator PAUL H. DOUGLAS,
Vice Chairman, Joint Economic Committee,
Congress of the United States, Washington, D.C.

DEAR SENATOR DOUGLAS: I think your bill concerning junkyards would be helpful in many ways to improve the appearance of our countryside. However, Louisville does not have a particular problem in this regard. There are 23 such businesses in this city, located in places where they do not create a blemish or unsightly scene. According to our police department, the owners of these establishments are most cooperative in that they submit a record on every wrecked car purchased. The police also feel that it is an advantage to have them purchase many automobiles which might otherwise be abandoned on the street.

I hope this bit of information is of some help to you.

Sincerely,

WILLIAM O. COWGER,
Mayor.

MILWAUKEE, WIS.,
June 25, 1965.

Hon. PAUL H. DOUGLAS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR DOUGLAS: Thank you very much for your letter of June 4, 1965, and the attached bill, S. 2019, which would divert a portion of the existing excise tax on automobiles into a special fund to help get rid of the growing number of unsightly auto junkpiles scattered across our country.

May I say first that I categorically and wholly support the objectives embodied in President Johnson's urban and rural beautification programs of which your proposal seems to be a necessary extension.

Here in Milwaukee the problem of junkyards is probably not as severe as in many other places. This unquestionably is attributable to the effectiveness of our zoning ordinance which severely restricts and, in some cases, prohibits the establishment of junkyards for the storage, sale, handling, baling, reclaiming, remaking of scrap iron or other materials, bottles, rags, rubber or other secondhand materials, or the dismantling of motor vehicles and the storage of used motor vehicle parts. Wherever such uses are permitted, it is required that they be completely enclosed and obstructed from view by means of an approved opaque fence at least 8 feet in height.

Our department of city development informs me that in the city of Milwaukee proper there are 46 junk or salvage yards covering a total area of approximately 70 acres. In addition, there are eight automobile salvage yards with a total area of 6.4 acres. Four junkyards covering less than one-half acre are operating as nonconforming uses because they were established prior to zoning controls. Thus, the junk and salvage problem in Milwaukee is reasonably well regulated. But while I do not have any statistics to give you, inspection reveals that in the suburbs and nearby rural areas the problem is not being dealt with nearly as effectively.

The remedy seems to be in two directions.

The first is to require complete and effective screening of all junk and salvage yards to neutralize visual offensiveness.

Secondly, an approach such as you are suggesting in your bill, S. 2019, appears timely and relevant.

In the implementation of such legislation it might be useful to consider municipally operated incinerators which, to use your own terminology, would have an appetite not only for metal but also for glass, plastic, and other impurities which need to be cremated.

Many communities are finding it an increasingly difficult problem to dispose of domestic waste and are, therefore, engaged in construction of new public incineration facilities. Milwaukee is in this position and expects to very substantially increase incineration. It might be possible to design these new incinerators to accept industrial junk, including old cars, provided the city could be reimbursed, financially, for providing such services.

At any rate, the problem is a serious one and the solutions are not easy. Bill S. 2019 takes a long step in the right direction. I am heartily in favor of it and equally interested in its effective implementation.

Sincerely yours,

HENRY W. MAIER,
Mayor.

NASHVILLE, TENN.,
June 21, 1965.

Hon. PAUL H. DOUGLAS,
U.S. Senator,
Senate Office Building,
Washington, D.C.

My DEAR SENATOR: After receiving your letter of June 4 relative to junk automobiles, I called upon my Department of Codes Administration to give me the information called for in your letter. I am enclosing herewith a copy of their report to me and we will be glad to give any further details you think desirable.

We appreciate your efforts in behalf of our communities and we will follow up anything that we might do to assist you.

With best wishes, I am

Most sincerely,

BEVERLY BRILEY,
Mayor.

MEMORANDUM

JUNE 10, 1965.

To: Mayor Beverly Briley.
From: Department of Codes Administration.
Subject: Junked Automobile Graveyards.

In January of 1959, the zoning regulations of Davidson County were amended to prohibit automobile junkyards from being located within 500 feet of any public road, park, school, church, hospital, etc., within the unclassified areas of Davidson County, at which time a survey was made of all the junkyards within the county, which is now the general services area. Thirty-six junkyards were found at different locations, consisting of several thousand junked automobiles, comprising a total of 169 acres that were committed for such a use, all of which exist at the present time, with several thousand additional junked automobiles having been added to these yards since that time.

Within the urban services district there now exist six large automobile junkyards, consisting of several thousand junked automobiles.

From January 1, 1964, through May 31, 1965, the department has written 472 zoning violation letters to various property owners pertaining to the storage of junked and abandoned automobiles that were stored in the backyards of homes on private property, involving some 2,184 junked and abandoned automobiles. Of the number of letters written during this period, all but 25 have complied with the zoning regulations.

In making the investigations of these violations, it was found that in the majority of the cases the owners of the old cars stated that the junkyards did not want them and, in most cases, when they did take the old cars the owners would have to pay the junkyards to come and get them as most of the cars had already been stripped of their usable parts. The owners of junkyards claim if the old cars do not have usable parts it costs them more to process the old cars than they realize from the sale of the metal. We often found 1 to 10 such old cars in many of the backyards.

As you probably know, the demand for used automobile parts in the past and at the present time is great, and is a big busi-

ness within this area and bordering States. We think that there should be a place provided for legitimate junkyards within our community. With proper control and supervision and properly located, they would not be too undesirable to other uses within the area.

We think that Mr. Douglas' bill is a good bill and hope that it becomes law, and, if such a bill becomes law, we think that most of the existing junkyards can be eliminated, along with the elimination of zoning violations on backyard storage of junked and wrecked automobiles on private property.

NEW HAVEN, CONN.,
June 14, 1965.

DEAR SENATOR DOUGLAS: Your proposal to create an automobile burial and beautification fund is a constructive new idea to solve a growing national problem. At present, municipalities—indeed, entire metropolitan areas—can only protect themselves against the worst nuisances of junkyards, without making any genuine progress in solving the problem.

Automobile junkyards are also a serious blight on our national beauty, as you are well aware. Their impact on the view from interstate highways is every bit as serious as the impact of billboards, as we in New Haven can testify from experience.

My administration has worked primarily to prevent junkyards from blighting residential neighborhoods. Zoning changes enacted in 1958 and 1963 prohibit the operation of junkyards in any but heavy industrial zones. By the end of this year all such businesses will be removed from residential areas, where they contribute to rapid deterioration and decline of neighborhoods.

There are about 50 junkyards in New Haven, slightly fewer than in 1960. Aside from the overall unsightliness, the two biggest problems that auto junkyards cause are air pollution from the burning of car bodies and mosquito breeding in stagnant water. We require that these operations be enclosed by a solid fence, at least 8 feet high or as high as the highest pile of material. The city of New Haven, as part of its open spaces and beautification program, is using the licensing and regulatory powers of the city to screen junkyards from highways.

Your bill would be an important tool in the control of junkyards, and I hope it receives favorable attention from other Members in the Congress. If there is anything I can do to aid in its passage, please feel free to call on me.

My very best wishes.

Sincerely,

RICHARD C. LEE,
Mayor.

OKLAHOMA CITY,
July 7, 1965.

Hon. PAUL H. DOUGLAS,
Vice Chairman, Joint Economic Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR DOUGLAS: Mayor George H. Shirk referred your letter to me concerning your bill on wrecking yards. We in Oklahoma City realize what a problem salvage yards are, and we realize how hard it is to try to improve them once they are allowed to start operations.

Unfortunately, most of these wrecking and junkyards are located where they can be seen from State and Federal highways and other major entrances to our city. In Oklahoma City we have, at the present time, 30 auto salvage yards in addition to 11 operations that could, at best, be considered as junkyards. Of the 30 auto salvage yards, only 2 could be considered of good appearance, and 3 of fair appearance. The other 25 have received a rating of poor by our staff. Of the junkyards, one is considered good, one fair, and the other nine poor.

In order that you might inform your colleagues in the U.S. Congress of this situation in Oklahoma City, we have prepared a map of the locations of these auto salvage yards and junkyards. This map, which is enclosed, shows quite clearly that most of these operations are located very close to Interstate Highways. On the map we have also noted numbers which refer to the enclosed photographs of some of these operations.

We hope that this information will be helpful to you in winning support in Congress for your much needed legislation. If you desire further information, please contact either myself or Mr. Ray Patton, our planning director.

Sincerely,

JOHN FRANK MARTIN,
Chairman, Oklahoma City Planning Commission.

OKLAHOMA CITY,
June 10, 1965.

Hon. PAUL H. DOUGLAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOUGLAS: It was very good of you to write me your letter of June 4; and I was very glad to hear of S. 2019.

As in other urban communities, particularly with the advent of the crosstown expressways and other 90–10 urban roads, undoubtedly automobile graveyards have become more and more of a problem.

Our present zoning ordinances require screening but unfortunately the major offenders were in business prior to the ordinance and thus constitute nonconforming use.

I am turning your letter to the chairman of our planning commission; and I am sure he will write to you further.

Sincerely,

GEORGE H. SHIRK,
Mayor.

PORTLAND, OREG.,
July 12, 1965.

Hon. PAUL H. DOUGLAS,
U.S. Senator From Illinois,
Old U.S. Senate Office Building,
Washington, D.C.

DEAR SENATOR DOUGLAS: It was nice to hear from you again when I received your recent letter, relative to your suggested bill in the U.S. Senate, which would earmark a portion of the existing excise tax on automobiles for the disposal of wornout automobiles. Such a suggestion for meeting this critical problem that is plaguing, not only major cities across the United States, but smaller cities in rural areas, has a great deal of merit. Certainly, as one mayor of a major city, I wholeheartedly support your proposal, and will forward copies of this communication to you to Senator NEUBERGER, Senator MORSE and our congressional delegation in the House.

At the recent meeting of the U.S. conference of mayors held in St. Louis the last of May and the first part of June, the subject of disposal of solid wastes and more particularly scrap metal was one of the major subjects of discussion. Speakers participated from the Department of Health, Education, and Welfare, as well as the Institute of Scrap Iron and Steel. Of course, the most critical problem facing all of the cities was the disposal of discarded automobiles.

I submitted a copy of your bill, together with your remarks on this subject to our city planning commission for their study and comments. A copy of their report is attached hereto, for your information and file.

The city of Portland, being a major seaport, does ship a good deal of scrap metal to Japan; however, local scrap iron dealers and processors are now having a great deal of problems processing automobiles for such compacting and shipment because of our air quality control act which prevents burning the old car bodies out as was formerly practiced. To remove the upholstery, glass, and other undesirable items, including wiring, by hand is an extremely expensive process. Consequently, the population of abandoned automobiles has rapidly increased in our entire metropolitan area. At St. Louis, the Institute of Scrap Iron and Steel showed films of newer processes whereby through a grinding process and a recovery through magnets, the usable scrap steel was separated from the waste. The steel was then placed in cars for delivery to domestic steel mills and/or compacted for overseas shipment. The process was quite intriguing but the capital investment is apparently so large that few scrap dealers in their present conditions can afford these installations. It is entirely possible that some thought should be given for providing out of the excise tax that you propose to earmark, a means of partially helping to subsidize such installations on a regional basis. It would then be possible to possibly ship autos from a considerable area to such a processing plant.

Apparently, one of the problems facing the scrap industry is the one that you pointed out in one of your comments in the Senate, whereby the domestic mills are using less scrap metal in the construction of steel. If means can be devised of encouraging domestic steel mills to use a larger quantity of scrap metal in their production, this would not only serve a useful purpose of creating an additional demand, but would tend to conserve our supply of raw domestic ore for the use of future generations.

During the past week, I toured much of the eastern part of this beautiful State. Most of my time was spent in the Second District of this State, which is represented by Congressman AL ULLMAN, who I am sure you have worked closely with for the last several years. It was most discouraging to note in and about many of the cities that I visited large numbers of discarded and scrapped automobiles. It was additionally disheartening to note the number of these abandoned vehicles in some of our rural areas, along some of our beautiful streams, and on some of our smaller farms. Certainly, these abandoned vehicles are offensive to those who love the beautiful scenery of our mountains, parks, and countryside. An answer to this problem must be found.

Here in the city of Portland we have a backlog of some 300 or 400 abandoned vehicles on our streets and on private property. We are removing them as rapidly as possible, but our storage facilities and our disposal facilities for most of these are limited and operating to full capacity.

I am happy that the President is concerned about this problem and is encouraging Congress to take steps to meet the problem. Certainly, as one local public official, I commend you for taking the leadership in seeking such a solution. I am forwarding a copy of this letter to you to Mr. John Gunther, executive director of the U.S. conference of mayors, for his information and file.

It was good to hear from you again, and I trust that you will soon be visiting us here in the city of Portland and the State of Oregon.

Best regards.

Yours truly,

TERRY D. SCHRUNK,
Mayor.

CITY OF PROVIDENCE,
June 22, 1965.

Senator PAUL H. DOUGLAS,
Congress of the United States,
Joint Economic Committee,
Washington, D.C.

DEAR SENATOR DOUGLAS: I support enthusiastically the principle underlying S. 2019. In our city of Providence we are painfully

aware of the ever-increasing problem occasioned by junk automobiles. Not more than 1 month ago I indicated an interest in beginning a new program which would authorize the city to remove abandoned vehicles from both private and public property. I am happy to inform you that our program officially began yesterday with the removal of the first junked automobile.

I cannot say, at this time, whether payment incentives or support loans and grants are necessary. I hope for the present to be able to rid our city of this condition through the combined effort of the government and the people of our city. I can appreciate that it may become impossible for local scrap dealers to store junked vehicles in any quantity and that a proposal, like that suggested by you, may become necessary. For the present, however, I would like to reserve my decision until we have had greater experience in this area.

With kind personal regards, I am,

Sincerely,

JOSEPH A. DOORLEY, Jr.,
Mayor of Providence.

SANTA FE., N. MEX.,
June 22, 1965.

Hon. PAUL H. DOUGLAS,
Congress of the United States,
Washington, D.C.

DEAR SENATOR DOUGLAS: I am in the process of appointing a committee which will be statewide in nature and will be concerned with the kind of thing you refer to in your recent letter.

I regretted to see that your suggestion for retaining a portion of the excise tax on automobiles for their eventual disposal failed to pass Congress. Hopefully there are other alternatives to the problem that will be more favorably received by Congress.

Please keep me informed on your progress in this field.

I have asked the New Mexico Auto Wreckers Association for an estimate on the number of junked autos in the State but as of the moment have had no response. Consequently, I am late in responding to your earlier letter.

Best regards.

Sincerely,

JACK M. CAMPBELL,
Governor.

CITY OF SEATTLE,
June 8, 1965.

Hon. PAUL H. DOUGLAS,
U.S. Senator, Senate Office Building,
Washington, D.C.

DEAR SENATOR DOUGLAS: This will acknowledge your letter of June 4, together with the enclosure of Senate bill 2019 and your remarks in the CONGRESSIONAL RECORD concerning this bill. Your courtesy in sending this material to me is much appreciated, since we of course are all vitally interested in the problem you raise.

Being a little farther away from the more congested areas of the country, the full impact of this problem may not be quite as apparent here as it is in some other parts of the country. Up to this point, most of the old automobiles have been utilized for junking in the production of scrap metal for the steel mills of this area.

At the present time the principal problem involved is how to economically reduce these old automobiles to usable metal, without doing violence to the efforts under various air pollution control programs to maintain clean air.

We have had a number of meetings here in Seattle with the producers of scrap metal of this type to see what can be done to develop a system whereby they can continue to supply the raw material to the mill without going through the process of burning, which seems to be the most economical one but which is becoming totally unacceptable from the concept of air pollution.

I am wondering whether the proceeds of the portion of the automobile excise tax which might be retained under your bill could be used in some manner to subsidize the very expensive installations necessary for pollution-free burning, shredding, or otherwise preparing these automobiles. If this were the case, I believe that at least here in this area, and for the foreseeable future, the old automobiles can find their way back into industry as a usable product. However, as clearly stated in your remarks, it is quite apparent that the reduction of these old vehicles by current methods (particularly if it's necessary to apply the costly technical procedures to eliminate air pollution) make the operation totally uneconomic.

Just offhand, it would appear to me that your bill and your efforts merit support from local officials. However, it would be helpful if we knew a little more specifically how the funds made available would be used to actually meet the problems inherent to the disposal of the old cars.

Anything that you can give me along this line will be appreciated.

Sincerely yours,

J. D. BRAMAN,
Mayor.

SPRINGFIELD, MASS.,
June 25, 1965.

Hon. PAUL H. DOUGLAS,
U.S. Senate, Washington, D.C.

DEAR SENATOR DOUGLAS: Thank you very much for your letter and informative material on your proposed bill to extend the auto excise tax for the purpose of providing for the disposal of junkyard automobiles.

In the city of Springfield, the matter of junkyards is handled in our zoning ordinance with provisions for fencing in of junkyards. Abandoned automobiles on private property are assessed by the tax assessors as personal property, and those which are deemed a menace to public health and safety are towed from the streets under orders from the local health department.

We, unfortunately, cannot present any statistical information on the problem at this time. We do consider your proposal to be a worthwhile one and wish for its success.

Sincerely,

CHARLES V. RYAN, Jr.,
Mayor.

TACOMA, WASH.,
June 28, 1965.

Hon. PAUL H. DOUGLAS,
Vice Chairman, Joint Economic Committee,
Congress of the United States, Washington, D.C.

DEAR SENATOR DOUGLAS: I am replying to the letter which you mailed to Mayor Harold Tollefson earlier in the month concerning ways and means to eliminate unsightly auto junkpiles scattered across the United States. Incidentally, I am particularly pleased to transmit my views to you on this subject since I was one of your former students at the University of Chicago, having received my master's degree in political science and public administration in 1940.

Senate bill 2019, in my opinion, seems to be an excellent start to combat the problem of auto junkpiles, which have been of increasing concern to Tacoma and Pierce County during the last several years. As you have stated, the rapid growth of the total number of automobiles, coupled with a decline in the demand for auto scrap, has posed a serious problem. With junkyard dealers becoming more selective, abandoned autos are "popping up" throughout the community, and many are just left in yards by their owners since they have no way to dispose of them, which certainly causes a blight in the neighborhood. Junkyard dealers within the city cause problems too, since the burning of the junked autos create an air pollution problem.

In Pierce County, in which Tacoma is situated, auto junk piles are almost entirely located in suburban locations. About 40 percent of the existing junkyards are adjacent to Federal or State highways; another 30 percent along county arterials; and the remaining 30 percent in isolated rural locations, which in many cases are becoming suburban residential areas. In 1960, there were approximately 85 such junkyards in the county. At the present there are approximately 112 such operations, which represent an increase of 32 percent since 1960. These yards take up a considerable amount of land area and of course are a great deterrent to surrounding land development.

While there are some technological innovations to be overcome and perhaps further research and development in implementing your proposal, I do think your program is a giant step in the right direction and deserves serious consideration by the Congress. I might suggest you encompass the problems of air pollution and a research program for better auto safety devices as a part of the overall auto excise tax field.

The efforts being made to solve this particularly annoying problem are just one more reason why there should be an even greater degree of coordination and cooperation between the Federal Government and local communities in solving urban problems. At a recent urban seminar which was held in Washington, D.C., I was one of approximately 115 city managers from all over the United States who met with Vice President HUMPHREY and many Federal officials to discuss all aspects of the many urban problems that need to be solved. A joint letter was presented to Vice President HUMPHREY from the presidents of the International City Managers Association, the National League of Cities, and the National Association of Counties suggesting means for identifying and using for urban needs the scientific, technical, and system management capabilities that have been developed in the atomic energy, defense, space, and other programs. The letter to the Vice President cited such examples for using advanced technology to meet urban needs as dealing with problems of waste management, transportation, mental health, opportunities for increasing efficiency, and effectiveness in reducing costs of such activities as providing police and fire protection, reducing environmental pollution, constructing public facilities, and similar activities.

I also want you to know that I deeply appreciated the excellent cooperation which our own two fine Senators from the State of Washington, Senator WARREN MAGNUSON and Senator HENRY JACKSON, have given to legislation which has provided funds to help Tacoma and the other cities in the State of Washington to solve these pressing problems. Congressman FLOYD HICKS, who is the congressional Representative in the district in which Tacoma is located, has also been cognizant of the necessity of providing the cities in these United States with the necessary financial assistance to try to remedy the problems which contribute to urban blight.

I certainly trust that Senate bill 2019 will receive the approval of both Houses of the Congress.

Finally, I hope that I will have the opportunity to meet with you personally on my next visit to Washington, D.C.

Sincerely yours,

DAVID D. ROWLANDS,
City Manager.

TOLEDO, OHIO,
June 18, 1965.

Hon. PAUL DOUGLAS,
U.S. Senator, Congress of the United States,
Washington, D.C.

DEAR SENATOR DOUGLAS: Thank you for your recent letter and copy of your bill which

you introduced in the U.S. Senate entitled "Automobile Burial and Beautification Fund."

Toledo, like every other major metropolitan center and even our rural area, is faced with the growing problem of disposing of our old automobiles. I think the principle of your bill is well taken, and I would be pleased to render my support to it. Thank you for advising me of this bill.

We in Toledo who had the pleasure to meet you several years ago also extend our best personal regards.

Very truly yours,

JOHN W. POTTER,
Mayor.

WILMINGTON, DEL.,
June 24, 1965.

Senator PAUL H. DOUGLAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOUGLAS: Our biggest problem, which only effects the city indirectly, concerns the difficulty our contractor, who tows away illegally parked and abandoned cars, in disposing of the thousands of unclaimed automobiles he has towed from the city streets over the past 7 years. His inability to even break even on the cost of towing, storing, and disposing of these vehicles makes him hesitant to tow more abandoned cars.

Your proposed legislation would, as I understand it, provide funds to compensate such a private contractor for the losses sustained in disposing of these junked cars. This would, as far as we are concerned, serve a twofold purpose. It would provide an incentive for the removal of all junked cars from the contractors property and also make it economical for him to remove every abandoned car from the city streets when requested by the police department.

Sincerely,

JOHN E. BABIARZ,
Mayor.

YOUNGSTOWN, OHIO,
June 22, 1965.

Hon. PAUL H. DOUGLAS,
U.S. Senator,
Senate Office Building,
Washington, D.C.

MY DEAR SENATOR DOUGLAS: I have perused the copy of your bill and statements made by you relative to the problem of auto junk piles, facing us in this Nation today.

You are to be commended for attempting to do something about a very serious problem which is rapidly growing in size daily.

Perhaps we in the Youngstown area are not as unfortunate as others are in other parts of the country. To a certain extent, our steel mills locally, are able to absorb much of the scrap represented by these wrecked automobiles.

True, when the scrap market is down, a large accumulation of these wrecks does occur and it is true that modern steelmaking methods require the use of less scrap than in years gone by and as a result, although scrap autos do not pose a serious threat to us locally, at present, it is conceivable that in the near future they will pose such a problem.

We have attempted locally, to ask scrap dealers to install high fences of a solid nature so as to close off from view these unsightly junk piles, but compliance is a voluntary matter.

Of late, I have noted that junk piles have been taken to the outskirts of town in rural areas by some scrap dealers. Perhaps this is because of the lack of zoning laws prohibiting same in these areas.

If we were to wait for State laws to solve this problem, I am afraid it would result in only a spotty kind of effectiveness.

Your method is not only worthwhile, but has great validity to it, and I wish to again commend you for attempting to solve a growing national problem.

Very truly yours,

ANTHONY B. FLASK,
Mayor.

STATE OF CONNECTICUT,
Wethersfield, June 16, 1965.

Hon. PAUL H. DOUGLAS,
U.S. Senate,
Washington, D.C.

MY DEAR MR. DOUGLAS: This is in reply to your letter of June 2, 1965, forwarded to me by Gov. John N. Dempsey. The situation in the State of Connecticut, relative to motor vehicle junkyards, is well portrayed in your speech to the Senate on S. 2019. I feel that your legislation is at last a positive step in the right direction toward relieving this difficult situation which confronts every State in this Nation today.

In Connecticut, a situation exists that can only be described as unusual, in that every year the number of active junkyards decreases, even though two or three new licenses to operate motor vehicle junkyards are issued by this department. Statistical figures for the past 5 years are:

Motor vehicle junkyard licenses issued:

1961	210
1962	204
1963	197
1964	199
1965	192

These figures bear testimony to the fallaciousness of the popular belief that the motor vehicle junkyard business is a lucrative one, for if that were so this decrease would not be experienced.

Of the State's currently licensed junkyards, 53 are located on State highways. These locations can best be described as "bulging at the seams," caused by the difficulty and expenses of the operators' attempts to dispose of the stripped carcasses. Each time a licensed location terminates, the remaining yards must absorb the debris from these defunct locations, even though the material received is not wanted and completely unwelcomed.

The motor vehicles department, in the State of Connecticut, also licenses all persons engaged in the business of dealing in and repairing motor vehicles; locations that are vulnerable to the accumulation of unwanted derelicts of the road, through the towing of disabled motor vehicles and through the deliberate abandonment by the owners of vehicles, no longer wanted, that have become too costly to repair; too costly to even own.

Continuous pressure is applied by inspectors of this department to have these vehicles removed to licensed junkyards; to yards whose operators have no apparent desire or room for these vehicles; to yards that at times assess a fee before the vehicle will be received. In the near future we will be faced with the cold fact that there is no place to which these vehicles can be removed that would not have an adverse effect on the esthetic values of other persons' property.

I wish you every success with this legislation and trust that the much needed assistance will be forthcoming in the near future.

Very truly yours,

JOHN J. TYNAN,
Commissioner of Motor Vehicles.

HARTFORD, CONN.,
June 7, 1965.

Hon. PAUL H. DOUGLAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOUGLAS: Thank you very much for your letter of recent date enclosing a copy of your speech before the Senate on S. 2019.

I am asking Motor Vehicles Commissioner John J. Tynan, to whom I am sending a copy of your letter and the enclosure, to write directly to you sending you the information you request.

Sincerely,

JOHN DEMPSEY,
Governor.

HONOLULU,
June 25, 1965.

Hon. PAUL H. DOUGLAS,
U.S. Senate, Vice Chairman, Joint Economic Committee, Congress of the United States, Washington, D.C.

DEAR SENATOR DOUGLAS: Thank you for bringing to my attention S. 2019 which you introduced in the U.S. Senate. I have read the bill carefully and have given it much thought. There is much merit in your proposal.

The problem of unsightly auto junk piles and abandoned autos is a concern of all Americans, for the problem is widespread and no American can for long escape its ugliness. Your timely and urgent statements before the U.S. Senate on this matter are most encouraging. I believe all America is awakening to the need for positive action on this national problem. There can be no doubt that the natural beauty of our Nation is at stake.

Here in Hawaii, we are richly endowed with natural beauty of the first order. Of this, we can be justly proud and humbly thankful. But like any modern, mobile community, we have our share of rusting autos that deface the landscape, enrage the observant, and devalue the worth of a very precious heritage.

The auto junk problem in Hawaii is probably not as extensive as the problem faced by many other communities throughout the country. However, with nearly 300,000 registered automobiles in the State, and with a rapidly growing population, the appearance of more and more rusting eyesores is a very real threat to a people so accustomed to a pleasant tropical environment.

What problems we have with auto junks are largely confined to Honolulu and its outskirts on the island of Oahu, for nearly 80 percent of the State's population reside and commute on Oahu. One problem is that our commercial auto wrecking facilities are too small to handle the increasing volume of auto wrecks and junks on a profitable basis. None of the dozen or so auto wreckers in operation has an incinerator large enough to burn the upholstery, glass, and paint before the "tin" can be baled and sold. As a result, most dealers salvage the auto parts and leave the bodies to rust.

We have a fairly large commercial baling facility with the capacity to squash one car a minute but the automatic baler is underfed for the price of a ton of auto scrap allows scarcely enough profit to make it worthwhile for an auto junk dealer to deliver a burned-out auto.

The Hawaiian Western Steel Co. operates an electric arc furnace which melts down 36,000 island autos a year. But according to the company's head melter, the furnace could use all the auto bales and scrap delivered to it. This company turns out 1 percent of the Nation's production of reinforcing steel rods.

Thus, one of the problems is business economics. We have the capacity to bale and melt down auto scraps into useful reinforcing rods but the income after towing, stripping, and burning out the nonmetallic parts of auto junks is scarcely above the cost.

There is also a problem of a legal nature. Our State laws require every auto to be registered. Hence, as long as legal registration is on file, no one can legally dispose of an abandoned junk without showing ownership. While the police are authorized to remove

autos abandoned on public property, they are now powerless to touch a junk sitting on private property. These personal collections of private auto junks are doing more harm to the beauty of the island than the commercial yards which are restricted to industrial zones. Much of our problem, therefore, is abandoned cars on private property which have been stripped down until it is no longer profitable to haul them to the scrap market.

Citizen and community response in the State for an immediate attack on this ugly problem has been very inspiring. Our daily newspapers have done much to awaken the people of Hawaii to the encroachment of derelict autos upon their living environment. One photograph of ugliness is indeed worth a thousand adjectives.

The city and county of Honolulu is at this very moment actively carrying out a city beautification program under the leadership of Mayor Neal Blaisdell and with the support of a citizens' action beautification committee. The police department is making a concerted drive to rid Oahu of derelict autos on public and private property. Within a month of this drive more than 100 abandoned autos on public property have been removed. The police are also taking an inventory of abandoned autos on private property; and the corporation counsel of the city and county is working on a method for legally removing abandoned cars from private property. The State attorney general is working closely with him in this area.

It might be of interest to you that the State fish and game division has been experimenting with the use of auto junks to create artificial shoals at sea. Old auto bodies would seem to make fine refuges and breeding sites for fish but the results of this experiment are as yet inconclusive. One problem which would need to be overcome is the cost of hauling the junks out to sea on barges.

In the final analysis, I believe the answer is to direct sufficient resources into the auto junk problem to insure the final disposal of a product which has lost all its usefulness and value to society. The cost of disposing of the mounting number of junks should be borne by every American, for who can say in this day and age that he has not contributed to the problem.

I wish you every success in your endeavor to place S. 2019 into law. I am sure Hawaii's representation in the Senate and House of Representatives will give this proposal serious and favorable consideration.

Warmest regards. May the Almighty be with you and yours always.

Sincerely,

JOHN A. BURNS,
Governor.

TOPEKA, KANS., *July 6, 1965.*

Hon. PAUL H. DOUGLAS,
U.S. Senate,
Joint Economic Committee,
Washington, D.C.

DEAR SENATOR DOUGLAS: Last month I received a request from you as to the extent of the automobile junk problem in Kansas. I am enclosing a copy of a letter I have received from the director of highways for Kansas which contains this information.

If I can be of any further assistance to you, please let me know.

Yours very truly,

WM. H. AVERY,
Governor.

TOPEKA, KANS.,
July 17, 1965.

The Honorable WILLIAM H. AVERY,
Governor of Kansas,
State House, Topeka, Kans.

DEAR GOVERNOR: This is in reply to your memorandum of June 14, with attached letter from Senator PAUL H. DOUGLAS, concerning excise taxes on automobiles and junkyards.

The State Highway Commission of Kansas has been working in cooperation with the Bureau of Public Roads in making a survey of existing automobile salvage and junkyards on the State highway system and considering plans for possible screening of such installations.

We find that there is a total of 310 such places on the 10,000-mile State highway system. Some of these can be screened for a reasonable expenditure of money, and others cannot. We are planning to do some screening work as funds are available at locations where it appears to be most feasible. The solution suggested in the bill introduced by Senator DOUGLAS might be the ultimate answer.

Sincerely,

ADDISON H. MESCHKE,
Director of Highways.

FRANKFORT, KY.,
June 15, 1965.

Hon. PAUL H. DOUGLAS,
Vice Chairman, Joint Economic Committee, Congress of the United States, Washington, D.C.

DEAR SENATOR DOUGLAS: In reply to your request of June 2, 1962, relating to S. 2019, which you introduced in the Senate, I am pleased to inform you that I think this bill is a step in the right direction. Kentucky passed a junkyard law in 1962 which requires a junkyard as defined therein to be screened from the view of motorists using the roads if such junkyard is within 2,000 feet of a county, State, or Federal road. Because of court proceedings, the enforcement of this law was delayed until July 1, 1964, and in the 11 months since that date, 479 permits have been issued after suitable screening has been provided. These permits represent 63 percent of the total of 758 junkyards still coming under the provisions of the law. In addition to the 758 junkyards still in existence, another 800 to 900 have been cleaned up as part of the enforcement of this law. However, it is my belief that a screening law is not the long run answer to the problem, but that, as your bill contemplates, some way must be found to dispose of the hulls of these dismantled vehicles.

I am enclosing a copy of Kentucky's junkyard law and, also, a copy of the report of the department of highways, whose responsibility it is to enforce this law.

If I can be of any further help to you, please call on me.

Sincerely,

EDWARD T. BREATHITT,
Governor.

BATON ROUGE, LA.,
June 9, 1965.

Hon. PAUL H. DOUGLAS,
Congress of the United States, Joint Economic Committee, Washington, D.C.

DEAR SENATOR DOUGLAS: This will acknowledge receipt of your letter with reference to S. 2019.

The problem which you mentioned is one which, frankly, never occurred to me. But now that you mentioned it, I find myself noticing the unsightly automobile junkpiles which you mentioned. Unfortunately, I have no reliable information as to the extent of the automobile junkpile problem in Louisiana. However, I will welcome your program and will be happy to cooperate in any manner.

Sincerely,

JOHN J. MCKEITHEN,
Governor, State of Louisiana.

ST. PAUL, MINN.,
June 17, 1965.

Hon. PAUL H. DOUGLAS,
Congress of the United States, Joint Economic Committee, Washington, D.C.

DEAR SENATOR DOUGLAS: Thank you for the copy and details of S. 209 which would divert into a special fund to help obliterate auto junkyards, a portion of the existing excise tax on automobiles. Such action, like any designed to provide new approaches to the task of screening or eliminating unsightly auto graveyards is to be highly commended.

Minnesota, like all other States, lists auto junkyards as one of the deterrents to its heritage of outdoor beauty. We have 408 such blights on our landscape and are moving on a number of fronts to combat this as well as other litter problems.

Our legislature passed, and I signed into law May 24, 1965, legislation designed to screen agricultural or construction machinery junkyards so as effectively to conceal such from the view of motorists using our highways. A copy of this act is attached for your information.

My concern for Minnesota's outdoor beauty led me, in December of last year, to appoint a committee to develop proposals for a formalized program. As a result of their recommendations, a statewide Governor's conference was held May 21 in St. Paul which resulted in establishment of "Keep Minnesota Clean & Scenic, Inc." This nonprofit organization is dedicated to stimulate, develop and coordinate a continuing educational program in Minnesota to cultivate individual interest and pride in cleaner, healthier, and more attractive surroundings.

I have every confidence that this new organization, working closely with our State and Federal agencies, schools, private industry and various groups, organizations and key individuals will be of great help to us in warring against ugliness in Minnesota.

Rest assured that we in Minnesota most warmly welcome such assistance that may enhance our local efforts through Federal legislation such as S.F. No. 1025.

With warmest personal regards, I remain

Sincerely yours,

KARL F. ROLVAAG,
Governor.

CONCORD, N.H.,
June 22, 1965.

Hon. PAUL H. DOUGLAS,
Vice Chairman, Joint Economic Committee, Congress of the United States, Senate Office Building, Washington, D.C.

DEAR SENATOR DOUGLAS: Thank you for your letter of June 2 outlining your plans to eliminate the eyesore of automobile junkyards.

This ever-increasing problem certainly justifies immediate action and your proposal diverting a portion of the existing excise tax on automobiles providing a special fund to combat the problem has my complete support. I do hope, however, that the word "burial" will be described in more detail. While this method would temporarily take care of the problem above ground it might ultimately create a larger one below. I would hope that by means of this special fund, the committee could investigate more absolute means of permanent disposal.

The steady rise of automobile junkyards here in New Hampshire, 72 at present, and those abandoned in streets and fields gives me increased cause for alarm. Existing laws and new legislation recently introduced, however strict, fall short of solving the entire problem.

In line with President Johnson's emphasis on beautification at the recent White House Conference, I am appointing a New Hampshire Committee on Natural Beauty whose responsibility it will be to study existing problems and find effective means with which to combat them. Automobile graveyards being one of their primary targets, it is most heartening to read of your endeavors.

To inform our representatives in Washington of my feelings on this matter, I am forwarding a copy of this letter to members of the New Hampshire congressional delegation.

Thank you for the opportunity to express the view of New Hampshire.

JOHN W. KING,
Governor.

BISMARCK, N. DAK.,
June 15, 1965.

Hon. PAUL H. DOUGLAS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR DOUGLAS: S. 2019 may not be the bill which ultimately controls the disposal of junk automobiles, but certainly it does point up the rapidly growing need to do something.

We notice the junk automobiles most dramatically on our Indian reservations. It has been said that, on one of our reservations, a person could almost walk from one side to the other by simply stepping from one junked automobile to the next.

There is absolutely nothing esthetic about an automobile which has lost its status and, therefore, its usability. The quicker we learn how to keep control of our own surroundings, the longer it will be before we must all wallow in the remnants of a questionable affluence.

I hope your bill receives serious consideration.

Sincerely yours,

WILLIAM L. GUY,
Governor.

DEPARTMENT OF HIGHWAYS,
Oklahoma City, Okla., June 17, 1965.

Hon. PAUL H. DOUGLAS,
U.S. Senator, Congress of the United States,
Washington, D.C.

DEAR SENATOR DOUGLAS: Your recent letter to Governor Bellmon concerning your proposal to eliminate auto junkyards has been referred to this office for reply.

The Oklahoma State Legislature has before it a bill for the screening of junkyards adjacent to highways. This bill was introduced in the house, passed that body and was sent to the senate. Several amendments were added by the senate. The bill is now in committee. The original proposal called for the location of all junkyards at least 50 feet back of the right-of-way line and required that they be screened from view. The final passage is doubtful at this time.

The idea of screening junkyards is strongly supported in most areas of the State; however, the means of implementing such legislation has been a subject of much discussion. Recent inventories show 612 such locations subject to screening on the Federal aid portions of our State highway system.

The department is unable to support this proposal in its present form since no provisions are made to finance the program. We estimate the cost of screening existing locations in excess of $650,000. We certainly recognize the desirability of such measures; however, we feel that a workable means of implementation must be included in any legislation bearing on the problem. This should include a practical method of funding and handling that would not present an added administrative or financial burden to highway agencies.

Your proposal has merit in this direction. If the administrative and financial problems can be reduced to a practical level by means of such legislation, we would have no hesitation in supporting such a measure.

Sincerely,

F. D. LYONS,
Director.

GREENSBORO, N.C.,
July 2, 1965.

Hon. PAUL H. DOUGLAS,
U.S. Senator From Illinois, Senate Office
Building, Washington, D.C.

DEAR SENATOR DOUGLAS: I appreciate your letter with which you enclosed a copy of a bill which you have introduced in the U.S. Senate to move against the growing number of auto junk piles across the face of our Nation.

While I do not feel qualified to suggest the method of financing such a program, I am heartily in favor of such a program.

It appears to me that a really effective program must be approached from the national level, and must provide for actual disposal or reclamation of junk. From our own experience and that of other cities in growing urban areas, zoning regulations or "moving the junk elsewhere" just do not work. The new location is soon the site of further urban development and the problem only recurs.

While the automobile junk problem is not particularly a problem within our present corporate limits, you can leave Greensboro in any direction and very quickly spot mammouth piles of such junk. I have no idea as to statistical volume of the problem but it certainly is sizable and I commend you for your efforts to cope with this on a national scale.

Very truly yours,

W. L. TROTTER, Jr.,
Mayor.

DISTRICT OF COLUMBIA CHARTER ACT

AMENDMENT NO. 360

Mr. MORSE submitted amendments, intended to be proposed by him, to the bill (S. 1118) to provide an elected mayor, city council, and nonvoting Delegate to the House of Representatives for the District of Columbia, and for other purposes, which were ordered to lie on the table and to be printed.

AMENDMENT NO. 361

Mr. DOMINICK proposed an amendment to Senate bill 1118, supra, which is pending.

ADDITIONAL COSPONSORS OF RESOLUTION

Under authority of the order of the Senate of July 12, 1965, the names of Mr. CARLSON, Mr. CASE, Mr. CLARK, Mr. COOPER, Mr. DODD, and Mr. MCCARTHY were added as additional cosponsors of the resolution (S. Res. 128) establishing a Commission for a Stronger Atlantic Union, submitted by Mr. CHURCH on July 12, 1965.

TOMORROW'S WITNESSES AT HEARING ON POPULATION CONTROL

Mr. GRUENING. Mr. President, the Government Operations Subcommittee on Foreign Aid Expenditures will continue hearings on the population explosion tomorrow at 10 a.m. in room 4200, New Senate Office Building. The hearing is open to the public, and I am certain that the witnesses scheduled to testify will have valuable contributions to make to the population dialog which is receiving increasingly serious attention.

Appearing before the Subcommittee on Foreign Aid Expenditures Wednesday will be a former colleague of ours, former U.S. Senator Kenneth Keating who now is the national chairman of the Population Crisis Committee.

The subcommittee will also hear from two Michigan residents: the Honorable John Martin of Grand Rapids, a former State senator and auditor general of that beautiful State, who has a long and continuing interest in solving the population crisis; and

Congressman JOHN CONYERS, of Michigan's First Congressional District, who has introduced H.R. 8430, a bill identical to S. 1676, on which the subcommittee is holding hearings. The purpose of S. 1676 is to coordinate and disseminate birth control information upon request.

Tomorrow will be a busy day for the subcommittee.

Mr. George Hecht of New York City, editor of Parents magazine and president of the American Parents Committee, will describe the growing needs of the schools, needs which multiply as the population explodes.

Dr. Gertrude S. Friedman of Washington, D.C., will appear as a witness of the Unitarian Universalist Association. Dr. Friedman will describe the work of the association overseas.

And I have just learned that it will be possible for Mrs. Gladys A. Tillett, of Charlotte, N.C., to testify tomorrow. Mrs. Tillett is well known for her outstanding work as the U.S. representative to the United Nations Commission on the Status of Women. She has asked the subcommittee for time to read into the hearing record on S. 1676 the text of an historic resolution on family planning which was passed by the Commission without dissent when it met in Tehran, Iran, last March. The subcommittee hopes that Mrs. Tillett with also have time to describe the importance of the resolution to women throughout the world.

In succeeding hearings the subcommittee will explore further the problems of education and resources. We will hear from distinguished members of the business community and the world of public affairs. We intend to learn from them and from demographers and theologians. We welcome all interested persons and hope they can join us in learning.

The hearing tomorrow starts at 10 a.m. The subcommittee will meet in room 4200, New Senate Office Building.

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

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

By Mr. DOUGLAS:

Address by Hon. Orville Freeman, Secretary of Agriculture, commemorating 50th anniversary of Cook County Forest Preserve, delivered at Chicago Zoological Park on June 27, 1965.

By Mr. SCOTT:

Statement by him; an editorial published in the Philadelphia Evening Bulletin; and also a statement by Colin W. Bell, executive secretary of the American Friends Service Committee, dealing with an undocumented charge against American Friends Service Committee.

BANKER OFF BASE

Mr. YOUNG of Ohio. Mr. President, when Senators and Representatives voted for the $4 billion excise tax cut they did

so with the understanding that manufacturers and merchants would pass this savings on to consumers. In his message to the Congress requesting this tax cut, President Johnson said:

To insure that the excise tax reductions make the maximum contribution to continued price stability and balanced prosperity, I call on American business to translate lower excise taxes promptly into lower retail prices for consumers.

Business will share fully in the benefits of excise tax cuts through the larger sales volume they will generate. Rising volume will boost profits and create more jobs.

It was felt at the time that American industrialists and businessmen could be trusted to comply with the President's request without troublesome Federal supervision of a formal nature. Businessmen and manufacturers would prosper with increased sales and profits as a result of more money in the pockets of American working men and women.

These excise taxes or sales taxes were regressive in their impact. Those who spent more of their income on consumer goods—generally those in the lower income bracket—paid the largest portion of these taxes.

It is now possible to examine to some degree whether the pledges made by leading businessmen and trade associations have been fulfilled. In many instances it has been proven that the tax cut has not been passed on to customers, although most manufacturers and merchants have either willingly or through the pressure of competition done so.

Those who have not have usually thought up one reason or another for evading a direct admission of that fact, unfortunately it took a cold-blooded banker from Ohio to announce violation of this moral obligation. A constituent recently sent me the following notice sent to him by Frank G. Anger, president of the Winters National Bank & Trust Co. of Dayton, Ohio. The notice reads as follows:

DEAR CUSTOMER: You will find that your bill for safety deposit rent is the same as last year.

Although the Government has removed the excise tax on your box, we have increased the cost of your box by an amount equal to the tax. Thus you will pay no more or less than last year.

We have taken this step because of increased personnel and operating costs and with the hope that it will inconvenience you less than an across-the-board increase.

Cordially yours,

FRANK G. ANGER, *President.*

WINTERS NATIONAL BANK & TRUST CO.

JULY 1, 1965.

I suspect that if this banker donated a pint of blood to the Red Cross, the patient who received it would freeze to death.

Mr. President, it is unfortunate that a banker in Ohio or any banker should stoop to violate a moral obligation and the expressed intent of Congress for additional profits for his bank. To me, this seems a greedy and unconscionable act. Evidently, officials of the Winters National Bank & Trust Co. believe that it is more important to make more dollars from rental to safety deposit box holders than to cooperate with their Government and with other businessmen in strengthening the economy of our Nation. It was also reported to me that this bank increased its assets by $18 million during the past 6 months of this year, this according to its statement of June 30, 1965.

Mr. President, if private business does not see fit to pass these savings on to the customer, consideration should be given to legislation which would require rebates to customers at least until the excise tax cuts have had the opportunity to stimulate the economy as was intended when they were enacted into law.

CAPTIVE NATIONS WEEK

Mr. DOMINICK. Mr. President, last week I had the opportunity of appearing before a conference in Denver to celebrate or to help celebrate Captive Nations Week.

"Captive nations" can sometimes be a misleading term. As Senators know, it refers to those people who formerly had their own form of government, and whose nations have been taken over through aggressive force by the Communists. It applies not only to the Soviet bloc in Eastern Europe but also to many of the subterritories of what is commonly known as Russia itself; it applies to the Cubans and to a good number of Asians who have been taken over by the Red Communists.

The main speaker at the meeting was my distinguished colleague from Colorado [Mr. ALLOTT], who delivered a stirring, graphic address on the subject of the tremendous force which the captive people make to the free world, showing clearly that, time and again, they are one of our great bulwarks against continued aggression by Communists, and that they are still fighting and will continue to fight for their own self-determination and individual freedom.

Because I thought this was a moving speech, I ask unanimous consent that the address delivered by Senator ALLOTT to the Captive Nations Council of Colorado, in Denver, on July 11, 1965, be printed at this point in the RECORD.

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

SPEECH OF SENATOR GORDON ALLOTT

America's recent hallowed holiday commemorating the signing of our Declaration of Independence has reaffirmed, as always, our belief in the innate dignity of all men. On that day we proudly proclaimed our dedication to the preservation of that most sacred of all quests, the quest for human freedom. With an appropriate note of nostalgia, eloquent orators inspired in every American both the pride and the humility that becomes a people whose forefathers founded a way of life which has become the symbol and the hope of all human aspirations. It was affirmed that man was the creator of the state, not its creature; that our forefathers, in the name of human liberty, had created a society which has endured for almost two centuries and which reveals the unlimited potential and grandeur of man.

However, did we become so hypnotized by the eloquent oratory that we forgot other men, with an equally fervent desire for human freedom, who are still laboring under the yoke of totalitarian slavery? Did we forget that Communist imperialism, with atrocities unprecedented in the annals of human history, has remorselessly and cruelly torn down the walls of law and human value painfully erected by man to protect his dignity and freedom?

Communism is the last inheritor and practitioner of a rule fully in the tradition of the Inquisition.

These ruthless despots—inheritors of the old order—can only perpetuate their existence by regimentation, tyranny, and control of every facet of every individual's life. They use terror like a weapon and stalk the world with that weapon. Nowhere has the use of this terrifying device been more apparent, more tragic, than in the history and cruel fate of the heroic peoples of the captive nations.

Twenty-five years ago, in a plot with Hitler's Germany, and behind the facade of a mutual defense assistance pact, Russian imperialism began to work its evil will upon the captive nations. The powerful Red Army quickly assumed control and followed that with an unprecedented policy of economic exploitation and slave labor. This was accompanied by a wholesale suppression of basic human rights and fundamental freedoms. By a cruelly cunning policy of selective slaughter, the process of denationalization was accelerated by seeking out the most courageous, educated, and industrious elements of society. By the elimination of such "elite" elements of each enslaved nation, the Communist "masters" were able to lower the morale and organizational capability in each case and start to work their will.

Yet, despite the cruel slaughter and the subsequent ringing down of the Iron Curtain, the light of freedom still burns. Time and time again the bankruptcy of the imperialist program has been proven by the courage and determination of both those within and those outside the boundaries of the captive nations. This costly, but courageous resistance is never-ending. The Russian failure to win any measurable support among the youth of the captive countries, despite 25 years of indoctrination clearly exposes a modern-day trojan-horse of ideology. More importantly, the ever-flowing current of national identity that courses through the veins of all the captive nations flows stronger than ever.

All the hopeful signs continue to attest to the success of this fight for human dignity within the enslaved nations. The publicity and wide approval of the program of the assembly of captive European nations, annually climaxed by the heartening events of Captive Nations Week strikes a powerful blow for freedom.

The Soviet Union's indignant outrage at our yearly rededication to the cause of human freedom in these enslaved countries vividly illustrates the effectiveness of such a crusade. By continuing to provide ammunition for the moral rearmament of over a hundred million enslaved people in an area encompassing over half a million square miles, the captive nations program capitalizes on an invincible weapon in the cold war, man's inherent desire for freedom and a nation's equally fervent desire for the right of self-determination.

In essence, then, our most powerful weapon against the world's last colonial empire is the idea of freedom and the independence that pervades the heart of every man and every nation.

Let me outline a few of the reasons that both morally and strategically dictate that we must continue—indeed, speedup—our verbal and political commitment to the freedom and the right of self-determination for the enslaved, oppressed peoples of central and eastern Europe. And to those who, like the masters of the Kremlin, maintain that the annual week which constitutes the week of captive nations is an empty, idealistic ritual—let me answer that a deep and abiding commitment to a noble purpose is pro-

ductive of far-reaching effects, as witnessed by the actions and events generated by the Declaration of Independence.

The Declaration of Independence started a new age. Its example set off a wave of revolutions which swept across Europe and into Imperial Russia. It excited the minds of all mankind. Today, even the Communist propagandists—no matter how cleverly distorted their definitions of freedom—are forced to use the language of our Declaration of Independence and of our Constitution. Let us remember that, for all the very real need for a strong defense and workable foreign policy, the real battle will be fought, not on land, sea, or air, or even space, but in the hearts and minds of men. In the immortal words of Abraham Lincoln: "Let us have faith that right makes might, and in that faith let us to the end dare to do our duty as we understand it."

Our duty, as I understand it, is to press forward toward the fulfillment of national independence, self-determination, and freedom for all men and all nations. When I, like millions of freemen everywhere in World War II, fought for freedom, I did not take the principles or commitments of the four freedoms or the Atlantic Charter lightly. Yet, the four freedoms and all other international agreements to which the Russians were a part, were soon made a mockery by tyrannical action on the part of the Communist regime. And, the captive peoples freedom, purchased at the cost of untold blood and sacrifice, flickered but a brief moment before it was swallowed by the ravenous Russian bear. Freedom was replaced by murder, mass arrests, and cruel persecutions. Russia's treacherous and brutal treatment of these brave peoples horrified all of us. Yet the Russian treachery does not, nor will it ever, absolve us of the free world's obligation to these heroic people. The captivity of these freedomless peoples must lie heavily upon the conscience of every freedom-loving American. We cannot ignore our historic commitment to over a hundred million people who have proven, time and again, their deep commitment to the very principles we cherish.

Yet there have been certain vocal elements of foreign policy who would have us believe that the Soviet policy toward the enslaved nations has "mellowed and liberalized." Adherents to such a soft line toward the Communists would have us tone down, by silence if nothing else, the intensity and volume of the support to the captive nations. Such silence would be but another form of acceptance of the status quo of central and eastern Europe. Silence is exactly what the Russians want.

Communism is a remorseless, crude, brutal, and dedicated enemy and will not be defeated, nor diminished, by silence. It will not crumble, nor collapse. It must be crushed; its intellectual and spiritual bankruptcy must be shown to all the world, and there is no better place to start than in the lands of the captive nations.

Because of their democratic heritage and the ever-burning light of freedom in their hearts, the captive nations constitute an "Achilles heel" in the anatomy of the Russian goliath.

We are all aware of the forces of disunity at work in the Soviet Empire. Russia is desperately trying to consolidate its teetering empire through a policy of economic interdependence and military acceleration. Moreover, Russia is trying, by subtle means, to play on the misuse the nationalistic desires of the captive nations. Yet not even the Russian propaganda mill has been able to significantly divert the course of true patriotic sentiment in the captive nations.

This genuine patriotism presents the Soviets with such a deep-seated problem, that despite all public disclaimers to the contrary, the Russians found it necessary to liquidate two Ukrainian nationalist leaders in exile. Now, by cloaking administrative changes in the garb of real liberalization policies she hopes to hoodwink both the captive nations and the outside world. This is the last in a long line of Russian deceptions. The intent of such Russian propaganda was aptly captured many years ago by Rudyard Kipling when he said:

"When he stands up as if pleading in wavering, manbrute guise;
When he veils the hate and cunning in his little swinish eyes;
When he shows as seeking quarter, with paws like hands in prayer;
That is the time of peril—the time of the Truce of the Bear."

The real truth is that the peoples of these enslaved countries remain captive while their unchosen rulers remain in power only under sanction of Soviet military might.

The result is a dissatisfied, and still intensely nationalistic population. And, it is one, of course, the Russians would hope to keep from the eyes of the world. The catastrophic results of socialism are obvious to even the casual observer. The once beautiful city of Prague, ornate with centuries-old Gothic and Baroque cathedrals, castles, and buildings is in shabby condition.

The sidewalks are broken, streets go unrepaired, cracked building walls expose masonry. Rubble is piled everywhere. In the midst of such decay, the people are turning away from Russian dominance and spiritual bankruptcy and seeking ties with the West with its abundance of material and spiritual sustenance. The picture of Prague is the picture of all the captive nations.

We cannot, in good conscience, remain silent and thereby guarantee the status quo of slavery for over 100 million freedom-loving people. We must not let Eastern Europe remain merely a long-range moral problem to be discussed abstractly by ivory tower intellectuals.

Instead, we must bring the denial of the right of self-determination of these 100 million people to the agenda of the United Nations. And, when it is there, we must not let the Soviet Union paralyze action. If we demand freedom from Portugal for Angola, from North Vietnam aggression for South Vietnam, we should do exactly the same thing for Europe. We should support a single standard for freedom throughout the world.

The painfully obvious capitivity of the Central and Eastern European nations, and the facts of their enslavement—is an embarrassment to the Soviet Union and, understandably, they prefer not to talk about them. Just as understandably, we should prefer to discuss them.

It is time to take the offensive. Moscow has a profound fear of growing free world knowledge and interest in the captive nations. Such interest and information helps to expose the current myth of Soviet mellowing. It also illuminates the depths of imperial totalitarianism and economic colonialism that characterize the Red Russian Empire. Only our most powerful weapon—truths, facts, and ideas—can counter effectively and defeat the Moscow worldwide propaganda campaign in Asia, Africa, the Middle East, and Latin America.

Aided by U.S. insistence, the Western Powers have complied with the majority wishes and have practically relinquished all of their control over Africa and other areas of former colonial influence. Into the immediate vacuum which follows, the Communist empire steps in to devour the new nations and thus turns the whole idea of freedom into a mockery. This is nothing new, I might add, for the Soviets have broken 50 of the 52 international agreements they have entered into since World War II.

Like a plague, Red imperialism, with unprecedented severity, continues its search for victims. Yet, if the United Nations could help to reveal that the terrible conditions in the captive nations continue unabated, despite the moral condemnation of the world, it would clearly illuminate for all to see that the Communist bloc, not the United States and the Western allies, are the real forces of imperialism.

As the specter of colonialism gradually evaporates under the intense heat of the rising suns of the new, emerging Afro-Asian nations, the grim shadow of Soviet imperialism in Central and Eastern Europe assumes an even more sinister hue. The regaining and maintenance of the initiative is indeed important. Since 1945 the Communists have succeeded in their efforts to confine, on the whole, the cold war to what they call the "war zone"—the non-Communist world—while keeping their so-called peace zone—the Communist bloc—virtually closed to Western intervention; and incidentally, closed to the ministrations of the United Nations. Thus the West, when it has won, has only maintained the status quo. The Communists, on the other hand, when they won, gained access to ground previously closed to them. Complementing the war zone—peace zone area of conflict has been the Communist propaganda effort. Thus they have managed to conjure up an image that somewhat resembles Dante's version of heaven and hell. An image that pictures the non-Communist world as the neither world of international conflict and colonialism, with the Communist world aglow with stability and peace. Thus the Communists have subverted freely into the West's zone while remaining untouchable in their so-called zone of peace.

The Hungarian revolt and its consequences is the most tragic acknowledgment of this sad state of affairs. By foisting upon the world the false notion that only those international disputes which originate in the relations of the West to the colonial areas are of worldwide interest, they have managed to manipulate the United Nations as a lever against the non-Communist world.

The logic behind such devious efforts is plain to see. By diverting the West's attention from the Soviet's shaky position in Eastern Europe to the underdeveloped and uncommitted nations where the swelling currents of anticolonialism and nationalism are, by their very nature, against the Western nations, the Communists cover up their "Achilles heel" of Eastern Europe. They are afraid to even discuss the Eastern Europe situation in an international forum because of the disastrous effects it might have in the satellite countries. They know full well that the captive nations' heritage and aspirations lie with the free world.

I deeply believe that now is the time to publicly proclaim that the Soviet efforts to forge its subject peoples into an united empire have failed.

Let us, through various means at different political, psychological, and moral levels, feed the forces of national identity and the quest for freedom that have bravely resisted the Communist oppression.

Let the Voice of America and Radio Free Europe increase the scope and tone of its message to the captive peoples.

Let us bring this blatant example of unprincipled imperialism before the United Nations and demand action based upon the principles to which that great organization is dedicated.

Yet, our words paying just tribute to these heroic peoples, must not outrun our deeds. Let us, by moral and political commitment, help to rekindle the flame of freedom that burns so brightly in our own Declaration of Independence. Our eternal quest for freedom—not only for ourselves, but for all the

peoples of the world must not merely endure, but rather must prevail.

Mr. CURTIS. Mr. President, we can have no more pointed reminder of our own freedoms and liberties than the brutal subjugation of lands which gave us so many of our most outstanding citizens.

In observing Captive Nations Week we in the United States salute the gallant peoples of these oppressed lands and pledge our enduring support of their efforts to rid themselves of the Soviet yoke.

These captive peoples possess their own customs, languages, and cultures. Through the centuries wars have raged across their lands and their territories have been partitioned and parceled, first by one and then another tyrannical authority. Their resources and their populations have been drained but despite all oppressions, the fierce desire for freedom has not been dimmed.

The ingrained longing for liberty often has led to dramatic—and perilous—individual efforts to flee the captors. Millions have fled for freedom from behind the Iron Curtain. Frequently, such flight is tragically prevented.

The Communist conquerors aim for more than conquest over the lands of these captive peoples; they seek also to break the spirit and consume the minds of the citizenry. Earlier tyrants were content with submissive actions, but the Communists demand servile minds.

Although their lands are occupied and their borders sealed off, the citizens of these captive nations are restive. To their courageous countrymen who have successfully escaped Soviet bondage, those still enslaved look for leadership in their struggle for freedom. We can do no less than lend our own encouragement to this effort. We must not abandon them.

Mr. BOGGS. Mr. President, the annual observance of the third week of July as Captive Nations Week serves to remind the world of the totalitarian yoke which the Soviet Union has imposed on the central and east European countries from the Baltic to the Black Sea.

As Americans living in freedom it is fitting that we should be especially sensitive to the plight of the Estonians, Latvians, Lithuanians, Poles, Czechoslovaks, Hungarians, Bulgarians, Rumanians, and East Germans living under tyranny. We should continue to do everything we can to see that their nations are returned to the status of free and independent countries. Admittedly progress has been slow, but the situation is far from hopeless as long as we exert all possible pressure to loosen their bonds of captivity.

Observance of Captive Nations Week is one important way of focusing attention on the situation in these countries, and the unhappy reaction of the Soviet Union to the designation of this week is evidence of the aptness of our action.

We wish we could do more, but at least we can do this, and I am sure all Americans share with me the hope that soon the observance of a Captive Nations Week will no longer be necessary.

TRIBUTE TO THE LATE CLEVELAND M. BAILEY, FORMER MEMBER OF CONGRESS FROM WEST VIRGINIA

Mr. BYRD of West Virginia. Mr. President, I have been saddened by the recent death of my friend and former colleague in the House of Representatives, Cleveland M. Bailey of West Virginia.

I am glad that he lived to see Congress pass the Elementary and Secondary Education Act of 1965, because it was legislation of this nature that he worked for many years to bring to reality. His dedicated and persistent efforts to provide greater educational opportunities to our Nation's schoolchildren had their roots in his own life.

Born on a farm near St. Marys in Pleasants County, W. Va., on July 15, 1886, he attended public schools within the Mountain State, studied at West Liberty State College, and eventually continued his college studies and received his degree from Geneva College at Beaver Falls, Pa. He returned to teach school in West Virginia, subsequently moving up to serve as high school principal in Clarksburg. Later he became a district supervisor of schools in that area; and, in 1921, he first served the people of his State in public office, having become a city councilman for Clarksburg. Among other positions which he held, he was an assistant editor on a Clarksburg newspaper, he was an assistant State auditor, and he served as State budget director during World War II.

He was elected as a Democratic Representative to the 79th Congress; and, although he failed of reelection to the 80th Congress, he was elected to the House of Representatives in the 81st Congress, and, subsequently, to each of five succeeding Congresses.

As a member of the House Education and Labor Committee, he continually exerted his influence toward more and better education for American students. In talking with a newspaper reporter earlier this year, he pointed out that the Secondary and Elementary Educational Act of 1965, as passed by the House, "is almost an exact replica of a bill which I introduced in 1940."

Congressman Bailey has been, justly, called the father of the impacted areas school program. In a recent letter to him, I wrote to congratulate him on having an elementary school in Midwest City, Okla., named for him—a school which had benefited from the Federal educational provisions set up for impacted areas.

I ask unanimous consent to have printed in the RECORD at this point an article from the May 11 edition of the Fairmont, W. Va., Times reporting on his trip to Oklahoma to be present for the dedication of this school which is located in proximity to Tinker Air Force Base.

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

[From the Fairmont (W. Va.) Times, May 11, 1965]

BAILEY HONORED BY OKLAHOMA SCHOOL

MIDWEST CITY, OKLA.—An elementary school named in honor of former West Virginia Congressman Cleveland Bailey will be dedicated here next Sunday, and Bailey will be on hand for the event.

Bailey, who once headed the House Education Committee, helped write legislation 15 years ago that provided Federal aid to school districts whose population is increased by reason of Federal employees stationed nearby.

Tinker Air Force Base is located here.

Mr. BYRD of West Virginia. Mr. President, many Americans will, in the future, be better educated, more productive citizens, because of the efforts of Cleveland M. Bailey toward having the Federal Government provide greater educational opportunities to the youth of our Nation.

THE SIXTH ANNUAL OBSERVANCE OF CAPTIVE NATIONS WEEK

Mr. DOUGLAS. Mr. President, in 1959 I introduced on the floor of the Senate a resolution to designate the third week in July as Captive Nations Week. In the 6 years since then Americans increasingly have become aware of the millions of people held in bondage behind the Iron and Bamboo Curtains. In eastern Europe, southeast Asia, and most recently in Cuba, men, women, and children once free like ourselves are denied the free exercise of constitutional and civil rights, the right to labor productively for themselves and their children, and the right to rejoice in a unique national heritage. I do not believe, however, that the people of the captive nations have lost their dedication to the ideals of freedom or their desire to see their own nations free and proud once more. We Americans should take it upon ourselves to see that the hope of eventual liberation is never abandoned by these captive peoples. This week, during the sixth anniversary of Captive Nations Week all of us should reaffirm our belief in the principles of freedom and renew the hope of eventually seeing the blessings of liberty secured for all mankind.

In recent years world history has been characterized by the rapid decline of colonialism and the emergence of new and independent nations. Under bold leadership these nations have taken their rightful place in the community of nations. But even as the ghost of colonialism was being laid in its grave, a greater menace arose to threaten the peoples of the world. The aggressive policies of the Soviet Union and of Communist China are now the greatest challenge to world freedom.

All over the world Communists have struck at free nations that have allowed their vigilance to relax. Using well-practiced techniques of direct military action and personal intimidation the Soviet Union has extended its control over once-free nations of eastern Europe, until today the U.S.S.R. has become the most powerful imperialist nation on earth. Russian armies have captured and enslaved the three Baltic countries, Poland, Czechoslovakia, Hungary, Rumania, and Bulgaria, and they exert a powerful influence over many other countries. Similarly, the Red Chinese are obviously on the march, and have their eyes on all of southeast Asia and possibly on India as well. Cuba and Vietnam are the most

recent examples of Communist expansion.

On the occasion of Captive Nations Week, however, Americans should not only recognize their duty to promote the cause of freedom within the captive nations, but should also be mindful of the contributions of the captive peoples to our own way of life. The greatness of the United States is founded on the talents of people of the most diverse racial, religious, and national backgrounds. Our country has been greatly enriched by the labor, skill, and culture of people who have come from now captive nations. Thus, Captive Nations Week renews our spiritual ties with the peoples of eastern and central Europe.

The observance of Captive Nations Week should also bring to mind other American responsibilities. We must do all that we can to foster the ultimate liberation of those people already enslaved, but we must also be on guard against further encroachments by the Communist powers.

The free nations of the world which look to the United States for leadership in the struggle against communism should know that our country stands firmly behind all nations that cherish freedom. If we slacken our stand against the Communist usurpation of power or recognize the present Communist domination as either permanent or right, we really deny both our heritage and our ideals. If we abandon the fight against tyranny, we also unwillingly betray the newly free and developing nations in Africa and Asia which will themselves have to stand firm against the encroachments of the Communist empire. The United States must continue her policy of helping and protecting young nations in their efforts to remain free and independent.

Our system of personal freedom and private initiative has made the United States the greatest nation on earth. The same powerful human aspirations that built our country are at work in the hearts and minds of the people of both the captive and newly independent nations. We must always remember that these people would never willingly choose slavery.

During Captive Nations Week the people of the United States should once again fully recognize and commit themselves to their responsibilities. Under no circumstances must we offer assistance or encouragement to governments that unjustly deny to the people their basic rights. We ought to do all we can, subject to responsible direction, to ease the sufferings of the unfortunate peoples of the captive nations and assist them in their just aspirations toward a better life. Our service can be invaluable also in providing food, clothing, and medical care, education, and eventually refuge and citizenship to the refugees from tyrannous Communist governments.

Our goal of freedom for the captive nations has at times seemed remote. Yet if other free nations join with the United States in pressing for action to aid the captive peoples, freedom may not be so far distant a goal.

To the end of gaining freedom and self-determination for all peoples under constitutional government and a life of liberty and self-fulfillment for all the citizens of the world, I am proud to join in the 6th annual observation of Captive Nations Week.

WIRETAPPING AND EAVESDROPPING

Mr. LONG of Missouri. Mr. President, recently, the President of the United States publicly stated his very strong opposition to wiretapping and eavesdropping. Needless to say, his support has been extremely helpful to the Subcommittee on Administrative Practice and Procedure which is investigating these subjects.

In this connection, the New York Times on Monday, July 19, 1965, printed a most illuminating editorial. I think it should be brought to the attention of all of my colleagues and I ask unanimous consent that it be printed in the RECORD.

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

[From the New York Times, July 19, 1965]

NO FEDERAL WIRETAPS

The corruption of values that goes with wiretapping and other forms of electronic eavesdropping is reflected in the reaction of some ranking Washington officials to the disclosure that Internal Revenue Service agents have been using illegal wiretaps to gather information for the Government's drive against organized crime.

Instead of deploring these breaches of law, the prevailing attitude among many top law enforcers seems to be one of irritation that a Senate investigation caused the Nation to learn of their use of outlaw methods to ferret out outlaws. "This will kill us," one high Justice Department official complained.

In the light of this strange unconcern for legal procedure by some whose sworn duty it is to foster respect for law, it is well that President Johnson has issued a ban against all wiretapping by Federal employees, except where national security is involved. Even this may prove too broad an exemption, despite the President's requirement that the specific approval of the Attorney General be obtained before any telephones are tapped for security reasons.

Apparently Mr. Johnson made known his opposition to wiretapping shortly after he took office in 1963. The country will hope that his present directive is taken more seriously than the one he issued then. Whether any form of electronic eavesdropping is not an unconstitutional invasion of privacy has become a very real question in the light of recent Supreme Court decisions. But, whatever doubts may persist on this score, the use of tactics that run directly counter to the prohibitions of the Federal Communications Act breeds contempt for law and thus undermines the interests of society.

FREEDOM AND RESPONSIBILITY—COMMENCEMENT DAY ADDRESS BY HARLLEE BRANCH AT HOWARD COLLEGE, BIRMINGHAM, ALA.

Mr. TALMADGE. Mr. President, at a time when crime is increasing at an alarming rate and when in many areas of the country there has been a virtual breakdown of law and order, it becomes more and more imperative that the American people take serious stock of the situation and rededicate themselves to the principle that with freedom goes responsibility and respect for constituted authority.

I have just had occasion to read an address delivered by Harllee Branch, Jr., of Atlanta, president of the Southern Co., in commencement exercises at Howard College at Birmingham, Ala., which eloquently and forcefully calls attention to this timely problem.

Mr. Branch, cautioning against the ill-advised counsel of those who would decide which laws should be obeyed and which should not, properly warns that "if each man becomes the judge of which laws he will obey, only the strongest will remain free."

Because of the timeliness of his remarks and because he has so ably stated a problem with which the American people must come to grips if the present trend of lawlessness and disrespect for authority is to be reversed, I ask unanimous consent that Mr. Branch's speech be printed in the RECORD.

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

FREEDOM AND RESPONSIBILITY

(By Harllee Branch, Jr.)

A friend of mine hearing that I was to be honored with a degree from this fine institution, sent me a jingle which goes:

"There was a Baptist divine named Tweedle
Who declined a doctor's degree.
He didn't mind being a Tweedle,
But he couldn't take Tweedle DD."

Well, I have no such concern. My only feeling is one of gratitude and humility for the honorary degree conferred upon me by the faculty and trustees of Howard College.

As I stand before you tonight, I am thinking of the late great William H. Brantley, one of my dearest and most esteemed friends—himself a devoted trustee and honorary alumnus of this institution. I learned much from that brilliant man, as did all who came in contact with him; and I have taken as the basic theme of my remarks tonight a comment he made to me shortly before his untimely death. He said to me, "The trouble with freedom is that everyone wants it but few understand what it means. Men talk incessantly of their rights in a free land. Few ever stop to think of their responsibilities."

I want to speak to you of freedom and responsibility.

One looks about him in this turbulent world, takes note of the disorderly and irresponsible conduct of men who profess to be devotees of freedom, and exclaims with Madam Roland—herself the guillotined victim of popular excesses she helped to inspire:

"O Liberty: What crimes are committed in thy name?"

Why will men not learn from history? How many governments must fall, how many civilizations crumble, how much human delusion must be endured before men will comprehend that lawlessness is the vehicle of anarchy, not of freedom?

"The freedom of some," said Edmund Burke, "is the freedom of the herd of swine that ran violently down a steep place into the sea and were drowned."

And he added: "The only liberty that is valuable is a liberty connected with order; that not only exists with order and virtue, but which cannot exist at all without them. It inheres in good and steady government, as in its substance and vital principles."

The right of dissent is a vital part of our American heritage, and indispensable to social progress. So also are the rights of petition and protest. But dissent, petition and protest must be responsible and they must be orderly. Otherwise they degenerate into lawlessness. In a civilized society defiance is not a valid substitute for debate. Civil disobedience—frivolously resorted to as a means of mocking and undermining the very situations which freemen have established for the redress of injury and the attainment of justice—is the handmaiden of revolt, not of orderly reform. It should be recognized for what it is and it ought not to be equated either with courage or with conscience merely because it professes a lofty purpose or because it makes a pretense of nonviolence. Orderly government can be destroyed by defiance and paralysis as surely as by armed rebellion.

The businessman who violates duly enacted statutes and regulations, though he considers them unjust, is not a friend of free enterprise.

The union boss who incites his followers to violence and vandalism or who encourages them to defy police regulations and court decrees to achieve goals he deems humane is not a friend of free labor.

The civil rights leader who urges defiance of one law to compel compliance with another; and the supporter of the status quo who takes the law into his own hands in order to maintain customs he believes to be wise—both are guilty of lawlessness and are enemies of freedom.

And the politicians, the judges, the clergymen, the professors, the journalists, and the timid citizens who condone disobedience of law—they, too, are guilty of crimes against human liberty.

The president of the American Bar Association has properly warned that "civil disobedience is a threat to the freedom of all men; and no end, however worthy, can ever justify reverting to unlawful means."

The courts and the legislative halls, he reminds us, must be the places where differences are reconciled and individual rights are protected. Mass disobedience as a form of protest, whatever the justification, is self-defeating and imperils human freedom. If each man becomes the judge of which laws he will obey, only the strongest will remain free.

I repeat: civil disobedience leads to anarchy and anarchy is the destroyer, not the promoter of freedom. For, as Carlyle observed, "anarchy is the choking, sweltering, deadly, and killing rule of no rule; the consecration of cupidity and the braying of folly, stupidity, and baseness in the affairs of men."

It is sheer sophistry, in my opinion, to argue as some have done that the precedent for the wave of civil disobedience now sweeping our country is to be found in the Boston Tea Party. One might as well seek justification in the pillage of the Versailles Palace or in the storming of the Bastille, for in each of those instances men were engaged in a last-ditch revolt against governments which had shown themselves to be unconcerned with and unresponsive to the rights and welfare of the rebels. There is no such barrier to legislative and judicial relief in this country. Indeed the very persons who have most frequently resorted to civil disobedience in our land are those whose petitions have been most generously received and most assiduously upheld by the Congress and the courts.

Those who refuse to yield to a lawfully established authority of which they disapprove, or who disobey valid laws and decrees merely because they consider them unjust, invite others to resort to similar defiance. Such defiance leads backward to the chaos of the jungle where men, though free from what they call the yoke of civil institutions, are nevertheless bound by other and more degrading chains.

The recent spread of defiance, disorder, and irresponsibility to college and university campuses should be a matter of especial concern to this audience.

I agree with Dr. Clifford Lord, newly inaugurated president of Hofstra University, that to the extent that the current campus unrest, is in truth, attributable to the students' sense of being machine processed—to their sense of facelessness, loss of identity, and lack of individuality—and to the extent that this unrest serves to restore the primacy of teaching and to refocus attention where it always should have been, namely, on the importance of the individual student, the unrest may not be without value.

But there is evidence that student revolt may not always be so wholesomely purposed. A leading periodical has asserted that Marxist-oriented radical groups—some of them so militant and so far to the left that even the American Communist Party disowns and deplores them—have established chapters on scores of American campuses. "The program of these groups is protest," says the aforementioned publication, "and they joy in tangling with the police." Graduate students, serving as teaching assistants, are leaders of radical organizations, some of which openly advocate civil disobedience and are reported to have even given instructions in violence to their members.

A youthful exile from one of these groups has confessed that some of his former associates "secretly plan to launch a reign of terror" in this country and to that end have joined in campus protests designed to translate every student grievance into a student demonstration. According to him, student strikes, rallies, sit-ins, and picketing are promoted as means "to get the students into a mood in which they can be led into a campus riot." Every issue, no matter how trivial, is used to stir up trouble, he says; the philosophy of the group leaders being that "any young person can be made into a revolutionary if he is led into a fracas with some authority symbol, especially the police."

A leadership thus committed to disorder and revolution is interested in friction, not in freedom, in the creation of confusion, not the achievement of conciliation, in the alienation, not the advancement, of mankind. Its cynical purpose is to take idealistic, humane, honest young men and women with "stars in their eyes" and, by exploiting their concerns and frustrations, convert them into undisciplined, irresponsible, and revolutionary robots defiant of even the most minimal of educational, social, and moral restraints.

A leading Negro educator, Dr. James M. Nabrit, Jr., of Washington, D.C., has warned his students to beware of radicals of the extreme left who seek to "cloak themselves in the mantle of civil righters and who plot and plan in secret to disrupt the fight for justice and full citizenship."

"These plotters," says Dr. Nabrit, "do not care about the Negro people. They do not love the university. They do not believe in civil rights for anyone. They thrive on dissension. They create mythical evils and invent issues but do not want solutions to problems. They are children of lawlessness and disciples of destruction. They must be unmasked for the frauds they are. They must be fought in every arena and they must not be permitted to prevail."

The young men and young women in this audience, and their counterparts on the campuses of other universities and colleges, have a right to be fed up with the affluence, the apathy, and the phony pretensions of many of their elders. They have a right to be disturbed by and disenchanted with the tawdriness, the superficiality, the callousness, the conformity, the senseless competitiveness, and the absence of true commitment which they encounter in so much of modern life. We, their parents and educators, should encourage them in their efforts to discover the real meaning of existence and in their questing for a truly compelling authority which will make freedom meaningful. However, it is up to us to see that their integrity is not compromised and that their idealism is not subverted by those who confuse license with liberty and revolution and anarchy with reform.

And how shall we go about that task? First, by giving them the opportunity to discuss their concerns and probe their aspirations with us. This they cannot do with a parent who reads only the market reports and the sports pages in the daily newspaper and whose only reaction to changing social pressures is a visceral reaction based on maintenance of the status quo; or with a teacher—no matter how brilliant—whom they see only in the formal environs of the lecture hall or the laboratory or on his way to the airport to fill an engagement with his publisher, or his TV or radio sponsor, or with a governmental agency or an industrial concern which has preempted his time and talents.

Secondly, we must see that these young men and young women have the opportunity to engage in free inquiry and in free expression not only on the campus but in society at large, so long as they exercise these freedoms for constructive purposes and in a responsible manner. I repeat what I said earlier: controversy is of the essence of freedom. Freedom to question, freedom to disagree and to defend that disagreement without let or hindrance—these are not only the inescapable requirements of academic life but indispensable attributes of the democratic society in which our youth hopefully will spend their lives.

To give our youth opportunities to train themselves in the arts of freedom does not mean that administrators and faculty should turn over to them the running of our colleges and universities; to permit them to engage in licentious, illegal and fanatical conduct—irrespective of whether their fanaticism is of the right-wing or left-wing variety. "No demagog wears a halo," says one thoughtful educator, "merely because he has not yet graduated from a university—or even because he has."

Dr. Buell Gallagher, of City College of New York, has properly pointed out that in encouraging freedom of inquiry and freedom of expression, we should distinguish between eristic and heuristic controversy. In eristic controversy, the arguer aims at victory rather than truth, he uses data not as material to be examined but as selected weapons of disputation. To the eristic arguer, persons cease to be individuals clothed in dignity; they become objects of personal attack and character assassination, because the eristic arguer makes the opponent his target. Heuristic controversy, on the other hand rests on mutual respect of the contending parties, never substitutes personal ridicule and vulgarities for frank statements of examined truth, is indifferent to the winning or losing of the argument, if only truth is served. Arrogance characterizes the eristic, while humility marks the heuristic. Where the eristic strikes a pose, takes a position and arrogantly defends it against all comers, the heuristic examines hypotheses, listens attentively to opposing views and is quite undisturbed if the results of the discussion bring him to a changed position. Heuristic controversy is the very essence of academic freedom, eristic controversy is its enemy and hence ought not to be tolerated in any segment of Academe—either among trustees, administrators, faculty, or students.

Finally, the elders of the Nation should set for our youth an example of concern and involvement. All that is needed for evil and extremism and injustice to gain the upper hand in a democracy such as ours is for decent and responsible citizens to re-

main silent and acquiescent. If parents and teachers are apathetic about the state of society—if they timidly retire to the sidelines or to their storm shelters while great social issues are being debated, they should not be surprised if their more concerned and idealistic sons and daughters are attracted by demagogs or revolutionaries. In the face of social crisis, apathy is as irresponsible as extremism.

I conclude with a simple plea: Let us, young and old alike, remember that freedom requires authority and demands responsibility; that true social and political progress cannot be achieved by defiant mobs whose only objective is to prevail or to paralyze, nor by revolutionaries who seek to tear down social, political, and educational institutions for which they have devised no adequate or superior substitutes. Let us constantly remind ourselves that the man or woman mature enough to deserve freedom must also be mature enough to exercise the self-discipline which is freedom's essential ingredient.

HAWAII PREPARES FOR VISITORS

Mr. INOUYE. Mr. President, the outstanding record of the 89th Congress is too well known in this august Chamber for me to review its achievements at this time.

My distinguished colleagues on both sides of the aisle have toiled diligently through the cold of winter, a nonexistent spring, and the boiler-room heat of a Washington summer without complaint.

There will be many such days before our task is done for 1965, but surely that final day will eventually be ours to savor. The thoughts of many of my colleagues will then wistfully turn to distant lands where legions of citizens devote their lifetimes ministrating to the needs and comforts of visitors from near and afar.

Hawaii has prepared well for these days ahead. Even now some 64 new resorts and hotels are now in various stages of building or planning. The July 23 issue of Time generously details the lengths to which Hawaii is going to make its new visitors happy. I earnestly hope that many of my colleagues will go there when the final gravel sounds and sample the wonders of our islands.

Mr. President, I ask unanimous consent that the article be printed in the RECORD in its entirety.

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

RESORTS—BUILDER'S PARADISE

Since Hawaii achieved statehood in 1959, the waves of tourism that wash its many beaches have reached almost tidal proportions. Visitors have increased by 75 percent in the past 6 years, and developers have rushed to capitalize on the bonanza. On four of Hawaii's major islands, some 64 resorts and hotels are now in various stages of building or planning. This week one of the biggest names in the resort business in another ocean makes his Pacific bow: Laurance Rockefeller will open his $15 million-plus Mauna Kea Beach Hotel complex on the big island of Hawaii.

$100,000 PER ROOM

A rare blend of innkeeper and conservationist, Rockefeller has until now specialized in the Caribbean, building quiet, out-of-the-way resorts on Bali-Ha'i beaches with 24-carat accommodations—Caneel Bay on St. John's, Little Dix Bay on Virgin Gorda, Dorado Beach in Puerto Rico. Mauna Kea may prove his biggest resort investment so far. Designed by Skidmore, Ownings & Merrill, the hotel is a tiered, four-story structure whose 154 rooms surround palm-filled inner courtyards. Guests with rooms facing west gaze out on a beach with sand the consistency of powdered sugar and water that has never known seaweed. Those to the east look out over an 18-hole golf course designed by Robert Trent Jones that Jack Nicklaus has described as "more fun to play than any course I know." Farther to the east stands Mauna Kea itself, whose 13,825-foot snow-capped crest makes it the tallest island mountain in the world.

The interiors are almost as spectacular. Not one to pinch pennies on the extras that make the difference, Rockefeller lined lobbies, corridors and courtyards with $90,000 worth of art objects, ranging from a 13th century Buddha head to colorful Hawaiian quilts. Although modest in size, the guest rooms ($28 to $48 a day) are sumptuously outfitted. All feature willow headboards from Milan, teak bedside tables, Thai bedspreads and framed collections of seashells, plus spacious balconies to sun on. Bathrooms have mirror walls, marble sink counters, built-in ice cube makers and overhead infrared lamps. A trilevel restaurant affords virtually every table a front-row view of the ocean. Rockefeller's total costs come to an astronomical $100,000 per room—a handsome bet on the hope that intelligent and affluent tourists will spend the extra effort to get to his faraway paradise rather than stop short at Waikiki Beach.

OTHER PLACES, OTHER BUILDERS

South of Rockefeller's Mauna Kea, California oil millionaire Johnno M. Jackson is opening Kona Village in September, which will consist of 130 cottages spread around a lagoon, each decorated and designed in Malayan, Fijian, Samoan or Tahitian style. Public facilities will be housed in an authentic long house built over the ruins of an old meeting house. Because a tortuous, 7-mile trail is all that connects the village with public highways and commercial airports, guests will have to be ferried in by private plane or boat.

All of the outer islands, which 10 years ago had only one hotel room for every four on Waikiki Beach, are bustling. On Kauai, the Sheraton Corp. of America is about to start spadework on a 200-room luxury hotel, and the foundations were recently begun for the 250-room Royale Gardens Hotel that will look out over the island's east coast. On Maui, the first 160 rooms of Kaanapali Hotel recently opened. Eventually, the hotel will cost $60 million and provide 2,500 rooms, three 18-hole golf courses, a shopping center, and convention facilities. Kapalua Beach north of Kaanapali is slated for four new 200- to 400-room resort hotels, one to be built by Hilton.

MORE ALOHA

Oahu developers are not sitting on their lanais. Five miles east of Waikiki the Hilton chain two winters ago opened a ten-story, 300-room monument to the American tourist. From its 2,500-pound crystal chandelier in the lobby to its cabana-rimmed oval swimming pool (60 feet from the ocean), it is a midsummer night's dream of opulence. Higher priced suites feature divided his and hers bathrooms, hers sporting an oversized bathtub, his a stall shower. Outside, porpoises frolic in a large garden pool shaded by trellises loaded down with bougainvillaea. As a finishing touch, the Kahala Hilton has opened its own heliport, which cuts the hops to Honolulu's airport from 40 to 10 minutes.

Equally lavish is the new 30-story Ilikai Hotel, which looms over Waikiki Beach. This towering, supercalifragilisticexpialidocious structure (Julie Andrews is now in residence) was built by Hawaiian Tycoon Chinn Ho and is described by him as having "more aloha per cubic foot than any other hotel in the world." It houses 509 condominium apartments and 506 hotel rooms, each of which commands a matchless view of Diamond Head or Koolau Range, and has its own kitchenette, complete with refrigerator, toaster, and coffeemaker.

Guests can come and go to their rooms via a glass-walled elevator suspended outside the building or sit by a musical fountain whose waters dance and change colors in harmony with piped-in music. Next project on Ho's agenda is a 5,000-acre development along the northwestern Makaha Beach (famed for its 30-foot surfing waves). When finished, it will comprise 4,000 hotel rooms, 5,000 homes, and a 36-hole golf course.

If the tourist estimates hold up and the new resorts pay off, thousands of Hawaiians will find themselves with a lot of cash on their hands. What will they do with it? Probably spend their vacation in Tokyo or New York City, just to get away from it all.

TED KENNEDY: COMING UP STRONG IN THE SENATE

Mr. CHURCH. Mr. President, few Senators have made such an important contribution to the Senate as has the junior Senator from Massachusetts [Mr. KENNEDY]. An excellent article by Joseph Roddy documenting Senator KENNEDY'S attributes appeared in the July 13 issue of Look magazine. I ask unanimous consent to have this article printed at this point in the RECORD.

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

[From Look, July 13, 1965]

TED KENNEDY ON HIS OWN: COMING UP STRONG IN THE SENATE

(By Joseph Roddy)

When he was sworn in as a U.S. Senator from Massachusetts for the 2 years of an unexpired term placed in family surplus, EDWARD MOORE KENNEDY was 30 years old. He was hardly less qualified than his two older brothers seemed when they took on the jobs they held then in Washington, D.C. John F. Kennedy had come into the White House over the objections of two living ex-Presidents and a retiring one, who said he was either too young for the job or would never be right for it. When he prevailed over their advice by the slenderest of margins, he disenchanted even close friends by appointing his brother ROBERT, an untried lawyer, to be the Nation's chief counsel. This familial back scratch he had the grace to top off with the quip that he only did it to give BOBBY some legal experience before he went into private practice. Yet 2 years later, when it was time for TEDDY, the youngest brother in Boston, to be transformed into the youngest Senator in Washington, ROBERT KENNEDY was looking like about the best, and certainly the most combative, Attorney General in the last 35 years. And John F. Kennedy was well on his way to establishing himself as the President who so honored intelligence and taste and the just uses of power in Government that every Chief Executive for years to come will expect to be measured beside him.

With that as the track history of unqualified Kennedys, the young Senator might easily have entered the Capitol's upper Chamber wrapped in the self-assurance that he could do more for the U.S. Senate than it was in any position to do for him. He was, however, spared that chance by an opinion bruited about Capitol Hill long before he arrived, that neither the Attorney General nor the President was as anxious to welcome another sibling to Washington as their father

had been to see another of his progeny installed there.

All who expected the worst from him were disappointed. As freshman lawmakers go, KENNEDY behaved impeccably. He answered quorum calls as if they were dinner bells, and he seldom interrupted distinguished solons in midoration. He was the model child of the Senate family, seen but not heard, and plainly anxious to learn the trade. Young men of his stripe in the Senate are expected to spend a lot of time there, presiding over the routine parliamentary moves by sitting in for the Vice President. KENNEDY was doing exactly that for Lyndon B. Johnson on a Friday afternoon in November the year before last when the very least of what happened was that the support was cut from under his career in the Senate.

A certain lassitude of the soul attended him in the bleak months that followed. There was his grief, to be sure, yet it could hardly have exceeded the Nation's, and much of the world's. But it was his singular torture to live with the idea that he was a Senator now only because there had been a President who was his brother. If it seemed unlikely that his lot in life could ever be worse, it soon was. Seven months later, he was pulled out of a demolished airplane about as close to dead as the living ever get. Once his survival was sure, the prospect of 6 months in Boston's New England Baptist Hospital drove TED KENNEDY to find out what he wanted most to do with his time. A long stretch in a hospital years before had been the germinal stage for John Kennedy's Presidential campaign. The youngest KENNEDY's choice was to fit himself in every possible way he could for the Senate job he already had. Professors he had done little to impress with his scholarliness when he was a Harvard man 10 years before were now his hospital guests, pressing books and ideas on him as they often had on the late President. The problem of getting reelected for a full 6-year term had to be coped with, and KENNEDY did all his running for that office from the inside of a Stryker frame. Without getting out of bed, he won with 1,130,000 votes, or three for himself to every one of his opponent's, which is the closest a Senate election in the State has ever come to unanimity. He was out of the hospital and made it with a cane to the first session of the 89th Congress on January 4 of this year.

Around Washington, the theorists divide on why the young man from Massachusetts seems so much more of a Senator now than he was in the last session. Some see a simple family obligation to make every possible power play to legislate the country into the shape John Kennedy envisioned it. Others extract from that general view the more precise notion that the New Frontier President's view of things to come included the fine day, or days, when one of his younger brothers, or both, would take the inaugural oath on the Capitol steps. In fitting that dynastic view of the Presidency to the Irish line of succession, the Kennedy brother up next would be ROBERT, the junior Senator from New York. But years of campaign-managing and emergency path-clearing for his older brother have left BOBBY unloved in places where feelings of guilt for that block are easily dissolved by affection for TED. When professionals in the dark arts of electioneering expound on this, they fall into an argot that joins the holy inquisition with show biz, and one of them probably spoke for many when he said, BOBBY's still anathema to the polls. They say, 'This new kid's the kid.' "

It could be, of course, that this new kid is much less concerned about his manifest destiny. He may be just showing his strength in the Senate now, one of his close friends feels, for a reason all younger brothers understand—namely, their universal determination, just for the brotherly fun of it, to spook the siblings who beat them into the world. BOBBY has a 7-year lead in life on TEDDY, but TEDDY is BOBBY's senior by 2 years in the Senate. TEDDY is bigger, but BOBBY is better known. When a crowd of schoolgirls surrounds TEDDY, the man under siege in the center of it all can usually hear girls at the edge shrieking "BOBBY" at him. To counter rebuffs of that sort takes cunning. When BOBBY was exhausted on the top of his first mountain, his Senate senior felt moved to congratulate the beginning climber in a statement for the press devoted mostly to an account of how TEDDY had climbed a much higher mountain years before. Probably neither of the brothers opens his head about anything substantial without first consulting the other. But because BOBBY is on the move a lot more than TEDDY, who is still on a cane, the junior Senator from Massachusetts likes to suggest that the junior Senator from New York is usually at the ballet, or the opera, or somebody's discotheque whenever he needs him most. Yet TEDDY pays for such asides. One night a while back, he was making his way with a noticeable limp across the street outside the Capitol when that voice he has known all his life called out from behind: "You mean you can walk that well and you're still hauling around with that phony cane?"

But a little of his Gallagher played to BOBBY's Shean goes a long way for a young man as serious about his work as TED KENNEDY is nowadays. Since the first of the year, he has introduced a bill to establish a West Point-like academy for the training of lawyers to defend and prosecute in criminal-law cases; he has pressed to abolish the national-origins quotas, which make it impossible for more than 308 Greeks, for one example, to immigrate to the United States in any year; he has proposed the establishment of a Teacher Corps to send seasoned instructors on Government salaries into areas of educational blight in the United States, and he is calling for Federal aid in redeveloping New England industry with a plan called Appalachia Northeast by critics in the Southwest.

KENNEDY's principal accomplishment has been managed from his new and very junior membership on the Senate Judiciary Committee, which has tugged and hauled in the past weeks at the provisions of the latest voting-rights bill. Over the objections inside the committee of its chairman, Senator JAMES O. EASTLAND, of Mississippi, and against the ever so clearly expressed urgings of the Senate Democratic Majority Leader MIKE MANSFIELD, of Montana, the Republican minority leader, Senator EVERETT MCKINLEY DIRKSEN, of Illinois, the new Attorney General Nicholas deBelleville Katzenbach and the White House, KENNEDY and a bipartisan majority of judiciary members set out to stiffen the voting rights bill by fitting it with the Kennedy amendment, an outright ban on the poll tax as a voting qualification in State and local elections.

KENNEDY's opponents in the Senate made the strangest consortium of bedfellows. Some solid voices of the Old South simply liked the poll tax and all it stood for, and were opposing the bill with or without the Kennedy amendment. Some, claiming to oppose poll taxes as ardently as KENNEDY did, held that a congressional ban at the local level was unconstitutional so long as article I empowers the States to set their own voting qualifications, and the 24th amendment forbids poll taxes only for Federal elections. Others claimed to be persuaded by the Attorney General's claim that the best way to have done altogether with the poll tax was to prove in the courts that it was still being used to deprive voters of their constitutional rights in the four States of Virginia, Mississippi, Alabama, and, perhaps most troublesomely, Texas, so dear to White House hearts.

In the weeks preceding, Lyndon Johnson had come down squarely on both sides of the argument. He told the Nation on TV that the poll tax should be banned, and he stood solidly behind his Attorney General, who was solidly opposed to KENNEDY's kind of ban. Texas Senator RALPH YARBOROUGH was won over to the ban after a long talk with the Senator from Massachusetts, but Texas Senator JOHN TOWER stayed opposed. Democratic liberal Senator EUGENE MCCARTHY, of Minnesota, opposed the amendment for the reasons the Attorney General advanced. Republican liberal Senator JOHN SHERMAN COOPER, of Kentucky, opposed it on constitutional grounds. Seventy-five lawyers and law professors, including the head of the U.S. Civil Rights Commission and Paul Freund of the Harvard Law School, backed KENNEDY's contention that Congress had the right to exact the law and that the Supreme Court would uphold it. That is the way Martin Luther King, Jr., saw it, too.

One of the unforeseeable benefits of the youngest KENNEDY's past courtesies to Senate seniors was that he might never have got as far as he did with his legislative fight if it had not been for the help of one of the poll tax's most intractable defenders, North Carolina's segregationist Senator SAM ERVIN, Jr. When ERVIN could not make one of the immigration committee hearings some weeks earlier, KENNEDY undertook to confront a witness with an assortment of leading questions turned the way ERVIN would have loaded them. Some weeks later, with the Judiciary in executive session and EASTLAND in a position to exercise some parliamentary legerdemain that would have plowed under KENNEDY's voting strength, it was ERVIN who came to the young Senator's support precisely when it would have been advantageous to remain silent.

Yet for all his senatorial courtesy, ERVIN's help was not to count. While KENNEDY and his cohorts were gathering their voting strength for the bill including the poll-tax ban, DIRKSEN, MANSFIELD, and Katzenbach simply wrote an altogether new bill, variously termed the Dirksenbach bill, or the Ev, Mike, and Nick substitute. It again omitted the poll-tax ban KENNEDY and his supporters had had the committee votes to command. The only tactic left for them was to carry the quarrel to the Senate floor, where KENNEDY was the spokesman for a pack of some 40 Senators, about 35 of them Democrats, who refused to follow the Democratic majority leader's lead. They called instead for passage of the Kennedy amendment banning poll taxes at every level, and even in the President's Texas. Seven more votes than the ones he already had promised to him were all KENNEDY needed to pull off the best Washington defiance act in years. He had a week to work over the few Senators open to argument, and it all began to seem like an assignment he had in California 5 years before, hustling for his brother's campaign. Out there, he failed by a close count to deliver Richard Nixon's home State to John Kennedy, but in the Senate, he came even closer for his own cause.

A few days before the vote, and just for the sake of giving his friend HUBERT HUMPHREY a restless night, KENNEDY assured him that a Senate tie was likely and that HUMPHREY's own vote would be the deciding one. The choice HUMPHREY would have had on his hands, in the unlikely event KENNEDY actually managed the tie, is the sort of choice every politician likes to avoid as much as a tax increase in election year. The inelegant option before HUMPHREY then would be between voting against the Kennedy amendment, which would be taken as a vote for the poll tax, or voting for the amendment, which would be a vote against Lyndon Johnson. Either way, HUMPHREY would lose. Either way, KENNEDY would win. Either he would be the Senator who floor-managed the final banning of the poll tax, or the one who put the administration on record as defending it. White House legislative aids could see that fate before

them just as well as KENNEDY seemed not to notice anything of the sort. "If we were really just trying to buck the White House," one of his friends noted, "We wouldn't have 10 votes." "On the contrary," another said, "if he were not crossing the administration on this, he wouldn't have all these Senators with him."

At 7 in the morning the day of the vote, HUMPHREY was on the phone with a Washington lawyer friend, urging him to sound out KENNEDY on the long-term advantages of withdrawing the amendment, instead of going down to defeat with it. By 10, KENNEDY had canvassed all the precincts and found that he was two votes short of the tie that was the best he hoped for.

At such times, the case for withdrawal or compromise can be a valid one. EVERETT DIRKSEN had told the young Senator earlier that his hard line on the poll tax might jeopardize the entire voting rights bill. But then the civil rights expert on the scene that morning felt that any Senator who voted against the amendment was not a friend of the Negro movement. One of the Senators supporting KENNEDY kept repeating that the case for compromise was that he found it very hard to feel like a winner when the vote showed him on the losing side. A lawyer with lines out all over Washington was sure the Supreme Court was ready to pounce on the poll tax the first chance it got, and that being the case, the Katzenbach theory was sound, and the compromise made sense. Churchmen on hand could see it both ways.

The junior Senator from Massachusetts could see it both ways, too, and probably even a third way that few others could manage. John Kennedy had a talent for conciliatory moves at the right moments when he was in the Senate, and he made some on the way to the White House as well as in it. At that late hour, TED KENNEDY could see that there were immediate and long-term advantages even for him in avoiding any vote that could ever be cited to make Senate liberals seem to be enemies of the civil rights movement. A young Senator not at all unaware that his name is mentioned every time presidential prospects are discussed would not like to put any of his friends in that fix. Their help would be nice to have when he wanted it most.

Nobody in KENNEDY'S office that morning was sure of what he was going to do when he rushed off with Michigan's Senator PHIL HART to the majority leader's office a half hour before the Senate met to vote. He may not even have been sure himself. And he need not have been, in fact, because MANSFIELD said it was too late to avoid the vote. Before it was taken, and while his brother sat as the Presiding Officer in the Senate, and his wife, a sister and a sister-in-law watched from the gallery, KENNEDY made a last call for converts to his cause.

On the Senate floor, it moved not one vote his way. Forty-five Senators stood by KENNEDY. Forty-nine stood against him. But probably every one of them was now sure that the KENNEDY they had never counted on for much before would have to be reckoned with from now on. A few days later, the Speaker of the House, 73-year-old JOHN MCCORMACK, dissociated himself from the administration's stand and endorsed the poll tax ban. If his view prevails, the House could force the Senate to suffer over the issue once again. If KENNEDY wins the second time around, he will have to thank the Speaker, the proud old uncle of Edward McCormack, Jr., in Boston, who wanted to be the Senator from Massachusetts in 1962 and who said KENNEDY was unfit for the job.

Even before he cut a new and arresting figure in Washington, EDWARD KENNEDY found himself being introduced at a fundraising dinner for the Kennedy Library as a future President of the United States. There seems to be no possible acknowledgment to that that he can make in public. He recognizes it as a tribute to his brother, whom he never speaks of except as "The President." But he still cannot find it in his heart to say that he does not wish to be the President himself someday. Until that matter comes to a vote, he walks in the large shadow of the brother who was his godfather and who once gave him a gift inscribed "the last shall be first."

The last will be doing a lot of handshaking in the meantime. The Senator's almost fixed state of cheeriness is a condition he seems on the edge of abandoning only when talk of "The President" goes on in his hearing. At a judiciary session one day, a witness tried to support the case for segregation with a passage from "Profiles in Courage." KENNEDY turned dark, but said nothing. The last days of debate on the KENNEDY amendment brought one Senator around to a defense of the poll tax because he felt that one dollar was not too much to pay for the privilege of voting. "I believe," he said, "we should always remember that it is not what your country can do for you, but what you can do for your country."

"I am familiar with those words," KENNEDY said, dark again. The way he said it suggested he would not expect to hear them that way again.

TRIBUTE TO ADLAI STEVENSON

Mr. YARBOROUGH. Mr. President, the man who followed the ideal of Abraham Lincoln has been laid to rest in the heart of Lincoln land, in Bloomington, Ill. As the world pays its last tributes of homage to this outstanding statesman, Adlai Stevenson has been returned to the place of his forebears. Illinois paid loving tribute to her great son, led by Governor Otto Kerner.

It is fitting destiny that the man who had risen beyond his birthplace to become a universal citizen, admired in the far reaches of the world and respected on every frontier, has now been laid to rest in the place from which he had come to grace the world. And it is proper that these records of the tributes paid him be recorded forever in the permanent archives of the Senate which confirmed him as Ambassador to the United Nations, and over which his grandfather Adlai E. Stevenson, Vice President, presided as President of the Senate.

As we join the citizens of the State of Illinois, and America, and the freedom-loving peoples throughout the world in honoring Adlai Stevenson in these final rites on earth, I ask unanimous consent that the accounts of these last services from the Washington Evening Star of July 19, the Washington Post of July 20, and the New York Times of July 20, be printed at this point in the RECORD.

In addition I ask unanimous consent that the article from the Washington Post, of July 17, 1965, describing the services held here in Washington, and the article from the New York Times of Sunday, July 18, reviewing the news of the week under the title "Adlai Stevenson" be printed in the RECORD.

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

[From the New York Times, July 20, 1965]

STEVENSON IS BURIED IN ILLINOIS CEREMONY

(By E. W. Kenworthy)

BLOOMINGTON, ILL., July 19.—Adlai E. Stevenson was buried here today near the graves of three generations of forebears who had played leading parts in the community since its beginning.

Standing by his graveside were his sons, his sister, old and loved friends, and the highest officers of the Nation he served—President Johnson, Vice President Humphrey, and Chief Justice Earl Warren.

The service in the Unitarian Church here was the third since the body of Ambassador Stevenson was brought back to the United States after his sudden death in London last Wednesday. On Friday there was a national service in the Washington Cathedral. On Saturday a state service was held in the rotunda of the State Capitol at Springfield, where Mr. Stevenson had served as the State's 33d Governor.

President and Mrs. Johnson flew here from Washington this morning. The Presidential jet landed at Chanute Air Force Base at Rantoul, 50 miles to the east of Bloomington. Then the President's party flew in three helicopters to the small airport here.

GREETED BY GOVERNOR

In the plane with the President and his wife were their daughter Luci; John Steinbeck, the novelist, and his wife; Justice and Mrs. Arthur J. Goldberg; Representative and Mrs. James Roosevelt, and three White House assistants—Jack Valenti, Richard Goodwin, and Horace Busby. The Steinbecks, friends of Mr. Stevenson, had been weekend guests of the President at Camp David, Md.

Gov. Otto Kerner, of Illinois, and W. Willard Wirtz, Secretary of Labor and an old friend of Mr. Stevenson, met the Presidential party at Chanute Field.

At the Bloomington Airport the President was met by Adlai E. Stevenson 3d, the eldest son of the U.S. Represenative at the United Nations and twice Democratic presidential candidate.

Vice President and Mrs. Humphrey flew in from his home State of Minnesota, where they had spent the weekend.

Several hundred persons had gathered at the Bloomington Airport. Hundreds more lined the roadsides into town. There was a smattering of applause at some points as the President passed.

The Presidential party drove directly to the old Stevenson home at 1316 East Washington Street, which is now maintained by Mrs. Stevenson's sister and her husband, Ernest Ives.

NEIGHBORS WATCH

The home where Adlai Stevenson and his sister grew up is a large, three-story frame house of cream-colored stucco with dark brown trim. It is set back from the street behind old maples, a large pine tree and several firs. On one wall is stained-glass stairway window, which was customary in the homes of the well-to-do at the turn of the century.

The President and Mrs. Johnson, Vice President and Mrs. Humphrey and Justices Warren and Goldberg were greeted on the porch by the Ives', and then signed the mourners' book.

Across the street hundreds of neighbors watched the Presidential party drive up. Again there was a smattering of applause, which visibly disturbed the President. Small boys were gathered on porch roofs the better to see the procession.

Although the arrival of the President's party with the attendant Secret Service agents and State troopers inevitably transformed the occasion from a private to a public one, there were still reminders of the old neighborly ways of a small town in time of sorrow.

For example, while the Presidential party was being escorted into the house, a couple in their 30's—William and Barbara Price—ducked through the shrubbery at the side of

the house and in the back door, carrying a tray of relishes for the buffet to be served after the funeral.

THE DRIVE TO THE CHURCH

Just before 11 o'clock, Central daylight saving time, the Stevenson family and the President's party got into their cars for the drive to the church.

The Unitarian Church, a small modern edifice, is on the edge of town, just where fields of corn and soybeans are yielding to suburbia. It stands on a rise of ground with a view of the town.

The sanctuary, which seats only 150, is formed on one long side by a curved wall of old, rose-colored brick. The opposite side is of wood paneling, surmounted by slats of glass in which blue, green, red and yellow panes have been set at intervals. In the morning light, these panes throw splotches of soft color on the brick wall opposite.

At the entrance of the church is a free-form, welded metal statue by Edward McCollough titled "Epiphany" and representing "the miracle of every moment."

The President and Mrs. Johnson, the Vice President and Mrs. Humphrey, and Chief Justice Warren sat in the front row on the left of the aisle; the Stevenson family sat on the right side. Luci Johnson, who appeared to be indisposed, sat in the next to the last row.

The Rev. Dr. Robert Reed, pastor of the church, read the call to worship—"In time of trouble the Lord shall hide Thee in His pavilion."

BIBLE VERSES READ

Then 21 selected members of the Children's Choir of the First Unitarian Church of Chicago, dressed in red robes, sang without accompaniment "O God, Our Help in Ages Past."

The Rev. Dr. Martin D. Hardin, a cousin of Mr. Stevenson, who is associate minister of the Presbyterian Church of Buffalo, read Biblical verses so often heard at funerals. These were the sixth chapter of Micah and the 90th, 130th and 23d Psalms, from the Old Testament were read. From the New Testament were read I Corinthians, xv, Romans, viii, II Corinthians, iv, Revelation, xxi-xxii, and John, xiv.

Dr. Reed then read brief selections from Mr. Stevenson's writings, including one from his last speech.

Dr. Dana McLean Greeley, president of the Unitarian Universalist Association, then read a tribute. He said that the mind of Mr. Stevenson was "extraordinarily free from prejudice;" that he realized that "change is not the great enemy of man, but violence is that enemy"; that Mr. Stevenson was "always the universal citizen" who was "not cowed by complexity."

The Children's Choir, which was made up of several races and nationalities, sang "The Parliament of Man," Tennyson's famous poem, set to a theme from Beethoven's Ninth Symphony.

The President appeared deeply moved by the service and when he and his wife came out of the sanctuary after the Stevenson family, there were tears in his eyes.

During the service the crowd of several hundred across the street from the church was decorous. There was no applause as the President got in his car and the cortege started for the cemetery.

The 3-mile route from the church to Evergreen Cemetery goes through the heart of the town. Thousands lined the way, and many took snapshots of the President's car.

At one point cars from a shopping center cut in front of the limousine carrying Governor Kerner, Mayor Richard Daley of Chicago, and Mrs. Ronald Tree, and old friend of Mr. Stevenson and one of his deputies in the U.S. delegation to the United Nations.

SIREN TURNED ON

The car was held up so long that the Governor had to order the siren turned on. The car leaped over a curb, swung around obstructing traffic and sped 50 miles an hour to catch up with the cortege at the entrance to the cemetery.

Several hundred townspeople were at the gates and several hundred more were inside but kept more than 100 yards from the grave.

Two peaked maroon canopies had been erected over the grave itself and about 50 folding chairs. Besides the family and the President's party, there were many friends of the family and government officials who had come in two buses.

The family sat in the front row facing the grave. The President sat immediately behind Mrs. Ives on the far right. In front of Mrs. Johnson on the President's left was Mr. Stevenson's son Borden and beside him the two other Stevenson sons—Adlai 3d, and John Fell—and their wives.

The day was hot and humid, but a faint breeze was stirring in the old maples and the locust trees.

Dr. Reed read a prayer of St. Francis of Assisi—a favorite of Mr. Stevenson—begining "Lord, make me an instrument of Your peace."

THE FLAG IS FOLDED

He then led the mourners in the Lord's Prayer. Just before the coffin was lowered into the grave, the military pallbearers folded the flag ceremonially and handed it to a Negro captain. He handed it to a white lieutenant colonel, who carried it about 20 yards to Mrs. Ives. After receiving it, she sat down and wept quietly, then turned and gave it to Borden.

After the burial, the Presidential party—except for the Humphreys, who had to leave earlier—returned to the Stevenson home for a cold buffet. Again the sidewalks were crowded all along the way and in front of the house but now there was no clapping. In all it was estimated that 54,000 saw the funeral procession and the President's arrival and departure.

The President and those returning on his plane to Washington left just before 2 o'clock.

Among the other dignitaries at the funeral were Senator and Mrs. Paul H. Douglas, of Illinois; Governor and Mrs. Edmund G. Brown, of California; Governor and Mrs. Karl Rolvaag, of Minnesota; Bill Mauldin, the cartoonist, and Mrs. Mauldin; Representative and Mrs. Sidney Yates, of Illinois; Ambassador and Mrs. William Blair; Newton Minow, former Federal Communications Commissioner, and Mrs. Minow.

The President's other daughter, Lynda Bird Johnson, and Secretary of Agriculture Orville L. Freeman and Mrs. Freeman, had planned to fly from Minnesota but were fogbound.

JOHNSONS RETURN

WASHINGTON, July 19.—President and Mrs. Johnson returned to the White House this afternoon. The White House plane touched down at Andrews Air Force Base at 4:54 p.m. The 15-mile trip to the White House was made by helicopter.

A MEMORIAL SERVICE

(By Austin C. Wehrwein)

NORMAL, ILL., July 19.—Adlai E. Stevenson and Dag Hammarskjold shared a deep personal religion that in the words of Mr. Hammarskjold was expressed as "We have all within us a center of stillness surrounded by silence." This statement was made today by the President of Illinois State University.

The educator, Dr. Richard Browne, an old friend and tennis partner of Mr. Stevenson, spoke at a memorial service in Horton Field House, attended by 4,000.

Dr. Browne recalled that Mr. Hammarskjold, the late Secretary General of the United Nations, had urged this principle: "To say yes to life is at one and the same time to say yes to oneself."

Dr. Browne continued:

"These are the words of Adlai Stevenson's friend—Dag Hammarskjold, whose life, he wrote, had meaning because he had said yes to the call to public service, to the service of mankind."

Dr. Browne said Mr. Stevenson had also said "yes" to public service and to the United Nations in the "endless, almost hopeless, search for peace."

And, he went on, Mr. Stevenson said "yes" to the calls of this community, to the university, and to education everywhere.

Normal is the twin city of Bloomington, and it had special meaning to Mr. Stevenson, his friends said. They recalled that Mr. Stevenson's great-grandfather, Jesse Fell, was a founder of what was then Illinois State Normal University. It was the first State university and it was founded in 1857. Later what became the city of Normal was chartered, and it has been celebrating its centennial the last few days.

"Adlai Stevenson's affection for this community never wavered," Dr. Browne said, even though he was a statesman for all the world. The educator continued:

"Speaking once in Bloomington, he responded to his introduction by saying, 'There has been a lot of flattering talk on the theme of "hometown boy makes good." It ought to be the other way around—"good hometown makes boy." ' "

[From the Washington (D.C.) Evening Star, July 19, 1965]

JOHNSONS, HUMPHREYS ATTEND STEVENSON RITES

(By Paul Hope)

BLOOMINGTON, ILL.—Final rites for Adlai E. Stevenson were held here today in the hometown of his boyhood, attended by home folks and national dignitaries.

President Johnson flew in this morning from Washington to attend rites at the Unitarian Church where Stevenson was a member. The President and Vice President HUMPHREY also were at the graveside services, at the request of the family.

Thousands lined the street as a presidential motorcade moved from Bloomington's airport to the home in which Stevenson used to live and which is now occupied by his sister and her husband, Mr. and Mrs. Ernest Ives.

The President met with members of the family for a few minutes at the home and then went in a motorcade to the Unitarian Church where several hundred pressed against fences and ropes put up by police to keep spectators off the churchyard.

Stevenson, 65, twice the Democratic nominee for President, died of a heart attack Wednesday in London.

Accompanying the President was Mrs. Johnson and their daughter, Luci, Mrs. Humphrey, and several others, including Author and Mrs. John Steinbeck, who spent the weekend with the Johnsons at Camp David in Maryland.

Supreme Court Justice and Mrs. Arthur Goldberg, several White House staffers, and Representative and Mrs. James Roosevelt, Democrat, of California, also flew to Illinois with the President.

Among other dignitaries present were Supreme Court Chief Justice Earl Warren, Secretary of Labor Willard Wirtz, and U.S. Court of Appeals Judge Carl McGowan of the District of Columbia, a close friend who gave the eulogy at National Cathedral services Friday.

At the entrance to the Unitarian Church was a sign containing a Stevenson quotation: "Freedom * * * is a plant which grows only

from knowledge. It must be watered with faith."

At the airport earlier to greet President and Mrs. Johnson were Adlai Stevenson, III, eldest son of the Ambassador, and his brother, Borden.

Inside the church, Johnson sat in a front row along with Mrs. Johnson, Mrs. Humphrey and the Vice President.

The Stevenson family sat on the opposite side of the aisle. In front was the casket, draped with the U.S. flag.

Ten or twelve floral pieces were at the front of the sanctuary, including a wreath from the Johnsons.

Although the church was small, invitations were so strictly limited that there were a few empty seats, including a completely empty pew. It was a warm, humid day in Bloomington and the inside of the church was hot and steamy.

Mourners in the severely simple chancel of the church and in an adjoining room included Mayor Richard J. Daley, of Chicago, Gov. Otto Kerner, of Illinois, Senator PAUL H. DOUGLAS, Agriculture Secretary Orville Freeman, and Justice Arthur Goldberg, and Stevenson's longtime friend William McCormick Blair, now Ambassador to the Philippines.

Stevenson was buried in the family plot amid the towering trees of Evergreen Park Cemetery.

His family and friends and national figures headed by President Johnson stood under two maroon tents that had been erected over the plot.

Thousands of men, women, and children stood—some for hours—in the heat and humidity while waiting to catch a glimpse of the cortege and the notables who rode in it.

Police Lt. Harold Bosshart estimated that 60,000 persons saw the procession at the Unitarian Church or somewhere along the 2-mile route between there and the 112-year-old burial ground.

The Bloomington Daily Pantagraph paid tribute to Stevenson today in an editorial and said that even though he was a principal owner of the paper he never attempted to exercise editorial control over it.

"He took every precaution to insure the integrity and independence of the newspaper," the editorial said. "Not once during his entire public life did Mr. Stevenson ask for editorial support or for special treatment in the news columns of this newspaper."

"He neither sought to control nor did he control the paper's policies, which at times were at variance with his own views."

The Pantagraph did not endorse him in 1952 for presidency, but it did support him in 1956.

"While deeply hurt that it remained neutral and did not endorse him in 1952, Mr. Stevenson kept his peace," the editorial said.

It noted that in 1948, when Stevenson was running for Governor of Illinois, the Pantagraph opposed the election of Democrat PAUL DOUGLAS to the Senate. Stevenson wrote a letter to the editor stating his disagreement with the paper's opposition to DOUGLAS and the letter was duly printed along with others in the letters to the editor column.

Some stores in Blomington shut during the morning so employees could attend a community service in the Horton Fieldhouse of Illinois State University, which was enlarged to accommodate 9,000.

"VOICE OF REASON"

Dr. Richard Browne, executive director of the Illinois board of higher education, told the crowd there that Stevenson was a "statesman for all the world."

As the Ambassador to the United Nations, he said, "he became not only the spokesman of this country but the voice of peace and reason for all the peoples of the world."

Jerald Johnson, of Ottawa, Ill., president of the university student senate, brought a youthful note to the community service. He said Stevenson never stopped trying to reach the "goals of youthful idealism."

"All his life he kept growing." He praised Stevenson for setting an example "for my generation."

Police blocked off streets along the route from the church to 112-year-old Evergreen Memorial Cemetery.

[From the Washington Post, July 20, 1965]

PRESIDENT AND DIGNITARIES MOURN AT STEVENSON'S HOMETOWN BURIAL

(By Carroll Kilpatrick)

BLOOMINGTON, ILL., July 19.—Adlai E. Stevenson was buried here today near his childhood home after final religion services in the Bloomington Unitarian Church.

Led by the President and Mrs. Johnson, the mourners followed Stevenson's body to the Stevenson family plot in Evergreen Memorial Cemetery for the last rites.

The former Governor of Illinois, who was Ambassador to the United Nations when he died last week, was laid to rest in the Illinois prairies near his grandfather, for whom he was named and who was Vice President of the United States under Grover Cleveland.

FINAL TRIBUTE

"Here in the community and church of his childhood and of lifelong associations, we pay to Governor Stevenson our most intimate and final tribute, in a time of lasting bereavement for all mankind," the Reverend Dr. Danna McLean Greely, president of the Unitarian Universalist Association, said in a eulogy at the church.

The President and his wife flew here this morning from Washington. On arrival, they drove to the Stevenson home, where Stevenson's sister, Mrs. Ernest Ives and her husband now live.

He returned to the home to lunch with the family, at Mrs. Ives' invitation, before starting the trip back to the Nation's Capital.

The UPI reported that Mr. Johnson dabbed at his eyes on his arrival at the home where Stevenson grew up. He was distressed at applause for him from children and others gathered around the home and, before returning after the burial, sent word asking that there be no applause.

Vice President and Mrs. Hubert H. Humphrey and Chief Justice Earl Warren also attended the services with members of the family and made the call at the Ives' home.

Among the others here for services were Secretary of Labor W. Willard Wirtz; Gov. Otto Kerner, of Illinois; Senator PAUL H. DOUGLAS, of Illinois; Mayor Richard J. Daley, of Chicago, Gov. Edmund G. Brown, of California; and Gov. Karl Rolvaag, of Minnesota; Justice and Mrs. Arthur Goldberg; Representative and Mrs. James Roosevelt; Mr. and Mrs. John Steinbeck; and Marietta Tree, Ambassador to the U.S. Trusteeship Council.

Stevenson's body was brought here yesterday from the State capitol in Springfield. Thousands of persons turned out to watch the procession today and to catch a glimpse of the President.

FUNERAL SERVICES

The Reverend Robert Reed, pastor of the Unitarian Church, conducted the funeral services. He was assisted by Dr. Greeley and the Reverend Martin D. Hardin, associate minister of the Westminister Presbyterian Church in Buffalo, N.Y. The latter is a relative of Stevenson.

There were about 150 persons crowded into the church for the services. Another 200 were in adjoining rooms.

Stevenson spent his youth in Bloomington and attended public schools here. His father, Lewis Green Stevenson, was an executive of Hearst newspapers and owned extensive farmlands in this rich farm State.

The former U.N. Ambassador and twice candidate for President was the principal stockholder in the Bloomington Daily Pantagraph, a Republican newspaper that refused to support him in 1952.

Today's Daily Pantagraph, for which Stevenson worked as a youth, offered an explanation of its action in 1952, which created nationwide attention at the time.

Stevenson was a "principal owner" but he did not hold a majority of the stock, the Pantagraph said.

"He was for years a director and vice president of the corporation," it said. "Voluntarily he removed himself from both positions when he began to make public life his career. He took every precaution to ensure the integrity and independence of the newspaper.

"Not once during his entire public life did Mr. Stevenson ask for editorial support or for special treatment in the news columns of this newspaper.

"The Pantagraph enthusiastically endorsed Mr. Stevenson for Governor in 1948. While deeply hurt that it remained neutral and did not endorse him in 1952, Mr. Stevenson kept his peace."

In his eulogy, Dr. Greeley called Stevenson "the universal citizen." He said:

"We salute him for his modesty and his ambition, for his ability and his affability, for his wisdom and his wit, and for his failures and his successes.

"His mind was extraordinarily free from prejudice and subservient to the truth. If at times he seemed to take longer to make decisions it was because he sought the moral context for the workable answer."

After the graveside service, the flag that had covered Stevenson's casket was handed to Mrs. Ives.

RETURN TO WASHINGTON

Following the funeral, according to the Associated Press, the Johnsons left Bloomington at 2:10 CDT for their return to Washington. A helicopter took them on the 50-mile flight from Bloomington to Chanute Air Force Base in Rantoul, Ill.

At Rantoul the Johnsons transferred to a jet plane for the trip to the Capital.

[The White House plane touched down at Andrews Air Force Base at 4:54 p.m. EDT.]

[From the Washington Post, July 17, 1965]

NOTABLES FROM ACROSS THE WORLD PAY HOMAGE TO STEVENSON HERE

(By Carroll Kilpatrick)

President and Mrs. Johnson and representatives of almost every nation in the world paid homage to Adlai E. Stevenson yesterday at services in Washington Cathedral.

With the great church crowded with Mr. Stevenson's friends, Judge Carl McGowan, an old friend who is now on the Court of Appeals for the District of Columbia, concluded the eulogy with these words:

"He died as he would have wished, engaged in his country's business and mankind's.

"We are a vast company—we friends of Adlai Stevenson," McGowan said. "In his case, the word 'friend' has a staggering sweep."

Many who never met the Illinois leader thought of him as a friend, and many of these passed his coffin Thursday night and Friday morning as it rested in the cathedral's Bethlehem chapel.

Before the 11 a.m. services began, the flag-draped coffin was taken to the nave of the cathedral, where it remained during the simple Presbyterian service.

The Reverend Richard Paul Graebel, pastor of First Presbyterian Church of Springfield, Ill., another old friend, officiated. He was assisted by the Reverend Dr. Duncan Howlett, minister of All Souls' Unitarian Church here, and Chicago attorney Edward D. McDougal, Jr. They read Bible selections.

The 65-year-old Stevenson, twice a candidate for the Presidency, once Governor of his

State, and most recently his country's Ambassador to the United Nations and a member of the Cabinet, died in London Wednesday of an unexpected and massive heart attack.

His body was flown to Washington Thursday on President Johnson's plane with Vice President Humphrey leading the official delegation accompanying it.

After the services here, the body was flown to Springfield, Ill., where it will lie in the Illinois statehouse. A private burial will be held Monday in Bloomington.

Vice President Humphrey, who attended the services with his wife, accompanied the body to Andrews Air Force Base for the flight to Illinois.

It was announced later that the Vice President would attend the final services in Bloomington Monday.

In London, the American Embassy said that a coroner's report confirmed that Mr. Stevenson died of a coronary thrombosis—a blockage of the arteries of the heart.

Members of the Stevenson family at the services included Mr. and Mrs. Adlai E. Stevenson, Jr., Borden Stevenson, Mr. and Mrs. John Fell Stevenson, Mr. and Mrs. Timothy Ives, a sister, and Lady Spear, an aunt.

William Blair, Ambassador to the Philippines and a former law partner of Ambassador Stevenson, flew from Manila for the services.

A large number of Ambassadors to the United Nations came from New York for the funeral services.

Republicans and Democrats from House and Senate attended, as did members of Washington's diplomatic corps, members of the Cabinet, leaders of the armed services, and a host of friends of the eloquent Stevenson.

Early this year, Ambassador Stevenson had last visited the cathedral to deliver a eulogy for another great leader, Sir Winston Churchill.

"OUR WORLD IS POORER"

At that time, he expressed the country's sadness over the death of the great Englishman in these words:

"We shall hear no longer the remembered eloquence and wit, the courage and defiance, the robust serenity of indomitable faith. Our world is thus poorer, our political dialog is diminished, and the sources of public inspiration run more thinly for all of us."

During the services the cathedral choir sang Ralph Vaughan Williams' "Let Us Now Praise Famous Men."

The congregation joined in singing two of Stevenson's favorite hymns: "O God Our Help in Ages Past," and "The Battle Hymn of the Republic."

President and Mrs. Johnson sat in the front row during the services with their daughter Luci and Vice President and Mrs. Humphrey.

After the benediction, the congregation sang the national anthem, and the casket was carried from the church as the Bourdon bell tolled.

Members of the Joint Chiefs of Staff led the procession, and the President, the Vice President, members of the Stevenson family, members of the Cabinet and close friends followed.

FEW FLORAL PIECES DISPLAYED

While eight servicemen placed the coffin in the Arlington Cemetery hearse, the President and other leaders stood at the top of the first row of steps beneath the north transept.

There were only a few floral pieces on display. These were from the President, the Chief Justice and Mrs. Earl Warren, the Princeton Club of Washington, the mayor and city council of Miami Beach, the officers and enlisted men of the U.S. Coast Guard, the Permanent Mission of Senegal, the Roosevelt family, and Sadruddin Aga Khan.

In the eulogy, McGowan said that the hurt of his friend's death "is deep—and no one of us is too old to cry."

That was a reminder of Governor Stevenson's comment after his defeat in 1952. At that time, the Democratic candidate for President recalled Lincoln's story of the boy who stubbed his toe in the dark and said he was too old to cry but that it hurt too much to laugh.

"NOW A LEGEND"

"Many have asked how it was that a man of Governor Stevenson's sensibilities could have intruded himself into the dust and heat of politics," McGowan said. "We may think, I believe, that it was simply his joyous response to one of his deepest instincts—that for public service.

"He knew that the greatest opportunities for effective public service lie in elective office."

McGowan said that the Stevenson story "has now become a legend. The glories of it are many, but none shines more brightly than the sight of him putting to work at the United Nations the very qualities which rocketed him to the foreground of domestic politics.

"It was as if he were fated to move through personal disappointment to the very center of the problems that assail all people, and upon which depend the survival of civilization itself."

McGowan recalled that in one of the last of his "magnificent speeches" Mr. Stevenson said: "for all our desperate dangers, I do not believe, in the words of Winston Churchill, 'that God has despaired of His children'."

[From the New York (N.Y.) Times, July 18, 1965]

ADLAI STEVENSON

He had said he would "rather not" be President. But when the Democratic Party's nomination in 1952 was thrust on him from the convention floor, Adlai Ewing Stevenson accepted it with a pledge to "talk sense to the American people * * tell them [that] there are no gains without pains, that we are now on the eve of great decisions, not easy decisions. * * *"

He did so in his campaign, with a candor on sensitive topics that probably cost him votes, and he threw in wit as well. ("If the Republicans stop telling lies about us, we will stop telling the truth about them.") He lost—some said because he was too urbane for the masses, but mainly, observers agreed, because his war-hero opponent, Dwight D. Eisenhower, was a shoo-in.

"I am content," said the defeated Mr. Stevenson. "I have said what I meant and meant what I said. * * * No man can do more and you are entitled to no less." Then came the humorous twist that was part of his style. He felt, he told a television audience, like the little boy in one of Abraham Lincoln's stories "who had stubbed his toe in the dark. He said he was too old to cry, but it hurt too much to laugh."

Nominated by the Democrats again in 1956, and defeated by President Eisenhower by an even wider margin, he told a group of Stevenson volunteers to "be of good cheer. Remember * * * that a wise man said 'A merry heart doeth good like a medicine but a broken spirit dryeth the bones.'"

Adlai Stevenson, former Governor of Illinois, grandson and namesake of a Vice President of the United States (who held the office in Grover Cleveland's second administration), and descendant of a family with roots in the Revolutionary War, returned to the practice of law, a national figure grown great in defeat. His admirers felt he had brought a new sense of purpose and dedication to the U.S. political scene, and stood in the world at large for the idealistic and visionary qualities in the American character that the world liked best.

But when some in the party wanted to make him the Democratic standard bearer again in 1960, he vacillated until it was too late, and the post of Secretary of State which he wanted in the Kennedy Cabinet (more than he wanted the Presidency, some said) was denied him. He accepted the position of chief U.S. delegate to the United Nations instead.

There he spoke for the United States—gracefully, often eloquently, sometimes dramatically. Yet, almost from the outset, there were reports that he was not completely happy with his U.N. job.

"I have sometimes been a little restless," he conceded in an interview earlier this year, "in this role of executing and articulating the policies of others." Rumor was that the restlessness involved reservations over some of the policies—the Bay of Pigs invasion, when he was misled by his own Government into denying any U.S. responsibility in the attack, and some aspects of President Johnson's actions in Vietnam and the Dominican Republic.

He talked privately to friends about resigning. Some gained the impressions that he was serving more out of patriotism than conviction, fearing that his resignation would be interpreted as a disavowal of Johnson policies that could hurt the President in his search for the hard answers in Asia and Latin America.

In London last week on a visit, Mr. Stevenson denied that he disagreed with Mr. Johnson on Vietnam. "There has been a great deal of pressure on me in the United States from many sources to take a position inconsistent with that of my Government," he said in a taped interview with the BBC. "Actually I do not agree with those protestants." Those were his last public words. Walking not far from the U.S. Embassy Wednesday afternoon with Mrs. Marietta P. Tree, an old friend and a member of his U.N. delegation, he suddenly fell, the back of his head striking the pavement hard. He was dead, presumably from a heart attack. He was 65.

"The flame which illuminated the dreams and expectations of an entire world is now extinguished," President Johnson said on television with tears in his eyes, and there were other tributes the world over. Among them were two from a former adversary and a present one. General Eisenhower called his death "a tragic note for all Americans." And at the U.N. a Cuban delegate said, "Politically, he was the enemy, but he was an honorable enemy, a human being, and a great gentleman."

A Government delegation headed by Vice President HUBERT H. HUMPHREY and Mr. Stevenson's three sons flew to London to bring the body back. Mourners filed in thousands past the catafalque in Washington's National Cathedral. Yesterday Mr. Stevenson's body lay in state in the capitol in Springfield, Ill., where as Governor he enjoyed what he later called the best years of his life. From there the coffin is to be removed today for burial in a family plot in Bloomington, Ill., the Stevensons' prairie home.

STEVENSON GIVEN ILLINOIS TRIBUTE—STATE BIDS MOVING FAREWELL TO ITS FORMER GOVERNOR

(By E. W. Kenworthy)

SPRINGFIELD, ILL., July 17.—The State of Illinois said a last farewell to Adlai E. Stevenson today.

It was a short, simple and deeply moving farewell in the rotunda of the old State Capitol, where from 1949 to 1952, Governor Stevenson earned the reputation that was to bring him the Democratic nomination for President.

The flag-draped coffin rested beneath the outstretched arms of a bronze statue of a

woman (variously represented as a tribute to the women of Illinois and a symbolic rendering of "Illinois Welcoming the World").

The coffin was flanked by the National and State flags, and an honor guard of enlisted men from the services was silently changed every 15 minutes.

The city was baked in prairie heat, in contrast to the dim, air-conditioned coolness of the old rococo capitol.

MUCH BLACK, MANY FLOWERS

The two balconies ringing the rotunda and the supporting pilasters were swathed in black cloth, and a stairway leading to the second balcony was filled with flowers. Some had streamers attached with the sender's name in gold letters—"Aga Khan," "The Permanent Mission of Senegal to the United Nations" but most of the sprays were unidentified.

While waiting for the memorial service to begin, officeholders, politicians, members of the bench and bar and old family friends chatted about State business or renewed acquaintances. Though the heads of foreign consular offices in Chicago were in the front circle in the rotunda, the occasion seemed less an affair of State than a combination family reunion-political gathering.

A few minutes before 10 a.m., the immediate family of Governor Stevenson came through the crowd and took seats facing the coffin. There were his two married sons, Adlai 3d and John Fell, and their wives; his unmarried son, Borden; his older sister, Elizabeth (whom the family calls "Buffie"), and her husband, Ernest L. Ives.

The University of Illinois choir—out of sight on the second balcony—sang "Things Shall Be." Gov. Otto Kerner spoke briefly. The choir sang the State song ("By the Rivers Gently Flowing, Illinois, Illinois"), and there was a prayer by the Rev. Dr. Richard Paul Graebel, pastor of the First Presbyterian Church here, an old friend of Mr. Stevenson.

PASTOR QUOTES LINES

Dr. Graebel quoted lines of Arthur Guiterman that had impressed Mr. Stevenson when he was Governor and heard the pastor speak them at a funeral.

The lines were:

Friend, whom I loved to name,
Know, would you mourn for me.
I that was not became,
I that am not, shall be.

Then the choir softly sang "America, the Beautiful," a sweet tenor voice carrying the line "And crown thy good with brotherhood," and the service was over.

In his tribute, Governor Kerner recalled that Mr. Stevenson had once said:

"Shameless and sentimentally, my heart will always be here in Illinois. Here five generations of my family have lived and prospered. My roots are deep in our prairies, and I owe Illinois a great debt."

Mr. Kerner also recalled the relationship between an ancestor of Mr. Stevenson's and Abraham Lincoln, whose body was brought back to Springfield for burial 100 years ago.

Mr. Stevenson's great-grandfather, Jesse W. Fell, who first proposed Lincoln for the Presidency and suggested the Lincoln-Douglas debates. The greatest of those debates, in which Lincoln gave "The House Divided" speech, took place at the Sangammon County Courthouse here, which still stands.

In her book "My Brother Adlai," Mrs. Ives described how Mr. Stevenson, 4 days after his nomination for the Presidency in 1952, "slipped out of the mansion by a side door, through the bushes and down the side street to Lincoln's house and there, with the astonished caretaker's permission, he sat for an hour in the darkened living room."

She wrote, "It was his last quiet hour."

THE OLD AND THE YOUNG

All last night, persons from Springfield and the surrounding towns and countryside passed through the rotunda to pay their respects. There were old men and women, some old enough to remember Mr. Stevenson's grandfather, Adlai, who was Vice President in Grover Cleveland's second term. There were young men in overalls and sweaty T-shirts, and their wives with babies in their arms.

At midnight one young farmer with two small children stood in the shadows looking at the lighted coffin. He crossed himself and whispered to his children to do likewise. Then he tried to explain to them who Mr. Stevenson was and why they were there. But it all seemed too much and far away, and he let it go.

By noon today, 27,485 people had walked past the bier. The body will remain in the rotunda until 10 a.m. tomorrow, and then will be taken to Bloomington, Mr. Stevenson's boyhood home, for a final service in the Unitarian Church. The burial in the family plot at the Evergreen Memorial Cemetery will be Monday.

RABBIS PAY TRIBUTE

Rabbis in the New York area paid tribute to Adlai E. Stevenson in a number of Sabbath sermons yesterday.

Dr. Kurt Klappholz of the Congregation Tifereth Israel at 2025 64th Street, Brooklyn, said that Mr. Stevenson had "represented the noblest aspects of the American character—a passionate love for freedom, liberty, and justice."

He noted that the name "Adlai" appears in the First Book of Chronicles and in Hebrew means "justice of God." Mr. Stevenson "lived up to this name and bore it with nobility and dignity," said Rabbi Klappholz.

Rabbi Louis I. Newman, speaking in Temple Rodeph Sholom, at 7 West 83d Street, called Mr. Stevenson "a luminous thinker and writer, who, at the same time, was willing to undertake the responsibilities of pragmatic statesmanship."

The "tragedy" of Mr. Stevenson in recent years, he said, "lay in the fact that through a high sense of patriotism, he was ready to articulate a program amid crises which he did not materially help to fashion."

Rabbi Newman continued, "If he had been give a freer rein, he might have shaped the currents of our times in a constructive fashion whereby the tensions of the hour might have been materially alleviated."

Rabbi William F. Rosenblum told the congregation of Temple Israel in Manhatten that Mr. Stevenson would become "one of the immortals of our time."

HONORS AWARDED TO GEORGE WASHINGTON UNIVERSITY

Mr. INOUYE. Mr. President, The George Washington University, located in the Nation's Capital, has been rapidly developing into one of our country's top-flight universities. I am proud to be one of its alumni.

It has recently come to my attention that the university has received a number of distinguished awards in the publications field.

GW: The George Washington University magazine and other publications of the university have received seven top national awards from three organizations: the American College Public Relations Association, the American Alumni Council, and the Educational Press Association of America.

The university magazine, which will next month feature a group of stories on the Congress of the United States, was honored for format and typography, improvement, and for an individual article, written by John J. Ford, a George Washington alumnus and a staff member of the Subcommittee for Special Investigation, House Armed Services Committee.

The Educational Press Association of America, meeting in New York, presented their first-place award for excellence in format and typography to Margaret Davis, GW editor, and Neil McKnight, alumnus of the university and staff member of McIver Art & Publications, Washington, D.C.

The American Alumni Council, meeting in Atlantic City, presented awards to Warren Gould, assistant vice president of the university for resources, for winning the Time-Life Distinctive Merit Award for improvement in alumni publications; and for winning first place in a direct mail drive for annual giving funds to help support the university and an honorable mention for one mailing piece used in this campaign.

In addition, Mr. Gould accepted for Mr. Ford a special recognition citation for his story, "The Withering of the Caladiums," a takeoff on a Walter Lippmann column. Mr. Ford's story had been reprinted in the National Press Club Record, December 1964, and in the Tucson, Ariz., Star, December 20, 1964.

Two certificates of special merit were presented to Mr. Richard Berg, director of public relations, at the American College Public Relations Association meetings in Cincinnati, Ohio, for overall publications improvement and in recognition of a special publication used in student recruitment.

GW: The George Washington University magazine, is a quarterly magazine designed to share the ideas and findings of faculty, graduate students, and alumni on old and new issues. Its annual Federal Issue, published in late August, recognizes its many students and alumni engaged in public service. Sixteen reprints from last year's Federal Issue appeared in a variety of trade and professional publications, in newspapers, and in the CONGRESSIONAL RECORD.

PRESIDENT JOHNSON'S POLICY TOWARD VIETNAM

Mr. DODD. Mr. President, "there is no backing out of Vietnam, for it will follow us everywhere we go." These words were written by an American soldier to his wife. Two days later he gave his life for his country. These are also the words that the American people are saying and believing.

President Johnson's policy toward Vietnam is now being accepted by his most unyielding critics. The reason for this change is that the opposition can give no alternative policy than the one being used now to solve the Vietnam war. They have cried for 5 months for us to withdraw from South Vietnam, but now they realize if we do, we will lose all of southeast Asia to the Communists.

Roscoe Drummond wrote in the Washington Post:

The verdict is in. By now President Johnson knows he can count on the decisive support of Congress and the country behind his decision to defend South Vietnam.

I believe the Communists will soon learn that this country is behind the President, will not withdraw, will not grow tired, and will not be defeated.

At this time I ask unanimous consent to have Roscoe Drummond's column of July 7, 1965, printed in the RECORD.

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

[From the Washington (D.C.) Post, July 7, 1965]

DEBATE CONCLUDED: DEFENSE OF VIETNAM SUPPORTED

(By Roscoe Drummond)

The debate is over. The verdict is in. By now President Johnson knows he can count on the decisive support of Congress and the country behind his decision to defend South Vietnam.

For a time it looked like touch and go and many thought that the President's public backing was crumbling. The professorial teach-ins crying, "Get out of Vietnam" were contagious. Poets writing L.B.J. about how wrong he was seemed to be getting a better hearing than Rusk and McNamara.

But it was the opposition to the defense of Vietnam that was crumbling, not the support. Although there has been no formal referendum, the national decision is amply clear. Here is the evidence:

Top Republican spokesmen—Senator EVERETT DIRKSEN and Representative GERALD FORD, the minority leaders in Congress, who have given Mr. Johnson strong support over Vietnam from the beginning, have just renewed their bipartisan backing.

Democratic leaders in Congress—like Senators J. W. FULBRIGHT and FRANK CHURCH—who have been sharply critical of the President's course in Vietnam, are now agreeing that for the United States to withdraw or give up would be disastrous.

The public critics of the Government—like Hans Morgenthau of the University of Chicago, the leading professional teach-in—have talked so much and said so little that the country could not fail to see that they had no constructive alternative.

This undermined their criticism so badly with the public that Professor Morgenthau had to shift his stance and say he was against withdrawal.

Some sincerely say, "Lets negotiate." The United States has offered unconditional discussions, the Communists have refused and you can't negotiate at an empty table.

Some sincerely say, "Quit escalating the war." The fact is that U.S. military power is being used with care and measure. It is the Vietcong who are raising the level of terror and escalating the fighting.

Some sincerely say, "The real struggle in Vietnam is economic, not military." It is both, and Vietnam cannot begin to make real economic progress until the aggression is ended and the fighting stopped. At which time, as the President has announced, the United States will provide general aid.

And what next? There is no certain answer. We don't know how long it will be before the aggressor has had enough. But there is no reason to think that the Vietcong are going to overrun South Vietnam if we are prepared to stay the course. I give you the words—and the faith—of Capt. James Spruill, U.S. Army, written to his wife in the United States a few days before he gave his life in Vietnam.

"I feel there is too much talk of despair. Above all, this is a war of mind and spirit. For us to despair would be a great victory for the enemy. We must stand strong and unafraid and give heart to an embattled and confused people. At the moment my heart is big enough to sustain those around me. Please do not let them, back where you are, sell me down the river with talk of despair and defeat. Talk instead of steadfastness, loyalty, and of victory—for we must and can win here.

"There is no backing out of Vietnam, for it will follow us everywhere we go."

Another American has said: "We will not withdraw. We will not grow tired. We will not be defeated."

That was the President of the United States. It is evident by now that his goal is the goal of most Americans.

TRIBUTE TO ADLAI STEVENSON

Mr. BARTLETT. Mr. President, an outstanding tribute to Adlai Stevenson was made by Murray Kempton in the Washington Daily News July 17. I ask unanimous consent that the article be printed in the RECORD.

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

THE LONG DISTANCE RUNNER

(By Murray Kempton)

We were all of us young, young and gay, and so for awhile was he. That was 13 years ago and it lasted only a few months. So the sad thoughts about Adlai Stevenson began a long way back. Today's are the saddest of all, but they are not sadder than so many of the others.

He died, of course, in a public place. So many times, when the worst thing had happened, he had to endure it in a public place. He seemed always lonely and never given the release of being alone.

Most of us saw him first in the convention which nominated him, with the band playing "Chicago, that toddling town," the wild, vulgar, tawdry, demented scene in which the Democrats are used to winding up their business. Yet even that night he quieted us and made us listen, for the quiet voice in the noisy room was the only one he trusted.

"Let's face it," he said that night. "Let's talk sense to the American people. Let's tell them the truth, that there are no gains without pains."

He went on from there to the only political campaign in the memory where to stand with a candidate was not for one moment to risk your pride in him.

He told the Polish-Americans in Hamtramck that he would not tell them that he could free Poland. He told the South in Richmond that he would carry out the civil rights planks in the Democratic platform. He talked to the American Legion about freedom of the mind. At the end, he looked back and said that he thought he had kept faith with himself and that he thanked all Americans for their infinite courtesy and their heartening friendliness.

We can remember that campaign now and see that it saved the Democrats, and that Adlai Stevenson was the only politician in his party who was the loser for it. For the quiet voice in the noisy room spoke to the young who had not before thought of politics with hope. Through 8 years, his memory and his presence sustained them; he gave them faith even though his own faith had been terribly damaged.

Yet the shadow of that election hung over him for the rest of his life, and he would never be gay again. The Republicans had asked us to trust a man; he had asked us instead to trust ourselves. And he had been not just defeated but overwhelmed. He ran again in 1956, but it could never again be the pure and simple faith the first time had been for him. He had been wounded in his dignity and the scar would always show. In 1960 the young came to Los Angeles from everywhere with the illusion that they need only cry out their dreams to capture the Democratic Convention for him once more; but it was too late; and the young were never to see him as we had in that far-off time when he was absolutely his own man, and honor and courage had no limits.

The remainder was the United Nations. There will be stories that he was unhappy at the end; there is already a story that he thought that what we had done in Santo Domingo was a fearful mistake. I do not know what use such revelations can have now; are we to think at the end of Adlai Stevenson as only lawyer for client?

There was talk that he might resign. His private answer was that he had been there when the United Nations began, that he had returned when it was healthy, and that he would not leave it now when it was sick.

That first campaign laid upon Adlai Stevenson a burden he could never put down. For all of us who remembered him from the moment he captured us, he was not a public man but a personal possession, the embodiment of our own honor. He was the only public man of whom we demanded that, when he was ordered to lie, he must refuse.

But he did not belong to us; he belonged to his country. He would have stayed the course. "Patriotism is not short, frenzied outbursts of emotion," he told the American Legion in 1952, "but the tranquil and steady dedication of a lifetime." We have lost a long-distance runner.

WIRTZ AND NEW JERSEY SENATOR CHAMPION CAUSE OF THE MIGRANT

Mr. NELSON. Mr. President, the Senate Subcommittee on Migratory Labor, of which I am a member, recently held 3 days of hearings on proposed legislation which would improve the wages and working conditions of our Nation's migratory farmworkers.

The July 11 St. Louis Post Dispatch, in an article entitled "Wirtz and New Jersey Senator Champion Cause of the Migrant," calls attention to the unfortunate conditions under which so many migratory workers live and labor and gives factual support of the need for remedial legislation. The St. Louis Post Dispatch story also acknowledges the efforts being made by Secretary of Labor Willard Wirtz and my colleague, the Senator from New Jersey [Mr. WILLIAMS], Chairman of the Migratory Labor Subcommittee in attempting to better the lives of our migratory farmworkers.

I believe the Senate should have the benefit of this article and, therefore, ask unanimous consent that it be printed in the RECORD.

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

WIRTZ AND NEW JERSEY SENATOR CHAMPION CAUSE OF THE MIGRANT

(By James C. Millstone)

WASHINGTON, July 10.—Two powerful and determined men have pledged their help to the Nation's migrant farmworkers, whose plight has been labeled "a national disgrace."

Secretary of Labor W. Willard Wirtz and Senator HARRISON A. WILLIAMS, JR., Democrat, of New Jersey, have taken up the cause of what has been a friendless group of wanderers called variously "the poorest of the poor" and "the excluded Americans."

WILLIAMS has prodded Congress to action through his chairmanship of the 6-year-old Senate Subcommittee on Migratory Labor. Wirtz has forcefully administered laws in-

tended to help the migrants and has developed a program aimed at relieving the miserable conditions of their existence.

The two are working together to achieve further gains. At a hearing before WILLIAMS' subcommittee this week, both men placed great stress on the need to make the public more aware and more concerned about what Wirtz called "the iniquities and the inequities" of the life of the migrant.

Wirtz came armed with facts and figures, but none of his ammunition had the effect of a halting statement to the subcommittee by a migrant worker named Fidel Esquivel of San Antonio, Tex.

"I work on farm all my life," Esquivel said in Mexican-accented phrases. "Most time I am looking for job. Pay no good, maybe 75 cents an hour. We have no protection. Sometimes me and my family (of five children) sleep on floor. In winter when no work, I stay in San Antonio, cut wood for ranches to make living until summer."

Esquivel is one of about 360,000 members of a leaderless army who take to the road each year to help harvest perishable fruits and vegetables. With their families, they number 2 million.

Some start in southern Florida and work north along the Atlantic coast into New England. Others go from southern Texas to the Rocky Mountains and then to the North-Central States. A third group streams into California and the Pacific Northwest.

Last year migrants worked in 47 of the 50 States. In 1963, the latest year for which figures are available, the average migrant found farmwork for 110 days and scrounged another 17 days of nonfarm work. His total earnings for the year were $868, placing him at the lowest level of any group of workers in the Nation's economy.

But despite the rigors of his work, the ceaseless nature of his quest, and his abject poverty, the migrant worker lacks any of the protections afforded most working men and women.

Father Alfred Miller, a Catholic priest working with migrants in Erie, Mich., described the desperation of their plight in these words:

"Most are members of minority groups; poorly educated; outside the protections of minimum wage, unemployment insurance, workmen's compensation; denied the use of health and educational facilities in many of the communities through which they pass; moving long distances to obtain short-term jobs.

"The migrant wanders loosely on the fringe of responsibility, one of the few American citizens without recourse."

A recent report by the Williams subcommittee said:

"The domestic agricultural migrant has been largely excluded from these social advances which the rest of the Nation takes for granted: the minimum wage, adequate child labor protection, unemployment insurance, full workmen's compensation and social security coverage, and federally protected rights to organize and bargain collectively.

"In addition, he is subject to special problems in the areas of housing and sanitation, transportation, education, health and child care, voting requirements, job placement, and job instability.

"Because of residence requirements, the migrant family frequently cannot even obtain public welfare assistance in times of need."

Testimony before the subcommittee developed information that some migrants in Texas work for as little as 45 cents an hour, that one-third of the migrants over 25 years old are functionally illiterate, that many of their children attend school only a few weeks a semester.

Over the years, the conditions of migrant farmworkers have drawn sympathetic and occasionally outraged attention, but even the wide influence of John Steinbeck's "The Grapes of Wrath" had little effect on permanently altering the misery of those lives.

The Williams subcommittee stepped in to fill that gap.

Backed by church, labor and welfare organizations, the subcommittee began to develop legislation that would help. WILLIAMS submitted bill after bill setting a minimum wage, regulating child employment, providing educational facilities for children of migrants, providing grants for housing, establishing health care centers and many others.

At first, Congress balked. The first success came in 1962 with passage of the Migrant Health Act providing Federal grants for clinics to service migrant families. To date, 60 projects in 29 States and Puerto Rico have received grants.

WILLIAMS achieved his first real breakthrough last year when Congress took three significant actions:

(1) Four programs WILLIAMS had been pushing were included in the administration's Economic Opportunity Act to finance the war on poverty. The act authorizes grants for housing for migrants and their families, day care centers where children of migrants can receive good care while their parents are working, special educational facilities for children and adults and sanitation systems in their communities. The antipoverty program also incorporates the volunteers in service to America, some of whom are being trained to work among farm migrants.

To date, the OEO has awarded 52 grants totaling $14,912,000 for programs to help migrants in 25 States. The agency hopes to spend twice as much for migrants in the new fiscal year.

(2) A law was passed requiring registration of farm labor contractors who organize and lead migrant crews from State to State. Until now, these men have operated without regulation and often have exploited and cheated the migrants.

Under the new law, they will have to register with the Federal Government and file reports of their activities.

(3) Public Law 78 which permitted thousands of Mexican braceros to harvest crops in this country since 1951, was terminated at the end of the year. The effects of that action are still being argued, but friends of the migrants insist that the step had to be taken before any permanent solution to the migrant problem could be developed.

In the late 1950's, as many as 400,000 braceros were admitted to this country annually. Last year the number was 178,000. Growers have said that the braceros were a necessity because the domestic labor market could not supply enough workers to do the kind of "stoop labor" necessary to harvest certain crops.

Wirtz has strongly supported WILLIAMS in the braceros fight. In a 4-day inspection trip of the California farming industry in March, Wirtz declared he would not authorize extension of the braceros program. He said farmers would have to obtain American workers by offering wages and working conditions competitive with other types of industry in the Nation.

The philosophy underlying Wirtz' policy, as he expressed it in a speech last week, is:

"The laws of economics, of supply and demand, do work in the agricultural industry just as in any other. Workers are available if the prices and conditions are right."

The braceros provided a cheap alternative to cost-conscious American growers, took jobs away from Americans and contributed to continuing low standards for American workers.

Given the inexhaustible supply of braceros and the lack of protection in wages and working conditions of American farm laborers, growers were able to depend more and more on the foreign field hands, who offered an added incentive by arriving without their families.

Meanwhile, unemployment grew among American farm laborers, striking hardest at the downtrodden migrants.

Testifying before the Williams subcommittee this week, Wirtz said the braceros cutoff has been successful, that American farm labor is available to meet the Nation's needs, that the crops are getting picked, and that consumer costs have been affected only minimally by the change.

The Williams-Wirtz team now is pushing for legislation that would establish a minimum wage for farmworkers, prohibit hiring out of farm children under 14 years old, extend collective bargaining rights to farmworkers, develop a system of recruiting and transporting farmworkers under Federal auspices, and set up a national council to advise the President on migratory labor problems and policies.

The administration's housing bill, which has passed the House, contains a provision authorizing $50 million in grants over a 5-year period for low-cost housing for migrants and others, and WILLIAMS has introduced a separate bill to give tax advantages in building migrant housing.

Wirtz said that most support for alleviating the migrant problem has been based on moral considerations but that a deeper understanding is needed.

"There is a moral problem here," said Wirtz, "as ugly a moral problem as I have ever encountered. But there is now roughly a century of toughening realization that viewing it exclusively in moralistic terms is not going to cure it."

The answer, he said, is to get across to the Nation a realization that economic factors are at the root of the human problem. The economic facts of farm life, he said, are that much farm production requires labor for only part of the year.

"It is essential," Wirtz went on, "to develop substantially year-round work opportunities for all those who are needed to farm the Nation's produce. This can be done either by working out year-round work programs for workers who will follow the crops or by developing industry in the farm areas which will occupy off season the men and women who will come to the fields when the local crops need help.

"Until this is done, efforts to bring decency into the lives of these laborers and their families, and stability into the farm labor supply situation, will be essentially futile."

DISTINGUISHED SERVICE CITATION TO LEONARD M. BERLIN

Mr. BARTLETT. Mr. President, last week the distinguished service citation of the Department of the Interior was awarded to Leonard M. Berlin, an Alaskan, a civil servant, and a long-time personal friend.

The citation was presented by Secretary Udall upon the occasion of Mr. Berlin's retirement "after completion of 33 years of superior military and Federal service." Mr. Berlin's career has been more than superior. It has been remarkable. He has explored and surveyed new lands not only in the Arctic but the Antarctic. He was awarded a medal by the Congress for his work as part of the expedition to the Antarctic under Adm. Richard E. Byrd. He served 2 years in

the Antarctic before World War II and there is even now a mountain named after him in that vast continent.

Leonard Berlin may be retiring from Government service but this is certainly not the end of his career, for such ability and judgment will always be needed.

Mr. President, I ask unanimous consent that the Secretary's citation for this award may be made a part of the RECORD at this point.

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

CITATION FOR DISTINGUISHED SERVICE

Leonard M. Berlin, upon retirement after completion of 33 years of superior Federal and military service, more than 24 of which were with the Department of the Interior.

As an outstanding survey engineer, Mr. Berlin's Government career was characterized by superior execution of duties and his unique contributions to the defense, security, and welfare of the Nation. His temporary assignments began in June 1925 with the Public Survey Office and the General Land Office, now known as the Bureau of Land Management. Mr. Berlin became an engineering assistant in August 1933 with the Alaska Road Commission. The next year marked the beginning of his professional career in the Bureau's survey of the public lands in the territory of Alaska, now the country's largest State. Most significant was his role in the survey in 1936 of the hazardous northwesterly and southwesterly boundaries of Mount McKinley National Park. Mr. Berlin distinguished himself also from 1939 until 1941 as part of the expedition to the Antarctic under Adm. Richard E. Byrd. He was awarded a special medal by the Congress for his outstanding work in gathering scientific information and geographical data with the expedition. Mount Berlin, a peak rising 11,439 feet, was named for him and appears on all recent Antarctic maps. As a lieutenant commander during World War II, Mr. Berlin served as Arctic adviser to the U.S. Navy. He returned to the Bureau of Land Management after the war as regional chief of Cadastral Engineering at Juneau, Alaska, and in 1956 became Supervisory Cadastral Surveyor in the area 1 office at Portland, Oreg. At the time of his retirement on June 28, 1963, he served as chief of engineering at the Bureau's California State Office in Sacramento. As a tribute to his notable career of many years, the Department of the Interior grants to Mr. Berlin its highest honor, the Distinguished Service Award.

STEWART L. UDALL,
Secretary of the Interior.

A REPORT ON THE PEACE CORPS BY A MEMBER FROM HAWAII

Mr. INOUYE. Mr. President, Hawaii has a number of volunteers in the Peace Corps, and we are proud of their record of accomplishments.

One of the most interesting reports of the work of the Peace Corps in Africa was recently written by Mr. Edward A. Oshiro, 24, of Wahiawa, Hawaii, a Peace Corps volunteer, who recently returned from Ghana.

Mr. Oshiro's report, published by the Honolulu Star-Bulletin and Advertiser, once again underlines the effectiveness of the Peace Corps program.

Mr. President, I ask unanimous consent that this report be printed in the RECORD.

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

PEACE CORPS ALLAYS PREJUDICE, SUSPICION IN GHANA

(By Edward A. Oshiro)

Now that my 2 years' tour with the Peace Corps in Ghana, Africa, is terminated, I am taking this opportunity to reflect upon the role of the Peace Corps in Ghana. Because of our excellent 2 months' training at UCLA, we were not surprised at the development and the modern living conditions of Ghana when we first arrived in Accra. However, we did not expect to see Shell service stations and billboards advertising Coca-Cola and Fanta (It Refreshivates!) cluttering the landscape.

The first Peace Corps volunteers who taught in Ghana in 1962 were the very first volunteers to enter a foreign country. The hundreds of Ghanaians, who met the Peace Corps volunteers at the airport were suspicious of those "CIA spies" but when the first volunteer greeted the people with, "Wo hon te den"—How do you do—and then sang the nostalgic Ashanti song, "Yen Ara Asaase Ni" in Twi, the curtain of prejudice and enmity was swept away in seconds.

Many sang softly, with tears in their eyes, along with the Americans who had come to teach and to learn. Thwarted, the pro-left newspapers and some of the government officials accelerated their anti-Peace Corps vituperation and to this day, we are still addressed as "CIA spies," "Cowboy imperialists," "Misfits," "Spivs," and "Women corrupters." I must emphasize that this sentiment is not professed by the people and we have never experienced any anti-Peace Corps actions.

About 100 of the 130 Peace Corps volunteers are science and math teachers and the rest are geologists. As science master in a newly established British oriented government secondary school, in Sunyani, I taught general science, biology, health science, and first aid.

My other duties consisted of library master, duty master, dormitory master, sports master, and first aid administerer.

The first Peace Corps volunteers built a library with 2,000 books donated by a high school in New Jersey. Later, we cataloged the books and trained about 25 students to become librarians so the library eventually became independent of Peace Corps volunteers.

SET UP FIRST AID PROGRAM

With 375 students on one compound and a minimum of medical care, I found it vital to establish a first aid program and dispensary. The Peace Corps and the Ghana Government provided the equipment and medicine for the dispensary and I taught 15 students the intricacies of first aid. Most of them took and passed the international first aid examination so today, the dispensary and the first aid program are self-sufficient.

The national sport in Ghana is soccer; my knowledge in this field was nil. Nevertheless, the students enthusiastically picked up softball, volleyball, basketball, and track. I also introduced judo to the students but they were disinclined to take a part in a sport entailing body contact so that program flopped.

Thus far, the two generations of Peace Corps volunteers at my school have accomplished the following programs: Built and stocked a general library, science library, a biology lab, a dispensary; created a five-acre taro and palm nut oil farm, a science club, a debating club, a first aid club, and a work shop.

These tasks are only subordinate for the real work came with organizing and teaching the subjects and reaching out to the people. In 1963, there were only five Americans who could speak Twi and although we tried to learn that language, the full-time job at the school made it impossible for us to learn it fluently. However, most of us learned enough to have an appreciable knowledge of Twi.

In 2 years, we were allowed 60 days of vacation and the rest of our free time was spent on work projects. One Christmas vacation seven of us decided to build a classroom block in a remote village, hoping to have the villagers help themselves by helping us and eventually finish the construction when we left.

Ghana Government and Peace Corps provided the funds and we stormed the village enthusiastically. After a few days of digging and making mud bricks, we became aware of a number of sentiments by the villagers. The only white person to have visited this village was a German geologist, who 30 years ago, was carried on a wicker chair so the people were stupefied to see white men, and Americans at that, working with picks and shovels.

Another reaction, especially among the younger, more educated people, was that we were stupid to do hard physical work for no pay. The third reaction was most important and needs to be considered more deeply in the future. A lot of men in the village were unemployed and they became infuriated to see us working instead of them. They could not believe that we were volunteers who worked for nothing, so we alienated a significant segment of the village. These are some of the problems with which we were constantly faced. In East Africa, some of the Peace Corps volunteers built a classroom block but the people would not use it because girls worked on the construction of that building. It currently remains unused.

RUSS SEND PEACE CORPS

In the beginning, the Russian press and radio carried a vicious campaign against the Peace Corps but realizing the futility, decided to join us. In 1964, 20 young Russian Peace Corps volunteers arrived in Ghana to teach alongside of us. Last year, 100 joined the first group. Most of them could not speak English well so we coached them in English and they taught us Russian.

There is a tremendous rapport among the volunteers from the various countries represented in Ghana—United States, Canada, England and Russia. We have a common understanding and it is not uncommon to see Russian, American, Canadian and British volunteers enjoying lunch together at the YWCA.

Living conditions in Ghana are comfortable and modern. Clean running water, 3 hours of electricity at night, Western type of flush toilet, and kerosene refrigerator and stove made life physically comfortable for us. Matter of fact, my bungalow in Sunyani was better than the apartments I rented while attending the university in Colorado.

During the vacations, I traveled throughout west Africa, South Africa, and east Africa. Last summer, I hiked up Mount Kilimanjaro and met dozens of Peace Corps volunteers either ascending or descending the mountain. On my trip to Timbuktu, Mali, I again met Peace Corps volunteers paddling canoes and rafts up and down the Niger River.

While in the Congo during the rebellion, I kept encountering Peace Corps volunteers hitchhiking around that country attempting to find out what the war was about. The 5 Peace Corps girls who hitchhiked across the Sahara Desert caused none of us to raise an eyebrow for they were not the first volunteers, nor the last, to accomplish that feat.

Today, there are few corners in Africa that have escaped the scrutiny of Peace Corps volunteers. One of our favorites is the trek to Lambarene', Gabon, where Dr. Albert

Schweitzer operates his hospital. Traveling is one of the benefits of Peace Corps duty.

Most of us assigned in Africa are teachers but there are also geologists, doctors, engineers, farmers, nurses, economists, administrators, and in Sierra Leone, a television producer and technician who singlehandedly, runs the TV station in Freetown.

Reflecting on the 2 years spent in Africa, I believe that the Peace Corps has accomplished more than President Kennedy envisaged. Those 2 years were years of frustration and loneliness but I would not hesitate to do it again.

Did we make an impact upon the people? Some of the Peace Corps volunteers have been given land in Ghana by the people so there would always be something they could return to. The people in Sunyani offered me a wife to entice me to live there.

PROPOSED REPEAL OF SECTION 14(b) OF TAFT-HARTLEY ACT

Mr. FANNIN. Mr. President, hearings on legislation to repeal section 14(b) of the Taft-Hartley Act were concluded recently before the Labor Subcommittee of the Committee on Labor and Public Welfare. Among the witnesses who appeared on behalf of repeal was the Honorable W. Willard Wirtz, Secretary of Labor.

In his testimony on June 22, Mr. Wirtz quoted statistics relating to the 46,146 elections conducted between 1947 and 1951 by the National Labor Relations Board on the union shop question.

According to Mr. Wirtz, over 97 percent of these elections went in favor of the union shop and 91 percent of the votes cast favored the union shop. I might add that the identical figures were quoted by several spokesmen for organized labor.

Taken at face value, this testimony would appear to indicate that employee sentiment throughout the country was virtually unanimous in support of the union shop, which is prohibited by law in 19 of our States.

However, a closer look at the same statistics reveals that the size of the majorities was not as impressive as they might appear at first glance.

While it is true that only 7.6 percent of the 6½ million eligible employees voted against the union shop during that period, it is also true that another 15.2 percent did not vote at all. Thus the majority of all eligible workers who favored the union shop actually was no more than 77 percent.

Moreover, it has been pointed out that many of the workers who voted in these elections thought they were voting on basic issues of unionism itself and not specifically on the union shop question.

An analysis of this information regarding union shop elections is contained in Senate Document No. 32, compiled by the Economic Division of the Legislative Reference Service of the Library of Congress and published in May of this year. Entitled "National Labor Policy," this document is an excellent bibliography on the public interest in labor-management relations.

Mr. President, I submit that nearly one-fourth is a substantial minority in any case, and I believe these facts should be brought out, in order that Mr. Wirtz' arguments in favor of repealing section 14(b) might be placed in proper perspective.

I ask unanimous consent to have the pertinent section of Senate Document No. 32 appear in the RECORD following my remarks.

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

VOLUNTARY RECRUITMENT AND THE UNION-SHOP POLLS

Political symbols are often important to men, and for them men may sacrifice much, possibly even life. Whether the cash contributions of businesslike Teamster leaders to defeat right-to-work proposals and of business-minded General Electric officers to enact the proposals, for example, were intended to secure merely political satisfaction is doubtful. The director of industrial relations of a large firm active in the 1958 campaign told the writer that he did not intend to give in to the demands for a union shop in his plant because "We don't want that money from nonmembers going into the union treasury." He was convinced that bargaining with unions would be much easier if fewer firms in the industry had granted union shops or if right to work were generally in effect.

Union leaders can very well have the same conviction—that the more widespread right-to-work laws, the more advantageous will be management's bargaining position. Their experience with American workers gives them good reason to believe that a union shop is not only a convenience, but that it is also a substantial prop to effective, stable collective bargaining. Right-to-work laws strike at unions' main resource, dues. If all workers within a bargaining unit always sought membership and willingly paid their dues, right-to-work laws could have little significance for collective bargaining. American workers have not been noted, however, for their wholehearted devotion to, and voluntary support of, unions. Even craft workers, who have appeared to be devoted union members—so devoted they would sell their tools to pay union dues if need be—were responding to the inescapable fact of their union's control of employment opportunities.

American workers have often displayed little or no initiative in taking out union membership. If they could avoid signing up they did, taking out a union card and paying dues only when constantly dunned by shop stewards. In the absence of union or closed shops, unions have always been able to increase their membership by signing up workers whom they already represented and for whom they bargained. For example, in 1941 the United Auto Workers enrolled only three-quarters of the workers it represented. As late as March 1948, the United Auto Workers was able to recruit among the workers then in the bargaining unit over 25,000 new members in General Motors, a firm that had been organized for over a decade. The new members amounted to about 10 percent of all the represented workers in company plants. Two years later when the union secured a modified union shop from General Motors, a checkoff from Chrysler, and union shops from a number of other plants, union officials estimated that approximately 50,000 new members would be added to union rolls, an increase of over 5 percent in the international's total membership.

The Taft-Hartley provision for free and secret union shop votes a few years ago gave union leaders an opportunity to find out how strong worker support was for the union shop. Although the votes were generally favorable, they were hardly overwhelming demonstrations of support. They must have strengthened the belief among union leaders that compulsory membership is a valuable and substantial aid in the shop and at the bargaining table. As reported by the unions, workers voted impressively for the union shop. Union newspapers and labor spokesmen proudly and loudly touted the results of the NLRB-conducted, union shop elections. They pointed out that 97 percent of the 46,146 elections held between 1947 and 1951 favored the union shop and that 91 percent of those voting cast their ballots for the union shop.

The elections did demonstrate that a majority of organized workers liked the union shop—or at least unions. A close observer of many of these elections, Sanford Cohen, reported that many workers thought they were voting on the more basic issue of unionism itself, but the size of the majorities was not as impressive as unionists would have us believe. While the majorities were large enough to get the union shop, they were certainly not large enough to make the union shop unnecessary. Enough workers voted "No" or did not bother to vote at all, so that only an unperceptive union leader could have viewed the election results as signs of an irresistible enthusiasm for unionism.

Though only about 7 percent of the 6,545,001 eligible workers voted against the union shop between August 1947 and October 1951, 15 percent did not choose to vote, with the result that the majority of eligible workers favoring the union shop was no more than 77 percent. A noticeably smaller portion of eligible workers among large, mass-production plants supported the union shop than did workers in small plants. In 1948, about 83 percent of eligible workers, mostly in small craft shops, voted for the union shop, 5 percent against, with 12 percent not voting. By 1951, when the number of elections held in plants of over 1,000 workers had greatly increased since 1948, only 72 percent of the eligible workers voted for union shops, 10 percent against, with 18 percent not voting. In the larger plants, the vote against doubled and the proportion of those not voting increased by half.

The results of the vote in the following firms suggests that several large unions found the union shop a useful and even necessary device for recruiting many workers whose voluntary and eager support may have been lacking. In General Motors plants in early 1950, the United Auto Workers won support for a union shop from about 75 percent of those eligible to vote, was rebuffed by 9½ percent, and could not get about 13½ percent to the polls. In late 1950, the United Steelworkers mounted an intense campaign in 162 steel plants to get out the vote and to produce an "overwhelming demonstration" that steelworkers really wanted a union shop. While the final outcome must have been gratifying, since the union shop won in 153 plants and lost in only 9, the size of the vote must have been a bit disappointing to union leaders in view of their ardent campaign. Two-thirds of the eligible workers voted for the union shop, a surprisingly large 14 percent voted against it, and 20 percent did not vote. Still later, in early 1951, the Machinists asked for a union shop election at Boeing in Seattle. Slightly less than two-thirds, 64 percent, of the eligible workers voted "yes," 12 percent voted "no," and nearly one-quarter cast no ballot. The accompanying table shows the votes in these and a few other plants.

In some plants the vote gave evidence that outright opposition might decline where workers had had some experience with the union shop. After more than 6½ years under union shop, from late 1941 to July 1948, only 1.2 percent of Ford workers voted against the union shop and 7½ percent did not vote. In one of the biggest majorities in union shop elections in any auto plant, 90 percent of the eligible Ford workers voted for the union shop.

Percent of eligible workers voting "No" or not voting in NLRB conducted union-shop elections [1]

	Voted "No"	Did not vote	Total
Total NLRB elections, 1947-51	7.6	15.2	22.8
Small plants, 1948-49	5.1	12.0	17.1
Large plants, 1950-51	12.1	18.6	30.7
General Motors (without Briggs)	7.0	13.3	20.3
Briggs	4.1	c.13.7	c.17.0
Ford	1.2	7.5	8.7
162 steel plants	14.2	19.6	33.8
Boeing Aircraft	11.6	24.2	35.8
Curtis-Wright	8.7	5.6	14.3
Local 131, UAW	7.1	7.8	14.9
Local 644, UAW	9.5	4.1	13.6

[1] Data calculated from election figures given in 17th Annual Report, NLRB, 1952, p. 302; Monthly Labor Review, August 1953, p. 837; Business Week, Mar. 3, 1951, pp. 125-126, Oct. 8, 1955, pp. 127-128; and union newspapers between 1947 and 1951.

PROGRESS REPORT ON FIRST CONGRESS OF MICRONESIA

Mr. FONG. Mr. President, a week ago, on July 12, the first Congress of Micronesia was convened on Saipan in the trust territory of the Pacific Islands. I called the attention of my colleagues at that time to the significance of this event—the longest step yet taken toward the political development by the people in this vast Pacific region administered by the United States under a 1947 trusteeship agreement between the United States and the United Nations Security Council.

Since our country has jurisdiction over those farflung Micronesian islands, we also have the responsibility for their development politically, economically, socially, and educationally. As the people achieve more progress in these areas, we are naturally concerned with their eventual political status, just as the people of the trust territory themselves are.

A most useful discussion on this subject took place on the floor of this Chamber yesterday. I appreciate the remarks of my colleagues who participated in the colloquy with me. I am especially grateful for the valuable contribution made by the junior Senator from the State of Alaska [Mr. GRUENING].

His proposal, made several years ago, that consideration be given to the creation of a great Pacific State, with various Pacific islands annexed to the State of Hawaii, deserves the thought and deliberation of all parties concerned. I will do all I can to stimulate active discussion of the subject in the Congress.

As I indicated yesterday, I will offer a resolution in the Senate to obtain the consensus of the Congress in order to determine whether the idea of annexing the Pacific trust territory to Hawaii is feasible and desirable.

In order that all concerned might be benefited by having more adequate information available on the trust territory, I am submitting three timely articles dealing with the first Congress of Micronesia now in session in Saipan. They are informative and enlightening. I offer them as recommended reading for anyone who desires to become acquainted with the background and latest political developments in the trust territory.

I ask unanimous consent to have printed at this point in the RECORD these articles on the Micronesian Congress which appeared in the Honolulu Star-Bulletin on July 17, 1965.

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

[From the Honolulu Star-Bulletin, July 17, 1965]

LEADERS CHOSEN BY MICRONESIA CONGRESS

(By Byron Baker)

SAIPAN.—The 12-member House of Delegates of the first Congress of Micronesia broke a 2-day deadlock over leadership Wednesday when it named Toshiwo Nakayama of Truk District as President.

Nakayama, who has been a member of the trust territory delegation to the United Nations Trusteeship Council, was elected by a single vote on the fourth ballot.

The delegates, who compromise the upper house of the new Congress, had been deadlocked since the opening day of the Congress, Monday, when they voted down a motion to elect Delegate John Ngiraked of Palau as permanent president.

Ngiraked had been the pre-Congress caucus choice for president.

The leadership fight was delayed by and intertwined with a fight over the seating of one delegate, Jose B. Cruz of Saipan, a Ngiraked supporter.

Saipan's Popular Party contested his election on the grounds Cruz was ineligible because of a felony conviction in the United States.

Trust territory courts had refused to hear the case against Cruz and the Saipan district commissioner declared him elected.

The upper house credentials committee supported this position but only after a delay until Tuesday that some members thought was intended to keep Cruz out of the initial leadership voting, since he was a backer of Ngiraked.

Maneuvers to stop Ngiraked were begun by Chief Petrus Mailo, the highest chief of the Truk District, when he hosted members of the Congress at a Sunday evening party. Mailo is a member of the lower house.

The chief, who uses an interpreter but understands English, called delegates from Yap and the Marshalls to his side during speechmaking at the dinner and apparently wooed their support for Nakayama.

On Monday, it appeared the chief had moved successfully because the motion to make Ngiraked permanent president was defeated on a secret ballot, 6–5.

After Nakayama's election on Wednesday, Delegate Bailey Olter, who represented Micronesians in the trust territory's 1964 delegation to the United Nations Trusteeship Council this May, was elected vice president of the house of delegates.

Committee chairmen chosen are: Ways and means, Amata Kabua, Marshall Islands; resources and development, Olympio Borja, Marianas Islands; health, education, and social matters, Roman Tmetuchl, Palau; and judiciary and government relations, Jose R. Cruz, Marianas Islands.

LOWER HOUSE ORGANIZES EASILY

The 21-member lower house of the congress had none of the organizational troubles of the house of delegates.

The assembly chose its speaker, Dwight Heine of the Marshall Islands, and passed four congratulatory resolutions Monday.

Petrus Mailo, the Trukese chief who had figured in the upper house maneuvers, was elected vice speaker of the lower house. Bethwel Henry, of Ponape, became legislative secretary.

In succeeding days the assembly established five standing committees: Appropriations, headed by Juan Sablan of the Marianas District, formerly budget officer for the trust territory administration; ways and means, chaired by Lazarus Salii, of Palau; resources and development, headed by Jacob Sawaichi, of Palau; education, health and social matters, headed by Olter Paul, of Ponape; and judiciary and government relations, headed by Luke Tman, of Yap.

Among the first legislation offered in the lower house are proposals for a $1 an hour minimum wage (triple present minimums), and for more local review of appointments and budgets proposed by trust territory officials.

The house of delegates was offered a joint resolution request that the congress be allowed two 30-day sessions a year instead of one.

A bill offered to the upper house would set up a preferential policy for Micronesian businesses competing for government contracts, and require that they be chosen unless they are unable to provide the needed services.

[From the Honolulu Star-Bulletin, July 17, 1965]

NEW LEADERSHIP IN TRUST TERRITORY

SAIPAN, MARIANA ISLANDS.—If any one man offers a good example of the type of leadership now developing in the Trust Territory of the Pacific Islands it is Dwight Heine.

Heine, 44, was chosen this week as the first Speaker of the General Assembly in the Congress of Micronesia—in other words leader of the lower house which has 21 members.

Like many of the other members, he is a college graduate (University of Hawaii, 1959), a moderate, and has taken part in top level conferences related to the United Nations.

Heine became a political leader in the Marshall Islands when he helped fight the case of the Rongelap residents after they were hit by fallout from a nuclear bomb test.

He and Amata Kabua (now a Marshallese member of the upper house of the new Congress) paid their own way to the Mainland.

MADE LECTURE TOUR

There, Heine went on a lecture tour to let people know that the Rongelapese wanted compensation for their suffering.

Heine also participated in the decision of the Marshalls District Legislature several years ago to purchase polio vaccine for the people of the district without authorization. District doctors had diagnosed the disease as polio, but tests had not been completed, and the Trust Territory administration refused to give the Marshallese a go-ahead until they had an expert opinion from Hawaii.

The subsequent epidemic brought 103 Marshallese down, and their rehabilitation is a major problem for the District now. But Heine and his colleagues are credited with having nipped the epidemic early and having saved numerous lives.

Heine says this is the sort of action which allows a person to become a successful politician in the Marshalls. It is thought unseemly to campaign for yourself there, according to Heine, but those who have exhibited their ability will be supported by friends who want them elected.

This is how Heine was able to win his seat in the new Congress by a healthy majority, even though he was in Saipan at an educational conference throughout the campaign.

Heine, who describes himself as a middle-of-the-roader, says the Congress contains three distinct groups. Hereditary island royalty wants to retain the status quo to prevent further erosion of their power, while the youngest of the new Congressmen cherish grudges against the administration and are anxious to try to force rapid development and an end to the old ways.

"I stand for an evolutionary change into the modern age," Heine says, noting that the other members of his own delegation, all in the royal line, do not agree with him. But

he says the Marshallese definitely do stand unanimously for the unity of Micronesia.

Heine is pleased with the new Congress and says it is most important that the Congressmen organize and establish the machinery for governing the Trust Territory.

"Get it started, let it go," Heine says, "When you are too ambitious, you stifle growth."

UNABLE TO PREDICT

As to the eventual political disposition of the Trust Territory, Heine said, "I cannot predict the future—only 10 years ago I did not dream that there would be a Congress of Micronesia."

But Heine thinks that whatever happens, it will be under the American flag. He noted the suggestion of Governor John A. Burns of Hawaii that Micronesia might become a part of Hawaii. He said that this is a possibility. "Maybe it will be some new arrangement under the American flag," he said.

"We have American ideas," he said. "All our education is American; the tools of Government with which we work are American."

Heine is the son of a Marshallese mother and a half-Polynesian father. His grandfather on his father's side came to the Marshalls from Sydney as a copra trader, and later turned to the Congregationalist ministry.

From his parents and grandfather, young Heine received an excellent if informal education on the island of Jaluit, then under Japanese occupation.

At a mission school taught by Americans he learned Marshallese, Japanese, and English, in addition to other subjects. He also "studied American" via periodicals from Honolulu and Sydney.

After 4 years of schooling, his grandfather made him a teacher but the Japanese in 1938 recruited Heine and his pupils to go to work loading coal and building fortifications.

When war broke, Heine's parents and grandfather were interned but he remained free under surveillance, and was made an air raid warden.

The elder Heines were beheaded by the Japanese when the American invasion of the Marshall started. Dwight made contact with the U.S. Marines and served out the war as interpreter for the military governor of the Marshalls.

He also trained a corps of 30 young men as Marshallese-English interpreters and these people later became key figures on the staff of the trust territory.

After the war he became superintendent of schools for the Marshalls, even though his own education was far from rounded.

In 1948, he enrolled at the University of Hawaii but under a trust territory policy had to return to the Marshall's after 2 years. In 1957 he returned to complete his studies and got his degree in 1959, then returned to the Marshalls as district director of education.

[From the Honolulu Star-Bulletin, July 17, 1965]

A LEGISLATURE IS BORN

(By Dr. Norman Meller, professor of political science, University of Hawaii)

How does a legislature start? This is the problem the members elect of the Congress of Micronesia wrestled with for 2 weeks before their formal beginning this week.

In January of this year the 88,000 people of the Trust Territory of the Pacific Islands elected 33 members to their first territorial legislature. Twelve members sit in their house of delegates, 21 in the general assembly.

Each of the territory's six districts contributed two delegates to the upper house. In the lower house, district population differences resulted in Yap having but two assemblymen, while populous Truk sent a delegation of five.

Present-day legislatures all tend to have had some antecedent. Hawaii's State Legislature merely continued the old territorial body. And the territorial body had the legislatures of the Republic and the Hawaiian monarchy as predecessors.

The Congress of Micronesia is much like the Hawaiian Legislature which met for the first time under the old 1840 Kamehameha constitution.

Without precedence, and lacking previous legislative experience, the members elect faced a back-breaking task. Somehow they had to establish a formal organization and rules to run the legislature.

But they also had to establish an informal power structure which identified their key members to fill the officer posts and man the committee chairmanships fixed by the rules.

The Secretary of the Interior order which directed the establishment of the Congress of Micronesia fixed few limitations on the structure and internal organization of the two houses.

Unintentionally, this made the job of organizing even harder. Somehow the Congress of Micronesia had to choose among various alternatives that organization and set of procedures which best fitted the needs of the people of Micronesia.

Starting on June 28, the congressmen met for a week in presession conference. They considered legislative structure, parliamentary procedure, and the multitude of things essential to running a legislature.

They were aided by a team sent from the Institute of Technical Interchange of the East-West Center. Former Representative Tom Gill, Tom Dinell of the University of Hawaii's Legislative Reference Bureau, and I stressed both the academics and the practicalities of legislative life.

By the end of the first week the congressmen were ready to direct the drawing of the first drafts of their house rules.

During the second week, while the congressmen were meeting with Trust Territory administrators to hear about the various problems of the area, each house's rules were prepared, discussed, and finally adopted.

The conference's last act was for each house to agree to meet in caucus.

Last Saturday the assemblymen-elect briskly set to work and smoothly chose their officers and distributed themselves among the assembly's five standing committees. The house of delegates caucused most of the day, and only with great difficulty succeeded in putting together a slate of officers that later was reshuffled.

On Monday, at the convening of the first Congress of Micronesia, each house was ready. In 2 short weeks the members of the Congress of Micronesia had licked the problem of how to start a legislature.

TRIBUTE TO THE LATE DR. SYNGMAN RHEE

Mr. FONG. Mr. President, a great patriot of Korean independence, the indomitable Syngman Rhee, has passed away at the age of 90 in Honolulu. Death came yesterday to the first President of the Republic of Korea in Maunalani Hospital—a peaceful end to a stormy life dedicated to Korean freedom and unification.

No other name in Korean history stands out so vividly in the cause of independence for that country. During his embattled life, Dr. Rhee fought the Korean monarchy, the Japanese militarists, and finally the North Korean and Chinese Communists.

He suffered imprisonment, torture, and exile, yet he never relented in his fierce struggle to win independence for Korea. Once this ambition was realized, he fought still another struggle—to unify his divided country—only to have this dream remain unfulfilled during his lifetime. He spent his last few years in Hawaii, exiled by his own countrymen who rebelled against his regime after the Korean war.

Many years before, during an earlier self-imposed exile in Hawaii, he nurtured his struggle for Korean independence and kept alive the nationalist movement among Koreans outside their country.

He became director of the Korean Christian Institute and founder of the Korean Methodist Church in Honolulu.

There, among friends whose admiration he earned during a lifetime of patriotic dedication to his homeland, Dr. Rhee will be paid tribute in services in Honolulu tomorrow. Then his body will be flown to Korea for burial and fitting honors in a country for whose survival he fought so valiantly for so long.

I knew Dr. Rhee well during his long residence in Hawaii, which was his second home.

I first became acquainted with him prior to 1945, when he returned to Korea to help establish the Republic and to become its first President in 1948.

In 1959, during a tour of the Far East, it was my pleasure to meet with him in Seoul. Shortly afterward, when he came back to Honolulu for the last time, I renewed my friendship with him.

I knew him as a warm, friendly person. The traits which distinguished him above all else, however, were his indomitable spirit, his dynamic drive, and his militant dedication to the cause of Korean independence and nationalism.

Although there was controversy over his leadership while he was alive, there is only respect and sadness now, for in Dr. Rhee's death, Korea lost its greatest patriot. More than any other single individual, he had kept burning the flickering flame of Korean nationalism and independence, during its darkest days.

On this sad occasion, I share the mourning of the Korean people in his native land and of his friends abroad. We extend our heartfelt sympathy to his wife and son during their bereavement.

FLOOD DAMAGE IN THE MIDWEST

Mr. SYMINGTON. Mr. President, based on news reports this afternoon that floodwater is running 15 feet deep in the main street of Smithville, Mo., a full-page advertisement published by Mr. Leon Morton, Sr., owner of Morton's Department Store at Smithville, in the local weekly newspaper, the Democrat-Herald, on Thursday, July 9, may have been too late.

Mr. Morton headed his advertisement, "Thanksgiving Flood Sale." He then told his customers:

It was just a year ago that the muddy waters of the Little Platte River were swirling through the streets of Smithville and through our store and it was just a week ago that we had another scare when a deluge of rain hit this area and we are thankful that we were spared this devastating flood. In order to be more able to handle our stock in case of emergency, we are having this sale

to clear our store and warehouses and reduce our stocks as quickly as possible.

The advertisement continued:

Store and warehouse clearance sale, July 8 through July 17—all merchandise in our store and warehouses including dry goods, ladies' ready to wear, sportswear, and so forth. * * * Everything in our store except food and related items—20 percent discount.

We hope Mr. Morton's sale was a success, but we are sure that he and all other businessmen on Main Street in this town of 1,254—just 20 miles from the heart of Kansas City—have suffered irreparable economic losses in the record flood today.

In the last 32 years, prior to 1965, there have been 30 floods in the Platte River Basin, the greatest occurring in June 1947, when losses were $7.5 million. Losses in June 1964, were $2.6 million, one-half million in Smithville alone. But all records are being broken today.

Far more serious is the loss of life, however, in a flood that could have been controlled had the planned flood protection works been constructed instead of just on paper.

My office has received reports of the possible loss of 10 lives as a result of the heavy rains yesterday, last night, and today in northwest and west central Missouri. As many as five persons may have lost their lives in Smithville alone.

Lower in the Platte Basin, a trailer was swept away by flood waters in the town of Riverside, a suburb of Kansas City. A car was washed off a bridge on U.S. Highway 169, near Smithville. A woman was drowned at Faucett. Her son was rescued from the swirling waters, all of this as a result of the flooding of the Platte River.

In an adjoining river basin, that of the Fishing River, similar flooding was taking place. Excelsior Springs had reported estimates of damage of $1.5 million early this morning and the rains were still continuing. Some 300 people were being evacuated from the nearby community of Mosby.

In the last 2 days, according to unofficial reports, 21½ inches of rain have fallen in Rock Port in Atchison County. Damage there is estimated at more than $4 million.

The Governor of Missouri, Hon. Warren E. Hearnes, has wired the President asking for emergency assistance. We have been assured by the Office of Emergency Planning that the Regional Director for Missouri and Kansas, Mr. Harold Knott, is already in the area and the first report as to the extent of damage has been received from him. The present estimate is that total loss in the State may exceed $25 million, almost as much as the estimated cost of recommended flood protection works in the Platte and Fishing River Basins.

We would hope that action by the Congress this year will pave the way for prevention of recurrences of these flood damages. Flood protection proposals for both these basins are now being processed by Government agencies.

The Office of the Chief of the Army Engineers is completing its work on the Platte report for submission to the Secretary of the Army and Bureau of the Budget. We have been assured that this will be done within the next few days.

The proposal for flood protection on the Fishing River has received all approval necessary prior to submission to the Bureau of the Budget, with one exception, the Department of the Interior. We have been assured that report will be forthcoming promptly so that this proposal can be submitted to the Bureau of the Budget and in turn to the Congress for inclusion in the omnibus rivers and harbors bill when that bill goes to the House of Representatives later this month.

The omnibus bill already includes approval by the Senate Public Works Committee of flood protection plans for the Grand and Chariton River basins in North Missouri.

By the time the Congress takes its final action this year on this bill, S. 2300, we hope that authorization will be included for all of these badly needed flood protection works so that in years to come, other merchants in other towns and cities in Missouri will not have to run ads "in order to be more able to handle—their—stock in case of flood emergency," and so that unnecessary loss of life may be prevented.

STATEMENT ON LETTERS TO MAYORS—REAPPORTIONMENT

Mr. TYDINGS. Mr. President, several weeks ago I wrote to the mayors of our Nation's larger cities and asked them to inform President Johnson of their views on the Dirksen reapportion amendment. Many of them have since written to express vigorous opposition to any amendment that would allow a State to depart from the rule of "one man-one vote" in apportioning its legislature. Their letters voice the fear that such an amendment would produce legislatures unresponsive to the needs of the people. I share the fear of these mayors. Therefore I ask unanimous consent that the letters I have received be inserted at this point in the RECORD.

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

CITY OF PHILADELPHIA,
July 1, 1965.

Senator JOSEPH T. TYDINGS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR TYDINGS: Thank you for your recent letter and Senate speech on this vital issue of representation in our State legislatures. I agree that we must strongly oppose any constitutional amendments which would perpetuate malapportionment in our legislatures.

As you may know, I did make my views known to the Senate Subcommittee on Constitutional Amendments in April. Furthermore, I introduced a resolution calling for apportionment of State legislatures on a population basis only for consideration at the annual meeting of the U.S. Conference of Mayors. This resolution was unanimously approved at the meeting in St. Louis a few weeks ago.

A similar resolution has been submitted to the National League of Cities for consideration at their annual meeting in Detroit late in July. Although we expect some opposition, I am confident that the league will finally approve this basic principle of representative government.

I will continue to use every opportunity to express such views on this matter and also welcome any information or recommendations you may have.

With all good wishes and kindest regards, I remain

Sincerely yours,

JAMES H. J. TATE,
Mayor.

CITY OF ST. PETERSBURG, FLA.,
June 30, 1965.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: I am enclosing a copy of a letter I have written today to the President urging that everything possible be done to defeat the Dirksen amendment.

I testified on this matter before the House Judiciary Subcommittee approximately a year ago, and if my testimony could be of any use to you with reference to this matter, it is on record.

With kindest personal regards.

Very truly yours,

HERMAN W. GOLDNER,
Mayor.

CITY OF ST. PETERSBURG, FLA.,
June 30, 1965.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The administration has made great strides in protecting the right to vote by all of its citizens. This right, however, is not limited to the civil rights aspects so currently in the forefront of the news, but must also be considered in terms of the geographic location of the citizen and the weight of his vote.

Reapportionment, a problem in the State of Florida, where 14½ percent of the people control the majority of the State senate and 24 percent of the people control the house of representatives, has limited the progress of our State for years. It has also made direct relationships between the municipal and Federal Government virtually mandatory because of the failure of the State to face urban problems.

The proposed Dirksen amendment would impede the progress of reapportionment made since recent rulings of the U.S. Supreme Court. You may recall that I raised this question at the briefing of the mayors of major American cities at the White House, and the Attorney General in his answer to the question indicated an awareness of this problem.

I sincerely urge that the administration take a firm position in this matter for the purpose of defeating the current movement in the Congress of the United States supporting the Dirksen amendment. Should this amendment pass, it is my honest feeling that the necessary progress toward finding reasonable solutions for urban problems will be impeded and the necessary reforms for the purpose of making more effective State legislatures will never come about.

I deeply and sincerely urge a firm administrative position supporting the Constitution of the United States as interpreted by the Supreme Court in its one-man one-vote position.

Very respectfully yours,

HERMAN W. GOLDNER,
Mayor.

CITY OF PROVIDENCE,
Providence, R.I., June 30, 1965.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: The apportionment of our State legislature is an issue which is of great concern to me. Since the decision of *Baker* v. *Carr* our State legislature

has grappled with the issue without solution. At its most recent session the legislature appropriated $250,000 to conduct a State census which will be used as the basis of our apportionment plan.

The Dirksen amendment, as I understand it, is directed to upsetting the *Baker* v. *Carr* decision. I find it difficult to lend support to any legislation which would perpetuate the disproportion which exists in many State legislatures. In fact, I have spoken against it and have pledged a municipal reapportionment to realine the city of Providence's ward lines.

In summation I would like to point out that our State legislature is moving with due haste to apportion before the 1966 elections, and I have no doubt that the passage of the Dirksen amendment would seriously delay reapportionment to the detriment of our democratic system.

With kind regards, I am,

Sincerely,

JOSEPH A. DOORLEY, JR.,
Mayor of Providence.

Copies to: Hon. CLAIBORNE PELL, Hon. JOHN O. PASTORE, Hon. FERNAND J. ST GERMAIN, and Hon. JOHN E. FOGARTY.

CITY AND COUNTY OF DENVER,
June 30, 1965.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: Thank you for your letter of June 25 and the copy of your speech in opposition to the proposed constitutional amendment on legislative apportionment.

I heartily concur with your views, and am again informing our congressional delegation of them.

You may rest assured that I will do everything possible to make known the fallacies espoused by Senator DIRKSEN in his proposed amendment.

Cordially yours,

TOM CURRIGAN,
Mayor.

CITY OF NEW YORK,
New York, N.Y., July 12, 1965.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: The mayor has asked me to acknowledge and thank you for your recent letter with respect to State legislative apportionment. The mayor read your remarks with interest, and of course subscribes to your views.

With best wishes.

Sincerely yours,

PAUL E. BRAGDON.

CITY OF DULUTH,
July 6, 1965.

Senator JOSEPH D. TYDINGS,
U.S. Senate Building,
Washington, D.C.

DEAR SENATOR TYDINGS: I am deeply disturbed about the possibility of passage of the so-called Dirksen amendment to the Constitution of the United States for reasons that I am sure you are familiar with and which need not be belabored here.

However, I do want to go on record, along with thousands of other persons interested in municipal government, against the Dirksen amendment which, I am informed, does have a chance of passage by Congress.

Sincerely,

GEORGE D. JOHNSON,
Mayor.

OFFICE OF THE MAYOR,
Los Angeles, Calif., July 6, 1965.

Hon. JOSEPH D. TYDINGS,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR SENATOR TYDINGS: Mayor Yorty is out of the city, but your letter urging opposition to the Dirksen amendment will be brought to the mayor's attention upon his return. As a supporter of reapportionment of State legislatures on the principle of "one man, one vote," Mayor Yorty will be most interested in your suggestions.

In the meantime, the city of Los Angeles probably will be represented at hearings on the amendment by Principal Assistant City Attorney James A. Doherty and the Honorable Paul Lamport, member of the city council.

Very truly yours,

DOROTHY L. MOORE,
Secretary to the Mayor.

CITY OF PITTSBURGH, PA.,
July 3, 1965.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: I have your letter of June 25, together with your remarks in the CONGRESSIONAL RECORD.

I could not agree with you more thoroughly. I have expressed my views on this in many public speeches, and would be more than happy to appear, at any time, before a committee in the Senate or House in opposition to the Dirksen amendment.

I appreciate your writing me.

Sincerely yours,

JOSEPH M. BARR.

THE CITY OF WATERBURY, CONN.,
July 7, 1965.

President LYNDON B. JOHNSON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As the mayor of a growing industrial city, with populous suburbs, in a State which has long suffered from legislative malapportionment, I respectfully urge you to use the influence of your office to defeat the proposed constitutional amendment offered by Senator DIRKSEN.

After a century and a half of disportionate rural influence in our State legislature, Connecticut currently has in session a Constitutional convention, called by order of the Federal Courts, which will act to write into our constitution the "one man, one vote" principle enunciated by the Supreme Court. Our general assembly, under prodding by the U.S. district court, has already voted to establish new assembly districts set up on a population basis.

Adoption of the Dirksen amendment, allowing one house of a State legislature to be apportioned on some basis other than population, would mean a return of the discredited old system which gave the same representation in the State house of representatives to a town with 383 residents as it did to the largest city.

Dissatisfaction with a Supreme Court decision offers a questionable foundation for an effort to amend the Constitution of the United States.

I am asking our Senators and Representatives also to oppose the Dirksen amendment.

Yours sincerely,

JOSEPH F. MCNELLIS,
Mayor.

OFFICE OF THE MAYOR,
CITY OF NEW HAVEN, CONN.,
July 1, 1965.

DEAR SENATOR TYDINGS: Let me congratulate you on your outstanding speech concerning the Dirksen amendment. I can say without exaggeration that yours is one of the finest congressional presentations that I have ever read.

As you may know, a constitutional convention has been convened in Connecticut to reapportion our State legislature. There seem to be grounds for reasonable confidence that the convention will handle its job effectively and that the malapportionment which has plagued our State for most of this century will be eliminated. The results of the convention are by no means certain, of course, but those of us who are concerned with fair representation and with the problems of cities and metropolitan areas are cautiously optomistic.

I believe we can also be confident that the entire Connecticut congressional delegation—Senate and House—will oppose the Dirksen amendment when it comes to a vote, and there is no need for me to intercede with the delegation. I will, however, indicate my opposition to the Dirksen amendment to Vice President HUMPHREY and you may also be sure that I will strongly oppose it whenever appropriate opportunities for effective action present themselves.

Again, my thanks for your letter and my congratulations on your fine address.

Sincerely,

DICK LEE.

METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY,
Nashville, Tenn., July 6, 1965.

Hon. JOSEPH D. TYDINGS,
U.S. Senator from Maryland, Senate Office Building, Washington, D.C.

MY DEAR SENATOR: I am in receipt of your letter of June 25 relative to a statement in connection with the Dirksen amendment.

I am enclosing a copy of statement that I have heretofore filed with the chairman of the House committee on the subject, for your information and use in any form that you might think proper. I will likewise send copies of it to our Tennessee delegation.

Thanking you for calling this to my attention, I am

Most sincerely,

BEVERLY BRILEY, *Mayor.*

METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY,
Nashville, Tenn., June 30, 1965.

Representative EMMANUEL CELLER,
Chairman of the House Judiciary Committee, House of Representatives, Washington, D.C.

DEAR SIR: As the mayor of metropolitan Nashville and Davidson County, Tenn., I would like to bring certain facts to your attention as you evaluate the proposed constitutional amendment relative to the manner in which legislatures may apportion themselves. Nashville and Davidson County have had long historic interests and experience in the problems arising out of inequitable representation of the State legislature in Tennessee. It is from this background of experience and concern that we would like to point up certain considerations relating to the reapportionment issues presently before your committee.

We are firm believers that government at all levels should be responsible and responsive to its citizens. We feel that the State government should be strengthened and made more responsible to the problems arising from the urban centers within States. We firmly believe that a truly representative State government will pass legislation dealing with urban problems; thereby equipping States to perform the functions and services in urban centers within their own limits, or in delegating authority to their local units of government, in order that many problems presently pressing upon the Federal Government will be resolved at the local level. We would deplore any hasty action which might cripple the State's ability, knowledge, or desire to make significant contributions toward the resolving of growing urban problems.

With these thoughts in mind, we would like to raise the following points in regard to this proposed constitutional amendment:

1. We would resist any attempt to make this matter nonadjudicable. Matters concerning such a basic right as the vote must

always have a judicial remedy to insure the continuation of democratic institutions.

2. This amendment should only be adopted by referendum in each State and not by the legislatures whose members may well have a vested self-interest in preserving an unfair system of representation.

3. This amendment should list those factors other than population which are legitimate factors in determining representation. Failure to do this will put the entire matter back in the courts to determine what factors may be used. If the amendment is adopted, we believe it should define the factors which may be used rather than leaving the factors unclear.

4. The amendment would undoubtedly raise many legal problems because its relation with the 14th and 1st amendments remains unclear. It would appear to act as, at least, a partial repeal of these basic amendments.

5. Finally, we believe that the "one-man-one-vote" principle should be given a chance to prove itself in strengthening State governments and in making them responsive to growing urban problems.

Sincerely,

BEVERLY BRILEY,
Mayor.

CITY OF ALBANY,
July 1, 1965.

Hon. JOSEPH D. TYDINGS,
U.S. Senate, Washington, D.C.

DEAR SENATOR TYDINGS: Thank you very much indeed for you letter of June 25. I certainly agree with you on this matter, and will do everything I can to help.

Sincerely yours,

ERASTUS CORNING, 2D,
Mayor.

CITY OF LOUISVILLE, KY.,
July 2, 1965.

Senator JOSEPH D. TYDINGS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR TYDINGS: I have received your letter of June 25, 1965, and I agree with your belief in the philosophy of "one man—one vote." I have expressed this feeling to my good friends, Senator JOHN SHERMAN COOPER and Senator THRUSTON B. MORTON.

Thanking you for your interest, I am

Sincerely yours,

WILLIAM O. COWGER.

OFFICE OF THE MAYOR
OF MILWAUKEE,
July 14, 1965.

Hon. JOSEPH D. TYDINGS,
U.S. Senate, Senate Office Building, Washington, D.C.

DEAR SENATOR TYDINGS: There is attached a copy of a communication I have sent to the Honorable Lyndon B. Johnson, President of the United States, relative to the Dirksen amendment.

Please be assured of my continued interest in this subject. I have repeatedly mentioned this matter in public statements and hope that you will be successful in your fight against this proposal.

Very truly yours,

HENRY W. MAIER,
Mayor.

OFFICE OF THE MAYOR OF MILWAUKEE,
July 6, 1965.

Hon. LYNDON B. JOHNSON,
President of the United States,
The White House,
Washington, D.C.

DEAR PRESIDENT JOHNSON: This is to register with you my personal and official opposition to the Dirksen amendment which would provide for nonrepresentative government in the several States. This great leap backward is a violation of the spirit of democracy and runs counter to the fight you have successfully made to extend equal voting rights to all of our population.

If State legislatures can gerrymander their separate States so as to disenfranchise various elements of the population on one excuse or another, the right of the individual to his ballot can be made meaningless.

I have long fought for fair apportionment of legislative representation. After the 1950 census when I was in the Wisconsin Senate, I led the fight for fair apportionment in the State of Wisconsin. It was in that fight that I coined the word, "areacrat," to describe those who would disenfranchise our urban dwellers through geographic legerdemain.

I also wish to register my opposition to this amendment in my capacity as the mayor of the largest city in the State of Wisconsin and as president of the National League of Cities. Most American cities find that the major cause of their current fiscal and social difficulties stem from inadequate support and assistance received from their State capitals. These injustices can be rectified only through action at the State level. And this action can be achieved only if city dwellers are fairly represented in their State legislatures.

Although I realize that this matter is still in the Senate and is not subject to your veto, I hope that you will find it possible to use your influence against this iniquitous amendment so as to assure its rejection by that body.

Respectfully,

HENRY W. MAIER,
Mayor.

THE CASE FOR ELECTORAL COLLEGE REFORM

Mr. MUNDT. Mr. President, the case for needed congressional study and action to amend the process of our electoral college system continue to mount with each passing day. While there is no unanimity of opinion as to what should be done to update our electoral college system, there is at least recognition among political and judicial leaders of the country that reform there must be. All agree that the Supreme Court decision espousing the "one man, one vote" concept will require that Congress approve the necessary constitutional amendment to meet this criteria in our electoral college procedures.

Mr. President, at the annual meeting of the National Association of Attorneys General, held this year at the end of June in San Antonio, Tex., there was a discussion session on electoral college reform. The five-man panel, moderated by Attorney General David P. Buckson, of Delaware, included spokesmen for the three approaches to the electoral college problem: First, a constitutional amendment proposed by Congress; second, a Constitutional Convention to propose an electoral reform amendment to the Constition; and third, an original jurisdiction suit in the U.S. Supreme Court by Delaware to put a stop to the practice in 45 States of electing statewide their electoral college members who correspond to Members of the House of Representatives.

I ask unanimous consent that the papers presented by the five members of the panel be printed in the RECORD. The panelists, in the order of their presentations, were: Dr. Robert G. Dixon, Jr., professor of law, the George Washington University Law School and Graduate School of Public Law; J. Harvie Williams, secretary, American Good Government Society, Washington, D.C.; James C. Kirby, Jr., professor of law, Northwestern University, and formerly chief counsel to the U.S. Senate Subcommittee on Constitutional Amendments; the Honorable Cecil H. Underwood, former Governor of West Virginia; and John A. Gosnell, general counsel, National Small Business Association, Washington, D.C.

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

THE IMPACT OF "ONE MAN-ONE VOTE" ON STATE LEGISLATURES, CONGRESS, PRESIDENCY

(By Dr. Robert G. Dixon, Jr., professor of law, George Washington University Law School and Graduate School of Public Law)

It is both a pleasure and a challenge to be asked to make some brief remarks to this distinguished group of chief State legal officials on a topic as broad and fascinating as "one man-one vote." By now most of you have been drawn deep into the political thicket of State legislative reapportionment and congressional redistricting, and electoral college suits may lie ahead for some of you. Your badge of office, perhaps, should be a crown of thorns.

We have come a long way since H. L. Mencken penned these lines in 1928: "The yokels hang on because old apportionments give them unfair advantages. The vote of a malarious peasant on the lower Eastern Shore counts as much as the votes of 12 Baltimoreans."

But it is a tribute to the wonderful complexity of apportionment, districting, and practical politics, and a warning against oversimplification, to point out that in Mencken's Maryland by the 1950's these so-called malarious peasants and these supposedly virtuous Baltimore burghers had worked out a very comfortable accommodation in State legislative politics.

They combined to hold in thralldom the postwar expanding population areas—the suburban counties—where the major portion of Maryland's civic and community leaders reside.

In similar vein to Mencken's comment I have heard recently a paraphrase of Lord Acton's famous aphorism about power. It goes like this: "Power corrupts, but the prospect of being out of power corrupts absolutely." Would that it were this simple, with all the good guys on one side of the line and all of the bad guys on the other. In this field it is true—almost tragically true—that it is easier to be cute than acute.

ONE YEAR FROM REYNOLDS AGAINST SIMS

A year after the Supreme Court mandated drastic change in legislative apportionments, far fewer than half of the States had succeeded in accomplishing change, although there has been furious activity in virtually every State. Even in the steadily increasing number of States with new apportionment plans and new congressional districts, there is no assurance of ultimate constitutionality because of continued uncertainty concerning the Supreme Court's eventual standards for fair representation and "substantial" population equality among legislative districts.

For example, one figure commonly considered is the maximum percentage deviation from average of ideal district. In regard to congressional districts the House of Representatives passed and sent to the Senate a bill permitting 15-percent leeway. One Federal district court (Georgia) in April 1965, also spoke favorably of a 15-percent leeway for the State legislative districts. But at least one of the new congressional districts in 4 of the first 10 States to redistrict after *Wesberry* v. *Sanders* exceed a 15-percent deviation. And it may be some time before the Supreme Court rules on whether

even a 15-percent deviation yields substantial equality. It could be argued—and the Supreme Court has hinted as much—that the allowable percentage deviation for the national House of Representatives should be less than for State legislatures, because only half of Congress is apportioned on a population basis whereas both houses of State legislatures are to be apportioned substantially on a population basis.

Some of the newly reapportioned State legislatures show major variations in terms of maximum deviation percentage points. Under the new Colorado plan, which was sustained in the Supreme Court in January, 1965, 17 of the 65 House districts and 5 of the 35 Senate districts exceed a 15-percent deviation, ranging up to 30 percent for the House and 20 percent for the Senate. But neither in the lower court nor the Supreme Court were these deviations specifically challenged.

Deviations in Washington run to 20 percent, and in New York to 11 percent (both approved by lower Federal courts. But Michigan's deviations of under 1 percent for the Senate and under 3 percent for the House are being challenged. It is being urged that the price of this allegedly unnecessary strictness was a major cutting of county lines, ignoring of community-of-interest factors, gerrymandering, and violation of parts of the Michigan constitution deemed not to be intrinsically in conflict with a substantial population equality rule.

FROM A CONCERN FOR "MALAPPORTIONMENT OF PEOPLE" TO A CONCERN FOR "MALREPRESENTATION OF INTERESTS"

Looking to the future, I think it is critically important that we begin to move from our present rather narrow concern over malapportionment of people (which Justice Stewart has characterized as applying 6th grade arithmetic to bare census data), to a concern for malrepresentation of interests."

Political scientists have known for years that a district system of legislative election is a very inexact method for taking the popular pulse and representing the popular will. All district systems of electing legislators—including equal population district systems—may yield unequal and distorted representation. District lines frequently carve up and submerge identifiable interests, sometimes unavoidably. The balance-of-power position of better organized interests frequently leads to exaggeration of their influence. Those interests which constitute a locked-in minority in a series of districts will, realistically speaking, get no effective representation. (See appendix for some examples of the inadequacy of a simple mathematical approach toward reapportionment.)

As Morris Ernst puts it in a letter in this month's ABA Journal—commenting favorably, I am pleased to say, on my article in the April issue—the "right to be heard" is a proper concern along with the "right to vote," and lies beyond the "one man-one vote" concept. For this reason he has suggested to newly formed nations a formula that minority parties might get in toto one-third of the votes (legislative seats), a figure insufficient to express power but sufficient to give people that "tender and essential feeling of having a spokesman of their own choosing in the halls of the mighty."

In short, we need to talk "one man-one vote" a little less, for it is only a slogan, and talk political equity a little more. We need to realize the full dimension of the opportunity that lies before us to improve radically the imprecision of our traditional, cumbersome, representation system.

I predict, therefore, that disputes over "gerrymandering," in the broadest sense of that term, may come to be even more important than disputes over population percentage points as the reapportionment crisis unfolds in the next few years. The Supreme Court itself seemed to invite this argument in an opinion handed down in January of this year in a Georgia case (*Fortson* v. *Dorsey*) which challenged the at large (winner take all) election of seven State senators from Fulton County (Atlanta). Although the Court refused to disturb the at-large system on the record presented, Justice Brennan did say, in his opinion for the Court, that a system might be suspect if it operated "to minimize or cancel out the voting strength of racial or political elements of the voting population."

The force of this statement, although made in a State legislative apportionment case involving at-large voting a multimember county, seems equally applicable to the construction of congressional districts. Its essence seems to be to identify a "political equity" or "racial equity" interest as a further out-reach of the "one man one vote" concept. On this basis a system of equal population districts which was so constructed as to prevent the weaker political party from capturing a share of seats roughly proportional to its share of the popular vote would be suspect, and perhaps unconstitutional. Also suspect would be all "malrepresentation of interests" systems.

This dictum of Justice Brennan in the *Dorsey* case could turn out to be the most significant statement in the recently concluded Supreme Court term.

NEW FRONTIERS FOR "ONE MAN, ONE VOTE"

In my article in the April issue of ABA Journal, I listed a number of remaining "one man, one vote" issues, such a gerrymandering which I have just alluded to, "how equal is equal," single-member versus multimember districts, weighted voting and fractional voting, the role of political subdivisions in districting, etc. Raising our sights further, there are some additional frontiers.

Consider, for example, the hidden policy choices which are unavoidably present in districting, whether consciously recognized or not. These policy choices include the following: Should we create the maximum number of swing districts; or the maximum number of safe districts, allocated hopefully on an equitable basis? Should we make a conscious attempt to create safe Negro districts; or just focus on population and spread Negroes as a minority over several districts where they may or may not have major influence as a balance of power within the Democratic Party? Should we make a conscious effort to create homogeneous suburban districts; or mix suburbs with central city by using wedge-shaped districts? And in general, do we seek homegeneity or heterogeneity in districting regarding such factors as economic base, education, family income, etc. Bear in mind that every line drawn on a map, even by a blindfolded, neutral draftsman (and only a blindfolded draftsman can be neutral) inevitably makes one or more of the above policy choices.

From a different perspective, I would suggest that "one man-one vote," when applied to the legislative arena as a whole, puts in question the whole range of antimajoritarian rules and practices in Congress and State legislatures. As Chief Justice Warren said in one of his opinions in the reapportionment decisions of June 1964, the ultimate goal is fair and effective representation. Any device which impedes or thwarts effectuation of the dominant represented view should therefore be suspect. It short-weights the representative function. Viewed thusly, a number of legislative practices are challengeable under a "one-man-one-vote" concept, functionally viewed. They would include, at the very least, the following: (1) the filibuster; (2) seniority rule in electing committee chairman; (3) seniority rule in committee assignments; (4) powers of committee chairman to delay or block action; (5) all extraordinary majority requirements in legislative voting; (6) inequitable staffing for committees and for legislators individually.

The proposed reapportionment amendment, and the possibility of a "one-man-one-vote" attack on the electoral college system of choosing our President, also must be mentioned as part of the continued fallout of last June's decisions. Others on the panel will amplify the issue of a possible Federal constitutional amendment to authorize the direct democracy device of popular referendum to place one house of a bicameral legislature on a mixed representation basis. Let me just say that the two essential elements for such an amendment would be: (1) a provision for placing before the people, either automatically or by petition, the question of placing one house on a mixed representation system without need for approval of the sitting legislature, however it be apportioned; (2) provision for decennial popular review of the representation question, either automatically or by petition.

The proposed electoral college suit to break up the winner-take-all system of allocating the electoral vote inside each State, and to shift possibly to a system of making the electoral vote of each party proportional to its popular vote, poses difficult questions in regard to jurisdiction, standing, justiciability, and substantive rights. Others on the panel will amplify these questions. Let me say this. The remedy of nationwide popular election of the President lies beyond judicial review—although such a remedy would be the analog of the remedy ordered by the Court in the Georgia county unit case (*Gray* v. *Sanders*). The argument for the halfway house of proportionalizing the electoral vote in each State, according to the split in popular vote, would be that "wasted votes" would be minimized. In the present general ticket or "State unit" system (and also in the suggested election of electors from individual districts), all votes cast for the losing candidate are wasted.

THE ROLE OF THE OFFICE OF ATTORNEY GENERAL

The offices of the State attorneys general can play a most significant role in the next decade or two in moving the United States toward fairer and more accurate representation systems. And representation, of course, is the heart of any system of democratic government.

I should like to call on you to be responsive to the "political equity" overtones of the recent *Fortson* v. *Dorsey* dictum of Justice Brennan; to be sophisticated in your analysis of representation issues, being ever mindful of the problem of gerrymandering and of locked-in minorities in some election districts; to be more adventurous in suggesting remedies, including such devices as Illinois' former cumulative voting system; to be alert to the hidden policy choices in construction of districts as listed earlier; and to be alert also to the outreach of "one man-one vote" into new areas.

APPENDIX

EXAMPLES OF INADEQUACY OF A SIMPLE "ONE MAN-ONE VOTE" APPROACH

Considerations of "fair and effective representation" may not be satisfied merely by playing with census counts. For example, an at-large election satisfies the mathematics of one man-one vote, but yields no representation at all for the minority, no matter how large. Consider also the following more detailed illustrations:

ILLUSTRATION A

"Majority rule" in a one-city State: State population, 1,000,000; central city and suburbs, 550,000; rest of State, 450,000.

If split, central city and suburbs: X, 290,000; Y, 260,000; rest of State, if split, Y, 275,000; X, 175,000.

Then statewide total would be X 465,000 and Y 535,000.

In this situation one could expect that a proposal to apportion both legislative houses in a "one man-one vote" equal population district principle would be defeated on a "one man-one vote" statewide referendum. The Y party members in both parts of the State could be expected to prefer some population imbalance in favor of the area outside the central city and suburbs in order to obtain political equity for Y party in the legislature as a whole.

ILLUSTRATION B

Possible representation result of a population equalizing reapportionment:

	Party X	Party Y	Total population	Seats before reapportionment	Seats after "equalizing" reapportionment
County A	5,000	20,000	25,000	1	1
County B	55,000	45,000	100,000	1	4

Before reapportionment: Each party, one seat. Party votes split 60,000 to 65,000.

After reapportionment: Party X, 60,000 votes, four seats; party Y, 65,000 votes, one seat.

THE ELECTORAL COLLEGE IN OUR CONSTITUTIONAL STRUCTURE

(Remarks by J. Harvie Williams, executive secretary, American Good Government Society, Washington, D.C.)

The electoral system by which we select the President of the United States—the so-called electoral college—is the least understood and most misunderstood of our political institutions.

How did this seemingly complicated but simple system come into being? Why was it necessary? Is it still necessary? What is the defect in the present system?

First, let me remind you that at that time there were no organized political parties as we know them today. During that civil war which we call the "American Revolution," more accurately described as the "War for American Independence," there were two sides—patriots and Tories. After the Constitution was written and submitted to the States for ratification, two parties did develop—Federalists and anti-Federalists—a division that lasted through the eighth presidential election in 1816.

The war had been fought under the direction of the Continental Congress which first met on October 14, 1774. This body adopted the Declaration of Independence and wrote the Articles of Confederation which became effective on March 1, 1781, when the signing by Maryland's Delegates made their adoption unanimous.

Throughout the 15-year life of the Continental Congress, the 13 States were equal—with one vote each—regardless of size or population. In the Constitutional Convention the States were equal with one vote each. In the ratifications of the Constitution they were also equal. In the Senate today, the States continue to be equal, but with two votes each.

Under the Confederation, things went from bad to worse. The Continental Congress then called the Convention of States which which wrote the Constitution. This Constitution was ratified by special conventions of the people in the several States, hence the opening phrase, "We the people of the United States."

These ratifications were the points of transfer by the States to the new Government, of a part of the sovereign power ceded to them by the British Crown in the Treaty of Paris in 1783.

Besides this constitutional delegation of power to the new government, a major change in structure was achieved. This was the establishment of the House of Representatives, based on principles of representation entirely different from those of the Senate. The Representatives were apportioned among the States according to their respective numbers of people, as these Federal numbers were defined.

This structure of the Congress is the result of what is often called "the great compromise" of the Constitutional Convention, a compromise necessary to get the Constitution written, submitted to the States, and ratified.

If we raise our sights a little, I think we can call it "the great discovery." Necessity being the mother of invention, the Founding Fathers discovered how separately organized political societies could be brought together under one national roof. I suggest that this combination of these two different principles of representation in bicameral legislatures, national or State, is our greatest contribution to the art of statecraft.

Having solved the problem of a proper basis of representation for the legislative power, the convention was faced with the problem of establishing a proper basis for the executive power, and without violating the cardinal principle of separation of powers. This was acomplished in this provision for the election of the President:

"Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an office of Trust or Profit under the United States, shall be appointed an Elector."

This provision establishes for the executive power exactly the same basis of representation as that established for the legislative power, with a single difference. That difference is that the members of the presidential elector body vote as though members of one House. How this came to be is put best by the historian George Bancroft:

"And now the whole line of march to the mode of the election of the President can be surveyed. The Convention at first reluctantly conferred that office on the National Legislature, and to prevent the possibility of failure by a negative vote of one House or the other, to the Legislature voting in joint ballot. Then to escape from the danger of cabal and corruption, it next transferred the full and final power of choice to an electoral college that should be the exact counterpart of the two Houses in the representation of the States as units as well as population of the States, and should meet at the seat of government. Then fearing that so large a number of men would not travel to the seat of government for that single purpose or might be hindered on the way, they most reluctantly went back to the choice of the two Houses in joint convention. At this moment the thought arose that the electors might cast their votes in their own States, and transmit the certificates of their ballots to the seat of government. Accordingly, the work of electing the President was divided: the Convention removed the act of voting from the joint session of the two Houses to electoral colleges in the several States, the act of voting to be followed by the transmission of authenticated certificates of the vote to a branch of the General Legislature at the seat of government; and then it restored to the two Houses in the presence of each other the same office of counting the collected certificates which they would have performed had the choice remained within the two Houses of the Legislature."

Here we must remember that the Founding Fathers were anxious to establish a "more perfect union," to establish a limited Constitution of government for the United States. Wisely, in order to get it accepted, they were unwilling to overload their wagon. They established the basis for the body of presidential electors, but left to the judgment of the State legislatures the manner of their appointment. We also must remember that the States were previously established political societies.

In the early days of the Republic the State legislatures generally followed one of three methods of appointing presidential electors: (1) election by the legislature itself; (2) election by the people in districts; and (3) election by the people on a statewide general ticket.

At the time of the fourth presidential election in 1800 the two-party system was clearly established. Each party, in the States where it was the majority, quickly took advantage of the general ticket system as a means of capturing the entire electoral vote of the State for its presidential candidates.

By 1836, the 13th presidential election, the general ticket system was in use in every one of the then 26 States, except South Carolina, where the legislature continued to choose the electors through 1860.

From what I have said, it should be obvious that the electoral college is necessary to our constitutional structure.

In conclusion, it is clear to me that the only defect in the electoral college system is the long-established policy of the States—the policy of appointing by popular election on a statewide general ticket those presidential electors who correspond to their Members of the House of Representatives.

In order to place the separated legislative and executive powers on the same foundations in the electorate, as required by the structure of the Constitution, Members of the House of Representatives and their counterpart members of the Electoral College should be chosen in the same way.

Personally, I agree with John Quincy Adams, a former Senator and former President, who as chairman of a select committee of the House reported in July 1842: "The representation of the people by single districts is undoubtedly the only mode by which the principle of representation in proportion to numbers, can be carried into execution."

Unless this defect in the Constitution, this lack of a fair and just system of representation in the election of the President, is corrected, I fear that our Federal union of States, our limited Constitution of Government, our unique political structure and system reared by the Founding Fathers will disappear beneath the waters of the earth, as did Atlantis.

CURRENT PROPOSALS FOR ELECTORAL COLLEGE REFORM BY CONSTITUTIONAL AMENDMENT

(Summary of statement of James C. Kirby, Jr., professor of law, Northwestern University and formerly Chief Counsel to U.S. Senate Subcommittee on Constitutional Amendments)

There is general agreement on two points:

1. The individual members of the electoral college should either be completely eliminated or should be deprived of their power to vote independently for someone other than the choice of the people.

2. To change the little-used provision for election by the House of Representatives when no candidate has a majority of the electoral vote. Each State now has one vote. Most proposals would substitute election by majority vote of a joint session of Congress, a numerical counterpart of the electoral college in the representation of States.

Here the consensus ends.

President Johnson has proposed an amendment which would eliminate electors, but preserve the system of weighted State electoral votes. They would be cast automatically for the candidate who wins the popular

vote of a State. This would freeze into the Constitution the present winner-take-all or State unit system under which the minority candidates' popular votes are completely lost. Even though the winner has only 50.1 percent of the State's popular votes, he receives 100 percent of its electoral vote.

It is a little-known fact that the winner-take-all system is not presently required by the U.S. Constitution. It results solely from the laws of the 50 States.

Those who would change the winner-take-all rule are sharply divided into three camps, behind three different proposals:

1. Proportional division of a State's electoral vote according to the split of the popular vote. This passed the Senate in 1950.

2. A district system, by which each State would elect one individual elector from each congressional district and two from the State at large. This has strong conservative support.

3. Elimination of both the college of electors and the electoral votes and substitution of direct national popular election. This would apply the one-voter, one-vote principle to presidential elections. But it has little support. Many liberals who support this principle for all other elections, draw the line here. Most formed their positions when rural, conservative interests were overrepresented in State legislatures and the House. The State unit system had come to compensate for this by overrepresenting large urbanized States and pivotal urban voting groups in the presidential election. Supreme Court decisions requiring reapportionment and redistricting have removed this objection, and in fairness, these elements should give up their advantage in presidential elections.

Others say that direct national election would violate our Federal principle by ignoring States as electoral units.

I doubt this. It depends on one's view of contemporary federalism. Unquestionably, in the eyes of the American public, the President has come to be the representative of all the people in their collective national interest. The Senate represents them in their State interests and the House of Representatives in their local or district interests. I predict that if, or when, a President again assumes office although a majority of voting Americans rejected him, the public outrage will be so great that the next President will be elected under a new constitutional provision requiring direct national election and majority rule in such elections.

Two significant developments may produce action: (1) Reapportionment and redistricting mean the elimination of the main political justification for the present system as a compensation for underrepresentation of certain interests; (2) President Johnson's active support of a proposal. No other President has done this in recent years. Senator BAYH has introduced the administration bill and it is the next order of business for Senate Subcommittee on Constitutional Amendments.

The present system should not be frozen into the Constitution without a great national debate. Preferrably, a limited national constitutional convention should be elected, composed of delegates who have been elected after campaigns disclosing their positions on the basic issues.

But something should be done. We have an oxcart method for electing space age Presidents. We risk serious trouble by continuing it. It's a loaded pistol with which we play Russian roulette every 4 years. Let's stop it before it's too late.

REMARKS BY THE HONORABLE CECIL H. UNDERWOOD, FORMER GOVERNOR OF WEST VIRGINIA

The National Electoral Reform Committee was organized prior to the 1963 sessions of the State legislatures to voice the interests of the States in changing our electoral system. Three distinguished Americans provide the leadership of this Committee: Edwin C. Johnson, Chairman (U.S. Senator, Colorado, 1937–55; Governor of Colorado, 1932–37 and 1955–56; Denver, Colo.); David F. Maxwell, member (president, American Bar Association, 1956–57; Philadelphia, Pa.); Ed Gossett, member (U.S. House of Representatives, 1939–51; Dallas, Tex.).

The Committee advocates electoral reform through the medium of State action—as provided in the U.S. Constitution. Twelve States of the thirty-four needed—already have passed a concurrent resolution proposed by the Committee. This resolution petitions Congress, under article V of the U.S. Constitution:

"For the calling of a Convention to propose an Article of Amendment to the Constitution providing for a fair and just division of the electoral votes within the States in the election of the President and Vice President."

The resolution contains a second important clause: "That if and when Congress shall have proposed such an Article of Amendment this application for a Convention shall be deemed withdrawn and shall be no longer of any force and effect;"

Thus, the Electoral Reform Committee follows the precedent established early in this century when the Federal Constitution was amended to provide for the direct election of U.S. Senators. For several years, the House of Representatives had sought to change the election of Senators from the State legislatures to the popular vote of the State. House efforts were consistently rebuffed by the U.S. Senate. The deadlock was broken when nearly 30 State legislatures petitioned Congress to call a convention to draw up a direct-election amendment. The Senate then joined the House of Representatives in the adoption of a direct-election amendment, which subsequently was ratified by the States.

The proposed concurrent resolution does not specify any reform measure. Its language, however, is limited to two plans: (1) the proportional plan; (2) the district plan.

The proportional plan would divide the electoral votes of every State among the top presidential and vice-presidential candidates in proportion directly to the popular votes cast in the respective States. This plan makes no changes in the present system of allocating electoral votes to the States. It does abolish the electoral college as a political institution. This plan would need to include safeguards to discourage the growth of a multiparty system.

Under the proportional plan, obviously, it no longer would be possible for a presidential candidate to receive up to 49 percent plus of the popular vote in a State without winning any electoral votes. He would receive his proportional share of electoral votes in all the States. Every State would become a genuine area of contest in presidential elections. This situation would commend a real two-party campaign in each State.

The district plan provides that the States select presidential electors in the same manner as they elect U.S. Senators and Representatives. Thus, two electors, corresponding to the two U.S. Senators, would be elected by statewide popular vote. The State's remaining electors, corresponding to its number of U.S. Representatives, would be elected in electoral districts. State legislatures would establish such districts independently or possibly in conformity with existing congressional districts.

Under the district plan, every American voter—no matter in what State he lived—would vote for three electors. Today, a citizen may vote for any number of electors ranging from 43 down to 3, depending in what State he lives. This plan retains the electoral college as well as the present system of electoral allocation. While calling for relatively little basic change in the U.S. Constitution, it would eliminate the winner-take-all basis of the general ticket system.

Either of these plans appears to satisfy the advocates of electoral reform at the State level. The National Electoral Reform Committee is pledged to support whichever plan Congress should adopt.

LITIGATION APPROACHES TO ELECTORAL COLLEGE REFORM

(By John A. Gosnell, general counsel, National Small Business Association, Washington, D.C.)

We now come to consideration of feasible approaches to electoral college reform under various theories of litigation suggested by Baker and sequent cases. The foregoing discussions have delineated the areas in which the electoral college, as it now operates, fails to provide political equity and fair representation in presidential elections. Although the rule of "one voter, one vote" may fall short of assuring full political equity and fair representation in some situations, the thrust of the decisions in Baker and related cases is in this direction and there is a strong implication that the State unit vote which dominates the operation of the electoral college does not meet the newly embraced constitutional requirements of equal protection and due process.

This opens the door, of course, to the prospect of seeking electoral college reform through litigation rather than by the extended and tortuous path of constitutional amendment. It is probably axiomatic that no State, political party, or representative body which enjoys an advantage under the status quo will volunteer support for any electoral college reform which destroys that advantage.

The practical solution is to provide judicial compulsion if possible, and a year of study has focused attention on two feasible theories of approach. It should be noted that litigation does not eliminate the need for a constitutional amendment. The ideal objective of the litigation would be to establish the unconstitutionality of the State-unit system. The ultimate solution would remain political in nature and the States would be forced to embrace one of several acceptable choices. One possibility is a suit by citizens against their own State complaining that appropriation of their minority vote under the winner-take-all system had consistently defeated their right to participate on an equal basis in presidential elections in violation of their rights under the 14th amendment and other relevant provisions of the Constitution. The recent cases would seem to exclude likelihood of any problem as to jurisdiction or standing in such a case. And it would be difficult for the court to fall back on justiciability at least without exposure to a charge of gross inconsistency because of the close analogy to the apportionment precedents.

It is probable that a majority of the Supreme Court agree with the opinion of the Chief Justice in Reynolds that "Undeniably the Constitution of the United States protects the right of all qualified citizens to vote in State as well as in Federal elections. * * * And the right of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise."

Although the repressive effects of the general ticket as applied to the electoral college do not fit the usual pattern of debasement or dilution by apportionment schemes, the Supreme Court in the Dorsey case acknowledged the possibile unconstitutionality of a "multimember apportionment scheme," which would operate to minimize or cancel out the voting strength of racial or political elements of the voting population. The precise issue was not before the Court which is

somewhat astonishing because all of the necessary elements were available to the case. Although presidential electors are not representative in the deliberative sense the Court might be persuaded that they are no less importantly representative in the exercise of the presidential franchise.

It is apparent of course that a suit brought by individual voters against a State would have to be cast in "terms of proximate equality" (Dixon) because of the State weighting of the electoral college to fit the pattern of the Federal system. It would appear also that the "political inequity of the winner-take-all outcome of the general ticket system in each State is more startling, and easier to prove than political party imbalance in a State legislature resulting from apportionment and district practices" (Dixon).

A second approach to litigation would be a suit brought by a small State against a larger State under an extension of the parens patriae doctrine seeking to protect the political interests of its citizens. Although there is no direct precedent for this application of parens patriae it may be submitted that the general political interests of the citizens is not less important than their general economic welfare and their interest in the free flow of commerce, which have been successfully protected under the parens patriae doctrine in interstate litigation.

Although it would probably be somewhat easier to articulate the Federal right in the individual voter suit, the parens patriae suit would better serve to focus on the shortcomings of the electoral college mechanism as a whole—particularly the repression of minority political interests State by State irrespective of party affiliation. The plaintiff State would be seeking a general but definitive voter rights to participate in Federal elections without being handicapped either because of his residence in a particular State vis-a-vis other States, or because of the treatment of minority votes in his own State.

Now that the "political thickets" have been breached and the Supreme Court is broadly dedicated to protection of the unimpaired right to participate equally in State and Federal elections it would appear that well-pled suits clearly focused on the new concepts of political equity and fair representation are not only to be summarily dismissed via the judicial escape hatches of justiciability and standing.

It would appear also that Baker et al have dispelled the idea mentioned in *McPherson* v. *Blacker* that the constitutional grant of power to the States to appoint presidential electors is plenary in nature. In the light of what has transpired it would be sacrilege of a high order to hold that a provision of the Constitution permits arbitrary manipulation of suffrage in a manner inconsistent with one of the fundamental purposes of that document.

CAPTIVE NATIONS WEEK

Mr. HRUSKA. Mr. President, during the week of July 18–24, the seventh annual Captive Nations Week is observed. Under Public Law 86–90 passed by Congress in July 1959, the third week of July is set aside in which by Presidential proclamation the American people are invited to participate by holding appropriate patriotic ceremonies and activities throughout our free country.

We annually proclaim the observance in order to keep alive the hopes and aspirations of over 120 million people subjugated to Soviet tyranny.

Approximately 35 percent of the world's population is denied the right of self-determination. This 35 percent looks to us for help, not just token sympathy. As a nation dedicated to the principles of a democratic constitution, the United States must assert itself in this fight for freedom.

The spirit and content of Public Law 86–90 call for this yearly renewal until all the captive nations of the world have achieved independence and freedom. Hope must live. The Communist regime cannot have the opportunity to use broken spirits for its own malicious propaganda purposes.

We cannot permit the existing situation to remain as it is. These peoples must be assured of the interest and concern of the United States. It is for us to bring this distressing issue to the attention of the world.

Mr. President, Congress can act during this Captive Nations Week. In January of this year, the Senator from Illinois [Mr. DIRKSEN] submitted a concurrent resolution calling upon the President to take before the United Nations the degrading condition of these peoples behind the Iron Curtain. At this point, Mr. President, I subscribe my endorsement to Senate Concurrent Resolution 10.

It is my express hope that this resolution now before the Committee on Foreign Relations shall meet with favorable approval. The passage of this resolution would exhibit to the captive nations that the United States is determined that the walls of Communist imprisonment will be removed and that they will enjoy peace and freedom in this present generation.

Not only would passage of this resolution bolster the morale and spirit of these unfortunate peoples, but it will also show them that we are not trying to appease the Soviet Union by mere accommodation. The Russian regime has not ceased in its hostility toward the West no matter what some national policymakers contend. To cite a few examples: Russia still continues to give economic aid to Castro's Cuba; Soviet missile sites are presently being set up in North Vietnam.

As a result of the passage of this resolution, the United Nations, on the motion of the United States, would then confront the Communists with their guilt, that of causing the existing blight on world peace. Unless the truth about this sorry state is brought before the world, the situation will become more permanent. We know that there is a global contest going on in the world between freedom and communism. Every day we see the U.S.S.R. capitalizing on our failure to seek restoration of the right of self-determination for captive peoples.

The passage of the concurrent resolution would show the leaders of the Red world that we do not recognize their imperialistic enterprises. This could act as a deterrent to further aggression for it would proclaim our absolute determination that all men and all peoples shall live under the flag of freedom.

For too long action has not proceeded beyond empty talk. It is our duty as the stronghold of freedom to ask for Soviet withdrawal from the impressed countries, the return of prisoners from Siberian exile, and free elections in the eastern European countries. We do not condone Soviet aggression.

The Russian image is strengthened by our failure in the United Nations to demand Soviet payment of debts. Let the observance of Captive Nations Week serve as a reminder to the nationalistic, neutral countries who have exhibited as of late their friendliness toward the Communist camp that they are playing a dangerous game—a game that could well place them in the same position as those nations whose loss of freedom we observe this week.

The longer we fail to take action, the more entrenched becomes the tragic condition. George Santayana once said, "Those who will not learn from the past are destined to repeat it." We will not repeat it.

During Captive Nations Week, we should rededicate ourselves to those 120 million suffering members of the human family who live under the yoke of oppression and exploitation. The Congress can give meaning to this dedication by its approval of the Dirksen resolution.

ORDER OF BUSINESS

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

DISTRICT OF COLUMBIA CHARTER ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business, which will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 1118) to provide an elected mayor, city council, and nonvoting Delegate to the House of Representatives for the District of Columbia, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will resume the consideration of the bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MAJOR U.S. TOURISM EFFORT ESSENTIAL

Mr. JAVITS. Mr. President, I send a bill to the desk to expand the U.S. Travel Service in order to increase domestic travel, and to make it the focal point for all U.S. activities related to the expansion of domestic and international travel. It will be remembered that the U.S. Travel Service is confined to encouraging foreign travelers to travel in the United States.

I wish to pay tribute to the Vice President of the United States, who has taken an extraordinary leadership in this matter and brought about an arrangement for voluntary private action, through the "See the USA" program, providing $500,000 from private enterprise, in the so-called Discover America project which is to develop a nationwide campaign to publicize travel within the United States.

The reason for introducing the bill is that it is very clear to me that the problem is very much greater than this voluntary effort, standing alone, would develop, and it needs action, at a far greater increase in terms of time and on a broader scale than would be the result of the efforts for which the Vice President has been responsible to date.

The bill is necessary because:

First. The present U.S. effort to close the so-called travel gap, which adversely affects our balance of payments to the extent of an estimated $1.6 billion annually is not adequate; foreign visitors here do not find the advanced facilities for foreign guests that are available in practically all major travel centers of the world.

Second. Funds now being spent by a dozen agencies of the Government for the encouragement and promotion of tourism within the United States are not coordinated sufficiently.

Third. There is a great need for a national inventory of domestic travel and tourism needs, and for the development of plans for the future development of this, the third largest industry in the Nation.

Fourth. Extensive State and local efforts in the field of domestic travel and tourism need to be coordinated and facilitated.

The bill introduced today would:

First. Provide for an expanded U.S. Travel Service with a director appointed by the President, with the advice and consent of the Senate, and responsible directly to the Secretary of Commerce. The director would have two deputies, one responsible for the promotion of foreign travel to the United States, and the other responsible for the administration of the domestic travel program. The functions of the new domestic travel program would be to develop a coherent national travel policy; to coordinate present Federal travel-related activities; to encourage construction of new tourist facilities within the United States and, to coordinate and act as the Federal Government's liaison with State and private tourist organizations.

Second. Increase funds for the national travel program to $15 million; $10 million to be allocated to encourage foreign tourists to visit the United States and $5 million to begin the proposed domestic travel program.

Third. Authorize a national inventory of domestic travel resources to lay the groundwork for a long-term national travel program. The bill calls for the creation of a 15-member National Tourism Resources Review Commission to be appointed by the Secretary of Commerce among private citizens knowledgeable and experienced in the travel field.

I hope very much the administration and my congressional colleagues will study this bill with the greatest care, and will support it.

Mr. President, I ask unanimous consent to introduce the bill out of order. I ask also that the bill lie at the desk for a week to permit other Members of the Senate an opportunity to cosponsor it.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill will lie at the desk as requested.

The bill (S. 2305) to amend the International Travel Act of 1961 in order to promote travel in the United States, introduced by Mr. JAVITS, was received, read twice by its title, and referred to the Committee on Commerce.

Mr. JAVITS. Mr. President, I have a few brief remarks on this subject. One of the big problems facing our country is the problem of the balance of payments. I have addressed myself to that problem many times. One of the biggest efforts we can make to reduce our balance-of-payments deficit is to reduce the difference between what the United States earns from and what it pays out for international travel, which in 1964 added $1.6 billion to that deficit. This is the so-called travel gap. That imbalance of payments, though we are not undergoing it at the present time, will soon show up again, according to expectations and probabilities.

The time has now come to mount a major national effort with an eye on the overall aspects of tourism, both as it pertains to the effort of attracting foreign tourists to our shores and as it touches upon a need, which is becoming clearer every day; namely, to gear up this Nation for increasing travel by Americans in America.

The travel industry has hardly touched its potential: 80 percent of our people have never been in an airplane; 80 million Americans took no trip anywhere last year; and more than half of our people have never been more than 200 miles from home.

The U.S. travel industry, composed of thousands of hotels, motels, resorts, airlines, national parks and forests, gas stations, seashores, restaurants, is one of our most important national resources. It is a $30 billion industry, ranking as third largest behind manufacturing and agriculture. It is vitally important as an employer of 6 million individuals, 3 million directly and an additional 3 million indirectly, many of them unskilled and semiskilled; as a source of profits to investors and owners, as a source of tax revenue both to the States and the Federal Government. A vigorous domestic travel industry is also vital as the most effective means of dealing with the so-called tourism gap—the difference between money spent by U.S. tourists overseas and foreign tourists in the United States.

By promoting foreign and domestic travel effectively at the National, State, and local levels, we will be in a much better position to attract foreign tourists, confident, for example, that when they arrive they will be able to convert their currency easily at points of entry and in the larger cities, that they will be able to find officials and employees in the hotel and transportation field capable of speaking their language, that the natural and manmade wonders of our country will be made available to them with the least possible difficulty. In short, that they will find facilities awaiting them, similar to the facilities and services available to foreign visitors in Europe for the last half century.

The responsibility to own, invest in, and to promote and manage our travel industry belongs to the private sector. The responsibility to encourage, assist, and act as a catalyst and spearhead for our travel industry rests with the National, State, and local governments in cooperation with private industry.

Since the end of World War II, European countries, Canada, and Japan, as well as developing countries, have embarked on large-scale efforts to increase foreign travel to their countries, as well as to increase travel within their borders. They realized early the enormous earnings potential of travel and as a source of employment and tax revenues. With this realization in mind, budgets for travel promotion have risen each year.

A few statistics will demonstrate what is at stake here: In 1963, international travel accounted for $8.355 billion in the flow of world trade, of which U.S. tourism generated $3.19 billion, Western Europe, $4.05 billion and the rest of the globe $1.015 billion. Close to 8 million Americans spent this $3.19 billion in Canada, Mexico and to a lesser extent in Europe and the Mediterranean. Some 90 million foreign visitor arrivals were recorded by 68 countries in 1963, including 6 million in the United States earning for the United States $1.05 billion in that year. Here it must be noted that of the 8 million Americans traveling abroad, 6 million traveled in Canada; and of the 6 million visitors here, 5 million were Canadians.

The United States is a late starter in the competition for the foreign traveler. It was not until the creation of USTS in June 1961 that the United States Government seriously started to promote foreign travel to our shores. This effort has been extremely successful as is demonstrated by the steep rise in foreign travel to the United States since the USTS went to work. On a budget that has reached $3 million only in the current fiscal year, the USTS has succeeded in increasing foreign travel to the United States by 17 percent in 1962, 22 percent in 1963, and by over 30 percent in 1964.

According to information supplied by John Black, the director of the USTS, to the House Banking and Currency Committee on November 30, 1964, the estimated number of foreigners whose income level would permit a visit to the United States is 3.5 to 4 million as compared to the 1 million or so who have visited this country from overseas, excluding Canada. It is therefore quite clear that the USTS budget should be

sharply increased if an effective travel promotion campaign is to be mounted by the United States.

It is rather obvious that before an effective national effort can be mounted to fully exploit the potential of travel in the United States there must be developed a focal point within the Federal Government to orchestrate the activities of the Government in travel and tourism.

If anyone today attempts to discuss the problem of improving our American travel resources with official Washington he would find it impossible to find any one agency involved with the broad aspect of travel. There is an agency to promote foreign travel to this country, another to encourage outdoor recreation. The Agriculture Department is encouraging farmers to build campsites. Interior is helping Indian reservations to create tourist attractions. ARA is lending money for tourist development in distressed areas. Interior has National Parks, and Agriculture, National Forests. The Commerce Department established transportation policy and so do a number of independent agencies.

More than a dozen Federal departments and agencies spend millions of dollars on travel and tourism functions. Departments or agencies not already named include the Forest Service, the U.S. Army Corps of Engineers, the Tennessee Valley Authority, the Bureau of Sport Fisheries and Wildlife, the Bureau of Outdoor Recreation, the Civil Aeronautics Board, the Interstate Commerce Commission, the Bureau of Public Roads and the Armed Forces. The need is obviously great for a central coordinating body which can at least think about the overall state of the American travel industry.

Providing the specialized facilities and services needed by foreign and domestic visitors must also be considered. There is a great need for taking a national inventory of our national travel resources and assessing its adequacy over the next decade. A new initiative must be taken to establish a close relationship between our national efforts to promote domestic and foreign travel in the United States and the efforts of the States.

Such an inventory would be the responsibility of the National Tourism Resources Review Commission which is authorized by the bill I introduce today. The Commission, whose members would be experienced in the tourism and travel industries, would bring into focus our current resources and facilities and help draft long-range plans for the future.

Under my bill, the Commission would be provided with a budget of $2.5 million and would be ordered to report to the President and the Congress within 2 years. The staff of the U.S. Travel Service would be authorized to assist the Commission, but expert consultant hire would also be authorized.

Among the problems that should be considered by the Commission in the course of its study are two which are of vital interest to the travel industry itself: Whether a separate Federal agency should be created to consolidate and coordinate the tourism research, planning and development now handled by many different departments, offices, and agencies; and whether it would be practical to establish a matching-fund program to assist the States in developing their own promotion and facilities improvement programs.

The administration has recently started to deal with this problem in earnest. In March 1965, President Johnson appointed Vice President HUMPHREY as Chairman of a special Cabinet task force on travel to develop a positive program to encourage foreign travelers to come to the United States and to stimulate greater travel by our own citizens. The task force supported an increase in the budget of U.S. Travel Service from $3 million to $3.5 million. The House cut this request to $3 million, and U.S. Travel service is now attempting to get $500,000 restored in the Senate. It also supported legislation to reduce from $100 to $50 the duty allowance of returning travelers. I believe that this piece of legislation was uncalled for, would have been of little consequence in balance-of-payments terms, but could have caused great harm to international travel. As a result of strong opposition in both the House and the Senate—in which I played an active part—the duty-free allowance of returning travelers was left at $100 retail and the law was made permanent.

Congress also authorized the President in August 1964 to appoint an unpaid national chairman to coordinate the efforts of private industry in carrying out the purpose of the "See the U.S.A." program. The chairman of the program, Robert Short of Minneapolis, was appointed in May and with strong support from the Vice President mounted the Discover America, Inc. project which will publicize travel within the United States with $500,000 in contributions obtained from key segments of the travel industry.

Efforts by private organizations to cope with this enormous and complex industry have been commendable but successful only in a limited area—public relations, advertising, and publicity within the United States. This is a job which under our constitutional form of government should be left in private hands. This is how objectives of the U.S. Travel Service are carried out and this is how "See the U.S.A." program is implemented.

At the same time I want to make it entirely and unmistakably clear that I do not think that public relations jobs financed with $500,000 in private contributions can ever solve our travel problems nor could it provide for an adequate national travel program. This is a job which calls for Federal initiative and financial support. It is a job that calls for an inventory of our travel resources and needs so that our private travel industry can invest and make its own plans with a clear idea of where the opportunities lie in the decade ahead.

This, I feel the bill I am introducing today will do, and I urge that it receive the closest attention of the Congress.

I am offering this measure as a result of a longstanding interest, for I cosponsored, with the Senator from Washington [Mr. MAGNUSON], chairman of the Commerce Committee, the bill to establish the U.S. Travel Service in 1961. It followed a longtime effort in which I had been engaged in since 1953, when I was chairman of a subcommittee of the Foreign Affairs Committee of the House of Representatives on international economic cooperation, which developed the whole aspect of travel as a major element in our international financial affairs in respect to foreign policy.

Mr. President, I ask unanimous consent that various exhibits relating to this matter be made a part of my remarks in the RECORD.

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

EXHIBIT 1

Travel promotion expenditures of 20 countries as compared to their gross national product and gross earnings from travel [1]

Country	Travel promotion expenditures	GNP	Gross earnings from travel
Austria	$892,000	$7,666,000,000	$503,000,000
Belgium	2,000,000	13,900,000,000	(2)
Canada	3,700,000	15,375,000,000	609,000,000
Denmark	600,000	7,970,000,000	164,000,000
Finland	700,000	5,810,000,000	(2)
France	4,500,000	79,360,000,000	808,000,000
Germany	1,500,000	94,200,000,000	688,000,000
Great Britain	7,000,000	84,170,000,000	619,000,000
Greece	[3] 12,400,000	4,367,000,000	91,000,000
Ireland	3,100,000	2,265,000,000	165,000,000
Italy	2,900,000	45,100,000,000	1,000,000,000
Luxembourg	92,000	525,000,000	(2)
Mexico	4,500,000	15,375,000,000	656,000,000
Netherlands	870,000	14,400,000,000	(2)
Norway	360,000	5,638,000,000	78,000,000
Spain	2,000,000	14,970,000,000	939,000,000
Sweden	481,000	15,560,000,000	(2)
Switzerland	2,000,000	11,630,000,000	560,000,000
Turkey	2,000,000	6,975,000,000	8,300,000
United States	3,400,000	583,900,000,000	1,005,000,000

[1] Information as pertains to the year 1963.
[2] Not available.
[3] Including hotel maintenance costs.

Source: OECD report, 1964, U.S. Travel Service.

EXHIBIT 2

Budgets of Federal agencies dealing with some aspects of travel, fiscal year 1966 [1]

Fish and Wildlife Service	$52,169,500
Bureau of Indian Affairs	206,264,000
Bureau of Land Management	64,236,000
National Park Service	119,668,000
Bureau of Reclamation (estimate)	327,883,000
Army Corps of Engineers civil works program, fiscal year 1965	1,253,748,200
Bureau of Outdoor Recreation	128,398,000
Area Development Administration	73,200,000
Forest Service	360,000,000

[1] Funds available for travel promotion or facilities used by travelers are contained within these budgets.

EXHIBIT 3

Expenditures of State governments for travel promotion, 1964

State	Biennial budget	Annual budget
Alabama		$355,500
Alaska		389,600
Arizona		150,880
Arkansas		640,227
California		None
Colorado		305,692
Connecticut	$60,000	30,000
Delaware		30,000
Florida		1,000,000
Georgia		475,211
Hawaii		[1] 1,100,000
Idaho		[2] 157,344
Illinois	500,000	250,000
Indiana		[3]
Iowa		50,000
Kansas		[2] 273,000
Kentucky		680,000
Louisiana		[2] [4] 230,000
Maine		325,123
Maryland		177,264
Massachusetts		100,000
Michigan		691,096
Minnesota		[4] 183,847
Mississippi		377,850
Missouri	192,621	96,310
Montana		126,000
Nebraska	125,000	64,500
Nevada		50,000
New Hampshire		274,500
New Jersey		149,000
New Mexico		216,639
New York		720,635
North Carolina		450,000
North Dakota	125,000	64,500
Ohio		None
Oklahoma		402,000
Oregon		600,000
Pennsylvania		526,000
Rhode Island		123,070
South Carolina		225,000
South Dakota		408,000
Tennessee		375,000
Texas:		
Texas Tourist Development Agency		126,146
Texas Highway Department, Travel Information Division		310,000
Utah		150,000
Vermont		213,639
Virginia	1,193,495	596,747
Washington	692,234	346,117
West Virginia		161,000
Wisconsin		420,000
Wyoming	402,288	201,144
Total		15,368,581

[1] Paid by State to Hawaii Visitors Bureau.
[2] For advertising and promotion.
[3] No budget.
[4] Approximate.

Source: "1964 Development Advertising Reports," edited by Ruth H. Long.

EXHIBIT 4

PARTIAL LIST OF PRIVATE TRAVEL ORGANIZATIONS PROVIDING PRIMARY TRAVEL INDUSTRY FUNCTIONS IN THE UNITED STATES

American Automobile Association (A.A.A.).
American Hotel & Motel Association (A.H. & M.A.).
American Motor Hotel Association (A.M.H.A.).
American Petroleum Institute (A.P.I.).
Air Transport Association of America (A.T.A.).
Hotel Sales Managers Association (H.S.M.A.).
National Association of Motor Bus Owners (N.A.M.B.O.).
National Association of Travel Organizations (N.A.T.O.).
Rail Travel Promotion Agency (R.T.P.A.).
Trans-Atlantic Passenger Steamship Conference.
Trans-Pacific Passenger Conference (steamship).

EXHIBIT 5

U.S. Travel Service budget and staff

Fiscal year	Budget	Size of staff in District of Columbia	Overseas	Number of offices
1962	$2,500,000	26	20	7
1963	3,350,000	28	44	9
1964	2,600,000	27	43	9
1965	3,000,000	31	42	9
1966:				
House allowance	3,000,000	30	50	11
Senate appeal	3,345,000	30	50	11

Source: U.S. Travel Service.

Mr. JAVITS. Mr. President, I ask unanimous consent that the text of the bill may also be printed in the RECORD as a part of my remarks.

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

The bill (S. 2305) is as follows:

S. 2305

(A bill to amend the International Travel Act of 1961 in order to promote travel in the United States)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the International Travel Act of 1961 (22 U.S.C. 2121–2126) is amended—

(1) by striking out the first and second sections and inserting in lieu thereof the following:

"That it is the purpose of this Act to strengthen the domestic and foreign commerce of the United States, and promote friendly understanding and appreciation of the United States by encouraging foreign residents to visit the United States and by facilitating international travel generally, and by otherwise encouraging and facilitating travel within the United States (including its possessions for the purpose of this Act).

"SEC. 2. In order to carry out the purpose of this Act the Secretary of Commerce (hereinafter in this Act referred to as the 'Secretary') shall—

"(1) formulate for the United States a comprehensive policy with respect to domestic travel;

"(2) develop, plan, and carry out a comprehensive program designed to stimulate and encourage travel to and within the United States for the purpose of study, culture, recreation, business, and other activities and as a means of promoting friendly understanding and good will among peoples of foreign countries and the United States;

"(3) encourage the development of tourist facilities, low cost unit tours, and other arrangements within the United States for meeting the requirements of all travelers;

"(4) foster and encourage the widest possible distribution of the benefits of travel at the cheapest rates between foreign countries and the United States and within the United States consistent with sound economic principles;

"(5) encourage the simplification, reduction, or elimination of barriers to travel, and the facilitation of travel to and within the United States generally;

"(6) collect, publish, and provide for the exchange of statistics and technical information, including schedules of meetings, fairs, and other attractions, relating to travel and tourism; and

"(7) establish an office to be known as the Office of Travel Program Coordination, which shall assist the Secretary in carrying out his responsibilities under this Act for the purpose of (A) achieving maximum coordination of the programs of the various departments and agencies of the United States Government to promote the purposes of this Act, (B) consulting with appropriate officers and agencies of State and local governments, and with private organizations and agencies, with respect to programs undertaken pursuant to this Act, and (C) achieving the effective cooperation of Federal, State, and local governmental agencies, and of private organizations and agencies, concerned with such programs.";

(2) by inserting before the period at the end of section 3(b) the following: "and shall not otherwise compete with the activities of other public or private agencies";

(3) by inserting "(a)" after "Sec. 4", and by inserting at the end of such section 4 a new subsection as follows:

"(b) The Secretary may appoint two assistant directors for the purpose of this Act. Such assistant directors shall be compensated at the rate provided for GS–18 in the Classification Act of 1949.";

(4) by redesignating sections 5, 6, and 7 as sections 6, 7, and 8, respectively, and by inserting after section 4 a new section as follows:

"SEC. 5. (a) The Secretary shall establish a National Tourism Resources Review Commission. Such Commission shall be compose of 15 members appointed by the Secretary from among persons who are informed about and concerned with the improvement, development, and promotion of the United States tourism resources and opportunities or who are otherwise experienced in tourism research, promotion, or planning. The Secretary shall appoint a chairman from among such members. The Commission shall meet at the call of the Secretary.

"(b) The Commission shall make a full and complete study and investigation for the purpose of—

"(1) determining the domestic travel needs of the people of the United States and of visitors from other lands at the present time and to the year 1980;

"(2) determining the travel resources of the Nation available to satisfy such needs now and to the year 1980;

"(3) determining policies and programs which will insure that the domestic travel needs of the present and the future are adequately and efficiently met;

"(4) determining a recommended program of Federal assistance to the States in promoting domestic travel; and

"(5) determining whether a separate agency of the Government should be established to consolidate and coordinate tourism research, planning, and development activities presently performed by different existing agencies of the Government.

"The Commission shall report the results of such investigation and study to the Secretary not later than two years after the effective date of this section. The Secretary shall submit such report, together with his

recommendations with respect thereto, to the President and the Congress.

"(c) The Secretary is authorized to engage such technical assistance as may be necessary to assist the Commission, and the Secretary shall in addition, make available to the Commission such secretarial, clerical, and other assistance and such pertinent data prepared by the Department of Commerce as the Commission may require to carry out its functions.

"(d) Members of the Commission, while serving on business of the Commission, shall receive compensation at a rate to be fixed by the Secretary, but not exceeding $100 per day, including travel time; and, while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

"(e) There is authorized to be appropriated not to exceed $2,500,000 for the purpose of this section."

(5) by striking out "$4,700,000" in the section redesignated as section 7 and inserting in lieu thereof "$15,000,000"; and

(6) by striking out "International Travel Act of 1961" in the section redesignated as section 8 and inserting in lieu thereof "International and Domestic Travel Act".

Mr. JAVITS. Mr. President, I thank the majority leader for his great consideration in allowing me to interrupt a quorum call so that I might present this matter.

DISTRICT OF COLUMBIA CHARTER ACT

The Senate resumed the consideration of the bill (S. 1118) to provide an elected mayor, city council, and nonvoting Delegate to the House of Representatives for the District of Columbia, and for other purposes.

Mr. BIBLE obtained the floor.

Mr. BIBLE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 1118.

Mr. BIBLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Nevada will state it.

Mr. BIBLE. Is the amendment as reported by the committee to be considered as original text for the purpose of further amendments?

The PRESIDING OFFICER. The committee amendment to the bill is in the nature of a substitute for the bill. Both the matter proposed to be inserted and the matter proposed to be stricken out are treated as original text for the purpose of amendment and are open to amendment in two degrees, with amendments to the part to be stricken out taking precedence over amendments to the part to be inserted.

Once the amendment in the nature of a substitute is agreed to, no further amendment will be in order.

Mr. BIBLE. I thank the presiding officer for the explanation of the parliamentary situation.

Mr. President, I send to the desk a series of technical amendments to the committee amendment, which I ask the unanimous consent to have considered en bloc. The amendments involve changes in punctuation, corrections of typographical errors, and so on, and are of a clarifying nature. The amendments do not include any substantive changes in the committee amendment.

The PRESIDING OFFICER. The amendments to the committee amendment will be stated for the information of the Senate.

The legislative clerk proceeded to state the amendments to the committee amendment.

Mr. BIBLE. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendments to the committee amendment will be printed in the RECORD at this point.

The amendments to the committee amendment offered by Mr. BIBLE are as follows:

S. 1118

On page 99, line 11, strike out "tranferred" and insert in lieu thereof "transferred".

On page 101, strike out line 6.

On page 113, strike out line 20 and insert in lieu thereof the following: "son authorized by it, shall have power to investigate any".

On page 114, strike out line 7 and insert in lieu thereof the following: "son conducting the investigation shall have power to refer".

On page 118, line 15, strike out "benfits" and insert in lieu thereof "benefits".

On page 122, line 18, strike out "or" and insert in lieu thereof "of".

Mr. BIBLE. Mr. President, I ask unanimous consent that the technical and clarifying amendments to the committee amendments be agreed to en bloc.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Nevada? The Chair hears none, and the amendments are agreed to en bloc.

Mr. BIBLE. Mr. President, my task today in presenting to the Senate a District of Columbia home rule bill is a happy one, because I believe that the climate in this Congress, in this city, and in this country more nearly assures success for this longtime endeavor.

Legislation to establish self-government for the District of Columbia is not new to the Senate. I have had numerous illustrious predecessors stand at this desk urging congressional enactment over the last 16 years. Five times since 1949 the Senate has passed such a bill, on May 31, 1949, on January 22, 1952, on June 29, 1955, on August 6, 1958, and on July 15, 1959. In each instance, the proposed legislation failed of final enactment.

Mr. President, the bill before the Senate today will provide for:

First. A Mayor, a 19-member Legislative Council with minority party representation assured thereon, a nonvoting Delegate to the House of Representatives, and a 14-member Board of Education, all elected by the people.

Second. A specific formula for annual payment by the Federal Government of its share of the expenses of the District government. As the President stated in his message to the Congress, the formula is "designed to reflect the amount the Federal Government is to pay toward the general governmental expenses of the District if it were a taxable entity."

Third. Full protection of the Federal interest by (a) specific retention by Congress of its full legislative powers over the District, including the origination of legislation or modification or repeal of enactments by the local council; (b) authority for the President to veto any act of the locally elected council; (c) authority for the General Accounting Office to maintain supervision of the District's fiscal affairs with reports thereon to be made to the Congress.

The President of the United States is an active supporter of this legislation and added the prestige of his office to this crusade for self-government in the Nation's Capital City by submitting a special message to the Congress on February 3, 1965, wherein he said, in part: "Restoration of home rule to the citizens of the District of Columbia must no longer be delayed, for this represents the fundamental right of self-government."

Mr. President, I ask unanimous consent that the President's message submitted to the Congress on this proposed charter act, be made a part of my remarks at this point in the RECORD.

There being no objection, the President's message to the Congress was ordered to be printed in the RECORD, as follows:

To the Congress of the United States:

The restoration of home rule to the citizens of the District of Columbia must no longer be delayed.

Our Federal, State, and local governments rest on the principle of democratic representation—the people elect those who govern them. We cherish the credo declared by our forefathers: No taxation without representation. We know full well that men and women give the most of themselves when they are permitted to attack problems which directly affect them.

Yet the citizens of the District of Columbia, at the very seat of the government created by our Constitution, have no vote in the government of their city. They are taxed without representation. They are asked to assume the responsibilities of citizenship while denied one of its basic rights. No major capital in the free world is in a comparable condition of disenfranchisement.

The denial of home rule to the District creates serious practical difficulties. The District is the ninth largest city in the United States—more populous than 11 of the States. Its government must handle the same problems which press with increasing urgency on the legislative, executive, and judicial arms of city governments throughout the Nation, and it must perform as well many of the functions of State and county governments. Under the present system these duties fall upon busy Members of the Senate and the House who—in addition to their congressional responsibilities—must serve as State representatives, county supervisors, and city councilmen for Washington.

Self-government for the District would not be an innovation. It is a return to the views of the Founding Fathers and to the practice of the early days of the Nation. James Madison wrote in the Federalist that the inhabitants of the Nation's Capital "will have had their voice in the election of the government which is to exercise authority over them; as a municipal legislature for local purposes, derived from their own suffrages, will of course be allowed them; * * *"

Such a municipal legislature was established in 1802 under President Jefferson. It was strengthened in 1812 under President Madison, and in 1820, under President Mon-

roe, it was enlarged to include an elected mayor.

Had it not been for the tragedy of the Civil War, local government would have continued. In 1871 the people of the District, deep in the problems of the Reconstruction period and urgently needing a program of public works, acquiesced in a change to a territorial form of government under which they lost the right to elect their chief executive. The program of public works was badly executed and the territorial government was soon in virtual bankruptcy. In 1874 Congress withdrew the voting franchise entirely and substituted a commission form of government. The intent was to make the change temporary—a receivership which would be replaced by self-government as soon as the fiscal affairs of the city were on a sound basis. But this receivership has now lingered on for 90 years.

There is a fundamental Federal interest in the National Capital. The Constitution wisely delegates to the Congress supreme legislative power over "the seat of the Government of the United States." The Congress can, however, delegate to a municipal legislature all the powers necessary for local self-government, and at the same time preserve fully its ultimate power and the interests of the Federal Government.

The District of Columbia Charter Act which I am transmitting to the Congress today will relieve the Congress, to the maximum practical extent, of detailed legislative direction of District affairs while retaining essential control in the Congress. The bill—

(1) Creates a representative local government for the District,

(2) Provides a link between the Congress and the local government in the form of an elected delegate to the House of Representatives, and

(3) Preserves intact the powers of the Congress and the President by (a) an express provision that the Congress is in no way deprived of its power to legislate for the District, and may repeal or modify any act of the local council; (b) a provision for an absolute veto by the President of any act of the local council; and (c) provisions for supervision of the fiscal affairs of the District by the General Accounting Office.

Home rule for the District has been unfinished business for far too long a time. Presidents of both parties—Presidents Truman, Eisenhower, and Kennedy—have urged it. Measures to provide it were passed by the Senate in the 81st, 82d, 84th, and 86th Congresses.

The people of the District are ready and eager to join fully in the democratic process. In the presidential election of 1964, more than 90 percent of the registered voters went to the polls.

I urge the Congress to approve at the earliest possible date the legislation which will grant them the fundamental American right of self-government.

THE WHITE HOUSE, *February 2, 1965.*

Mr. BIBLE. Mr. President, the pending bill, as reported by our committee, won the unanimous support of all committee members on both sides of the aisle. At public hearings, testimony was received from 17 witnesses. Written statements and communications were submitted from more than 35 organizations and individuals. In my years as a member and as chairman of this committee, I have never seen closer study given to any bill by the membership of the Senate District Committee. I believe that the amendments adopted by the committee, primarily assuring minority party representation on the city council and an elected school board, and others, have strengthened the bill substantially. It represents the product of many years of continuing study by this committee and the Senate directed toward formulating some workable form of local self-government for the people of the District of Columbia that the Congress can vote to accept and that will be a good servant for the citizens of Washington.

Home rule would not be an innovation for the Nation's Capital City. From 1802 to 1871, Washington, D.C., had some form of local self-government.

I shall not detain the Senate with a detailed analysis of this bill. But Mr. President, I ask unanimous consent to have printed at this point in my remarks a portion of the report on this bill, submitted from the Committee on the District of Columbia, setting forth the history of the legislation, the purpose of the bill, and a section-by-section analysis.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

History of legislation

Two legislative measures were considered by the committee on the subject of home rule for the District of Columbia. These included two bills—S. 1118, submitted to Congress by President Johnson; and S. 268, sponsored by Senator MORSE. Public hearings were held by the committee in connection with the two measures on March 9–10, 1965, at which testimony was received from 17 witnesses. In addition, written statements and communications were received from more than 35 other persons or organizations.

The bill, as amended, was supported by a unanimous vote of every member of the committee when it was ordered to be reported to the Senate by the committee on June 16, 1965.

The committee in reporting S. 1118 to the Senate made several clarifying and conforming amendments, as well as several that were substantive in nature. The various amendments adopted by the committee are discussed in detail in a summary of the bill by title later in this report.

S. 1118, as amended, embodies many of the provisions of S. 268. The latter bill represents the product of many years of continuing study by this committee directed toward formulating some workable form of local self-government for the people of the District of Columbia.

Legislation to provide some form of local government for the District of Columbia was initiated with the introduction of H.R. 3545 of the 43d Congress of June 1, 1874. Since that time through the 89th Congress, more than 40 home rule bills have been placed before biennial sessions of the Congress. The Senate on five separate occasions in the 81st, 82d, 84th, 85th, and 86th Congresses enacted self-government legislation. However, all of these bills failed of enactment in the House.

The first government of the city of Washington consisted of a mayor, appointed by the President, and a city council, elected by the people of the city. This was in 1802. In 1812, the city council was permitted to elect the mayor of Washington, and in 1820 and thereafter the mayor was elected by the people. This government continued until 1871.

By an act of Congress, February 21, 1871, the corporation of Washington and of Georgetown were abolished and a territorial form of government, consisting of a governor and board of public works, and a legislative assembly, was set up. The legislative assembly consisted of a council of 11 members, and a house of delegates of 22 members. The Governor, the Board of Public Works, and the Council were appointed by the President. The 22 members of the house of delegates were elected by the people. The District of Columbia had a delegate in the House of Representatives until 1875.

This form of government lasted 3 years, or until June 20, 1874, when Congress provided that the District of Columbia should be governed by three commissioners, appointed by the President. This was known as a temporary form of government, and lasted until July 1, 1878, when the present permanent commission government was set up. In the creation of the temporary commission form of government in 1874, and the permanent form in 1878, no provision was made for the franchise and so, for the first time in three-quarters of a century, no part of the District exercised the right of suffrage.

In 1878, the expense of the Federal City was borne jointly by the District and the United States, on a 50–50 basis. In 1922, this was changed to a 60–40 ratio, and in 1938 the share of the United States was changed by a statute to a lump sum, which today is approximately 13 percent of the general fund.

S. 1118, as amended, would convey in some large measure permissible municipal home rule to the residents of the National Capital, thus restoring the powers of local self-government suspended in 1874. This grant is a delegation of the powers of the Congress contained in article I, section 8, clause 17, of the Constitution of the United States, which pertains only to those matters municipal as distinguished from those national in scope. Such constitutional provision states:

"Congress shall have power * * * To exercise exclusive legislation in all cases whatsoever, over such District (not exceeding 10 miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States, * * *."

The delegation of permissible home rule to the residents of the District is given with the express reservation that the Congress may at any time revoke or modify the delegation in whole or in part, and further, that the Congress may take such action as, in its wisdom, it deems desirable with respect to any municipal action taken by the people or the government of the municipality under the authority of the charter. The Congress would continue to initiate local legislation should it so desire. Thus, the Congress, under the terms of this bill, retains full residual, ultimate and exclusive legislative jurisdiction over the District in conformity with the constitutional mandate. In addition, the bill makes provision for a veto by the President of any act of the local government where such act adversely affects a Federal interest.

Structure of government

The bill would establish the District of Columbia as a body politic and corporate in perpetuity which would be the successor of the present commission form of government. Provision is made for an elected mayor and an elected 19-member District Council, 5 of whom are to be elected at large, to exercise the municipal authorities conveyed to the District. Also, a nonpartisan elected school board of 14 members is provided. The mayor and council would take over the functions of the present Board of Commissioners which would be abolished. The District Council would be endowed with local legislative power, including taxing and borrowing power, subject to certain enumerated restrictions and to the overriding power of Congress to repeal, amend, or initiate local legislation and to modify or revoke the charter itself. This endowment of local power to a council and mayor would relieve the Congress of the detail of District affairs,

as has been done in the case of the territories. The bill also gives legislative power to the qualified voters by initiative. However, there is provision for a Presidential veto where legislation enacted through the initiative adversely affects the Federal interest.

In addition, the office of a nonvoting elected Delegate to the House of Representatives is incorporated in the bill in order that the Congress may be kept currently informed as to the needs of the District which cannot be met through the local instrumentalities. His duties, powers, and privileges are those accorded a Delegate from a Territory.

The bill provides authority for a regular annual payment by the Federal Government to the District of Columbia, to be computed by means of a flexible formula which the committee believes will more fairly represent the Federal Government's fiscal responsibility to the government of the District, in lieu of a lump-sum Federal payment as is presently authorized.

It is the committee's view that a formula method would result in a better basis for measuring the Federal responsibility to the Nation's Capital because it provides a built-in incentive to utilize local taxes to meet local needs. Local residents, at the same time, are assured that the Federal Government will automatically recognize its obligation to provide additional revenues needed to meet legitimate increased expenditure requirements.

The formula contained in this bill provides for the computation of a permanent, indefinite Federal payment appropriation (not merely an authorization) to be paid to the District each year based on the computations under the formula without further legislative action by the Congress. The committee felt that only through such an automatic payment method could the District be assured of a proper measure of independence to govern its own affairs.

The committee, in favorably reporting this legislation, requests that the Congress receive periodic reports from the local government in order that it can be kept completely informed about the activities of the new municipal government, including its legislative program. Such reports should be made by the mayor and the council to the Committees on the District of Columbia of the Senate and the House of Representatives.

TITLE I—DEFINITIONS

Contains definitions of principal terms used in the bill.

TITLE II—STATUS

Provides the District shall remain and continue a body corporate, and said corporation shall continue to be charged with all the duties, obligations, responsibilities, and to be vested with all the powers, rights, privileges, immunities, and assets imposed upon and vested in said corporation, the Board of Commissioners of the District of Columbia.

All of the territory constituting the permanent seat of the government of the United States shall continue to be designated as the District of Columbia, and the boundary line between the District of Columbia and the Commonwealth of Virginia remains unchanged.

TITLE III—THE DISTRICT COUNCIL

S. 1118 originally provided for a District Council of 15 members. The committee amended the bill so as to provide for a 19-member council, 5 of whom would be elected at large and the other 14 elected, 1 from each of 14 wards. The committee amendment also increases from 2 to 4 years the term of office for District councilmen. In so doing, the committee provided for the terms of the councilmen to be staggered. Such would be accomplished by electing 7 of the 14 ward councilmen for a period of 2 years in the initial election following acceptance of the charter by the District voters. The committee, in adopting this amendment was of the view that it would secure for a part of the Council the broader basis of citywide representation and greater sensitivity to problems of the city as a whole that at-large Council members offer, and to assure minority party representation on the Council as provided in section 805(a)(2) hereafter detailed. In increasing the term of office to 4 years, the committee felt such term would lessen the time required for candidates to campaign for office and thereby permit the councilmen to devote more time to the duties of the elected office.

The qualifications for membership on the Council are set forth as follows: (1) A qualified voter; (2) is domiciled in the District and resides in the ward from which he is nominated; (3) has, during the 3 years next preceding his nomination, resided and been domiciled in the District; (4) has for 1 year preceding his nomination resided and been domiciled in the ward from which he is nominated; (5) holds no other elective public office; (6) holds no position as an officer or employee of the municipal government of the District of Columbia or any appointive office, for which compensation is provided out of District funds, and (7) holds no office to which he was appointed by the President of the United States and for which compensation is provided out of Federal or District funds. A member of the Council shall forfeit his office upon failure to maintain the qualifications required by this section.

The compensation for such members is fixed at $10,000 per annum for the Chairman and $9,000 for members.

The bill provides for election from its members of a Chairman and a Vice Chairman of the Council, the appointment of a secretary as its chief administrative officer with duties as specified in the bill, and such assistants and clerical personnel as may be necessary, the calling of the first and regular meetings, the establishment of committees, the scope and form of acts and resolutions, the procedure for the adoption and passage of zoning acts, and the enactment of general legislation. The procedures relating to the veto powers of the mayor and the President are also defined.

The Council is empowered to conduct investigations and to issue and enforce subpenas.

The qualified voters and the Council are prohibited from passing any act inconsistent with or contrary to any provision of any act of Congress as it specifically pertains to any duty, authority, and responsibility of the National Capital Planning Commission.

The bill makes explicit the constitutional power of Congress to legislate at any time with respect to the District of Columbia.

The powers of the present Board of Commissioners are transferred to the Council, except those conferred on the mayor and the Board of Commissioners are abolished.

The Zoning Commission, the Public Service Commission, the Recreation Board, the Board of Zoning Adjustment, and Zoning Advisory Council are abolished and their functions transferred to the Council. Powers of the Council and the qualified electors, and the limitations on those powers are spelled out. The Commission on Mental Health, the National Zoological Park, the Washington aqueduct, the National Guard of the District of Columbia, or any Federal agency are specifically excluded from the authority of the District government.

Jurisidiction over the municipal courts shall vest with the Council. Any person to be appointed or elected after the date of enactment of this act shall hold office for a term of not less than 10 years and receive a salary of not less than the amount payable to an associate judge of the municipal court on the effective date of this act.

The committee amended section 324 of the bill by adding a new subsection. The amendment makes certain that nothing in section 324 is to be construed as barring the Council from vesting in the District of Columbia Court of Appeals certain powers to review administrative decisions of the District government regarding licenses, their issuance and their revocation.

TITLE IV—MAYOR

Creates the office of mayor to be elected as provided in title VIII. The qualifications for holding the office of mayor are as follows: (1) A qualified voter; (2) is domiciled and resides in the District; (3) has during the 3 years next preceding his nomination been resident in and domiciled in the District; (4) holds no other elective public office; and (5) holds no position as an officer or employee of the municipal government of the District of Columbia or any appointive office, for which compensation is provided out of District funds; and (6) holds no office to which he was appointed by the President of the United States and for which compensation is provided out of Federal or District funds. The mayor shall forfeit his office upon failure to maintain the qualifications required by this section.

His salary is to be $27,500 annually, with an allowance for official expenses of not more than $2,500 annually. The executive power of the District shall be vested in the mayor who shall be the chief executive officer of the District government. He shall be responsible for the proper administration of the affairs of the District coming under his jurisdiction or control. The bill confers on him usual administrative powers and duties, including the power to appoint personnel in the executive branch of the city government and to remove such personnel in accordance with applicable laws and regulations. The mayor would have full authority to execute the powers and duties imposed upon him by law, including the authority to redelegate functions to subordinate officials as he deems necessary. The mayor shall keep the Council advised of the financial condition and future needs of the District and make such recommendations to the Council as may seem to him desirable. The mayor is empowered to veto acts of the Council; but such acts may be passed over his veto by a vote of two-thirds of the members of the Council.

The committee amended section 402 of the bill so as to provide a city administrator as principal managerial aid of the mayor to perform duties assigned to him by the mayor.

The committee was of the view that a city administrator would in some measure free the mayor from a large part of the day-to-day administrative routine so that he might better perform the more important policymaking and political functions of the executive office, as well as carry out his ceremonial duties. The administrator would be appointed, and subject to removal, by the mayor.

Also, under the bill, as amended, the mayor administers the personnel functions of the District covering employees of District departments and agencies.

Under the provisions of S. 1118, as introduced, subsection (4) of section 402 provides in pertinent part that personnel legislation (relating to promotions, pay, retirement benefits, etc.) enacted by Congress prior to or after the effective date of this section shall continue to be applicable until such time as the Council shall provide similar or comparable coverage under a District government merit system or systems.

The committee in adopting this amendment was of the view that it would help to preserve all employee benefits, rights and investments in their current system of employment and carry these benefits, rights, and investments over in full to the new merit

system which the District government is authorized to establish under home rule.

Also, other minor amendments were made to the wording of the subsection so as (1) to assure government employees, including police and firemen, the retention of employee benefits issued by regulation pursuant to congressional legislation; and (2) to preserve an employee's rights, during the transition to a new employment system, to appeal a separation from service.

TITLE V—THE DISTRICT BUDGET

The fiscal year of the District of Columbia is fixed by the bill, and the preparation and adoption of the budget is provided for. The Council is empowered to rescind previously appropriated funds then available for expenditure, or to appropriate additional funds.

TITLE VI—BORROWING

The District is authorized to incur indebtedness by issuing its bonds in either coupon or registered form to fund or refund indebtedness of the District at any time outstanding and to pay the cost of constructing or acquiring any capital projects requiring an expenditure greater than the amount of taxes or other revenues allowed for such capital projects by the annual budget, with a restriction that the aggregate debt, including debt owed to the Treasury of the United States, is not to exceed 12 percent of the average assessed value of the taxable real and tangible personal property of the District as of the 1st day of July of the 10 most recent fiscal years for which such assessed values are available. The assessed values of the property involved includes in accordance with section 741, real and personal property tax loss incident to United States owning real and personal property in the District for the purpose of providing Federal governmental services or functions. The bill provides that new debt would have to be approved by the voters except that, within the 12-percent limitation, debt up to 2 percent (in the aggregate) of the assessed valuation of taxable real and personal property could be authorized by the Council without approval of the voters. Only bonds on self-liquidating capital projects and those issued for the construction of highways, transit systems, water and sanitary sewers and the like may exceed 6 percent of such average assessed value. All others are restricted to a 6-percent limitation. The Council shall make provision for the payment of any bonds issued pursuant to this title, and the bill sets forth the provisions which must be contained in an act authorizing the issuing of bonds.

The Council is authorized to issue supplemental notes in a total amount not to exceed 5 percent of the total appropriations for the current fiscal year if there are no appropriated funds available to meet supplemental appropriations. Such notes and renewals thereof shall be paid not later than the close of the fiscal year following that in which such act becomes effective. Short-term notes may be issued in anticipation of revenues in an amount not to exceed 20 percent of the total anticipated revenue for the current fiscal year.

Bond acts of the District shall, where necessary, provide for the levy annually of a special tax without limitation of rate or amount upon all taxable real and personal tangible property in the District in amounts, which, together with other revenues of the District available and applicable for such purposes, will be sufficient to pay principal and interest as these fall due. In addition, the full faith and credits of the District for the payment of the principal and interest on all bonds and notes is pledged.

Bonds and notes issued by the Council and the interest thereon would be exempt from all Federal and District taxation except estate, inheritance, and gift taxes.

The bill would permit national banks, Federal building and loan associations, and Federal savings and loan associations and banks, trust companies, building and loan associations, and savings and loan associations domiciled in the District of Columbia, to underwrite and trade in public bonds or notes of the District issued pursuant to this title.

Fiduciaries are not excused from the exercise of due care when investing in District obligations.

TITLE VII—FINANCIAL AFFAIRS OF THE DISTRICT

This title provides for the bonding of employees of the District, and the mayor is charged with the administration of the financial affairs of the District. He must prepare and submit the annual budget estimates and budget message; supervise and be responsible for all financial transactions; maintain systems of accounting and internal control; submit to the Council a monthly financial statement, by appropriation and department; prepare at the end of each fiscal year a complete financial statement; supervise and be responsible for the assessment of all property subject to assessment within the District; supervise and be responsible for the assessment and collection of all taxes, special assessments, license fees, and other revenues; have custody over all public funds belonging to or under the control of the District; and have custody of all investments and invested funds for the District.

The Council may provide for the transfer during the budget year of any appropriation balance then available for one item of appropriation to another item of appropriation, and the allocation to new items of funds appropriated for contingent expenditure.

The bill provides for an independent audit by the General Accounting Office. Such audit reports as the Comptroller General deems necessary shall be submitted to the Congress, the mayor, and the Council. The mayor, with the advice and consent of the Council, and the Director of the Bureau of the Budget are given power to enter into agreements concerning the manner and method by which amounts owed by the District to the United States, or by the United States to the District, shall be ascertained and paid.

The Federal Payment

The formula for a Federal payment to the District of Columbia established by this bill would be an amount equal to the sum of—

1. The real estate taxes the District would receive if property owned and used by the Federal Government and property exempted by special act of Congress, were taxable;

2. The personal property taxes it would receive if tangible federally owned personal property, with certain exclusions, were taxable; and

3. The business income and related taxes which it could reasonably expect to receive if the Federal Government were a private business with an equivalent number of employees.

The Federal payment would be subject to certification by the Administrator of General Services that payment is based upon a reasonable and fair assessment of real and personal property of the United States and a proper and accurate computation of the specified factors incorporated in the formula.

Under the formula proposal, it is estimated that the Federal payment to the District would be $57 million for fiscal year 1966, with a projected increase to $71.2 million by 1970. This is contrasted with the present annual Federal payment authorization of $50 million.

The committee was of the opinion that the present system of legislating from time to time a new authorization ceiling toward which the appropriations grow from year to year would be neither adequate nor appropriate to the needs of an otherwise independent local government.

It was the committee's judgment that as time passed, a fixed amount would tend to become unreasonably small. The Federal Government's relation to the local economy changes. The city's needs change. The purchasing power of the dollar changes. It was the committee's belief that the relationships once deemed appropriate in establishing the lump-sum authorization no longer reflect the realities of the situation.

A formula method of measuring the Federal responsibility to the District tends to overcome these shortcomings of the lump-sum method and at the same time facilitates long-term fiscal planning. The Federal payment to the District would vary with changes in the size of the Federal establishment within the District and with changes in local taxes.

The committee believes that a formula method would result in a better basis for measuring the Federal responsibility to the Nation's Capital because it would provide a built-in incentive to utilize local taxes to meet local needs. Local residents, at the same time, would be assured that the Federal Government will automatically recognize its obligation to provide additional revenues needed to meet legitimate increased expenditure requirements.

The formula contained in this bill provides for the computation of a permanent, indefinite Federal payment appropriation (not merely an authorization) to be paid to the District each year based on the computations under the formula without further legislative action by the Congress. The committee felt that only through such an automatic payment method could the District be assured of a proper measure of independence to govern its own affairs.

In forwarding Federal payment formula legislation to the Congress in April 1965, President Johnson stated that enactment of such legislation "is essential to the proper assignment between the Federal Government and the local citizens of the responsibility of providing the necessary funds."

The committee concurs wholeheartedly in this view and believes that the proposed legislation will provide an orderly basis for determining each year the appropriate level of Federal contribution to the District. The formula method of computation provides considerable flexibility in arriving at the authorized Federal payment. Equally important, it relates more directly the District's needs and local resources. The proposed formula provides a standard for Federal payments to the District which, in the judgment of the committee, is fair to all parties concerned.

One question frequently raised in discussions of the payment formula proposal is whether its enactment would establish a precedent for payments in lieu of taxes in other jurisdictions in which the Federal Government owns property. There are many reasons why this would not be the case.

The Federal Government has unique responsibilities for the financial well-being of the Nation's Capital. For more than 75 years Congress has recognized that responsibility by appropriating a share of the funds needed for the operation of the government of the District.

Moreover, the Federal Government plays a larger part in the planning and development of the District of Columbia than it does anywhere else in the Nation. The location and types of buildings in certain areas are almost solely dependent upon approval by the Federal Government.

The Federal Government, through condemnation, if necessary, determines where its own numerous buildings and activities will be located. There are other restrictions, including limitation on the height of all buildings within the District. All this obviously

places serious limitations on the development of industry and businesses in a city essentially geared to the functioning of the headquarters of the Federal Government. Such restrictions caused by the presence of Federal activities are not nearly so far reaching in any other city in the Nation.

Hence, the issue is not in any sense whether the Federal Government should contribute to the expense of the government in the District, but only what measure can best be used to determine its fair share of the District's financial needs.

Questions were raised at the committee hearings as to whether the Federal payment authorization-appropriation is an unconstitutional delegation of taxing powers vested in the U.S. Government within the District of Columbia and/or an unconstitutional delegation of appropriation procedures of the Congress of the United States. The Department of Justice concluded in a letter and memorandum set forth fully on pages 125 through 130 and pages 268 through 272 of the committee hearings, that the Federal payment provision (sec. 741) "does not authorize the District of Columbia to tax Federal property and, therefore does not raise a constitutional question in this regard. Further, we have concluded that section 741 is not an unconstitutional delegation of the appropriation power of Congress."

The Justice Department's constitutionality opinion makes comparisons between the Federal payment formula proposal with the Tennessee Valley Authority Act of 1933 and the Columbia River Basin Project Act. Both the latter authorize payments from proceeds of leases rather than from general funds of the U.S. Treasury as the District of Columbia Federal payment proposal would do. The Justice Department claims a closer analogy is the Atomic Energy Community Facilities Act of 1955 providing annual payments by the AEC to the Government-owned towns of Oak Ridge, Tenn., and Richland, Wash., and based upon Federal property exempt from taxation, etc.

In conclusion, Justice Department claimed Federal payment to the District would not "satisfy any tax obligation imposed by the District government, but pursuant to a direction of Congress, a direction which Congress is at any time free to change."

In essence, on the question of whether money can be drawn from the Treasury except "in consequence of appropriations made by law" (art. I, sec. 9, clause 7 of the Constitution), the Justice Department held (pp. 129 and 272 of the printed hearings):

"As long as the annual Federal payment to the District of Columbia is authorized by an act of Congress, is computed on the basis which Congress itself established, is certified in accordance with law, and remains subject to legislative control, it would appear to comply with the requirement that all payments of public funds be made 'in consequence of appropriations made by law.'"

A formula approach based on the valuation of tax-exempt property of the Federal Government located in the District of Columbia tax-exempt property of foreign governments, and others exempted by special acts of Congress, is not a new idea. It must be remembered that the House Appropriations Committee in its Report No. 211 of the 1st session, 86th Congress, filed on March 13, 1959, made reference to tax-exempt properties in computing its recommendations on the Federal payment appropriation for the 1960 fiscal year. The report states in part:

"In arriving at the recommended figure of $25 million as the Federal payment to the general fund which is a 25-percent increase above the $20 million appropriated to date for fiscal year 1959, the committee has taken into consideration the following data submitted by the Commissioners from the table on page 17 of the hearings:

"Federal Government property, if taxable	$22,241,125
"Foreign governments (embassies, etc.), if taxable	434,496
"Miscellaneous (properties exempted by acts of Congress)	396,332
"Total	23,071,953

"If the committee were to apply the same average increase of 9 percent in real property taxes which will result from the reassessment program, the figure noted above would be $25,148,428, or approximately the same as the $25 million recommended in the bill."

Likewise, the Senate approved H.R. 6177 in July 22, 1963, containing a Federal payment formula proposal as a provision in legislation authorizing an increase in Federal participation in meeting the costs of maintaining the Nation's Capital City. This was a formula authorization concept with appropriations remaining with the Congress.

Further, history also provides authority for a Federal payment percentage approach. From 1879 through 1920, the Federal payment to the District of Columbia was a flat 50 percent of the "General fund" appropriation. In other words, of each dollar appropriated to operate and maintain the District, the local taxpayer paid 50 cents with the remaining 50 cents being paid by the Federal Government.

In 1921 the Congress discontinued its 50-percent formula. Since that time the percentage of costs borne by the Federal Government has fluctuated from a high of 39.5 percent on "General fund" appropriations in 1924, to a low of 8.5 percent in 1954. Since 1956, the Federal payment has been slightly over 12 percent. The $37½ million Federal payment voted to the District by Congress last year is approximately 13 percent of the general fund estimate of a $297.4 million appropriation for the 1965 fiscal year to operate the District government.

It is the committee's view that a formula approach for Federal payment authorization represents a forward-looking, businesslike method. It takes into consideration the Federal Government's proper obligation to the local District of Columbia government and provides a basis for Congress to alter the formula by legislative action at any subsequent time should such formula appear excessive or inadequate.

On the amount of income taxes that would be paid if the Federal Government were a business, the Federal Government would make a payment approximately that which a business or industry of comparable size would pay in taxes. If the rate of taxation on real or personal property or on business franchises were increased or decreased, the Federal payment would be increased or decreased.

It is the committee's conclusion that enactment of the Federal payment authorization formula would be the most significant contribution to Federal-District fiscal relationships in the last half century in meeting the many problems unique to the federally controlled and congressionally governed city.

Moreover, the Federal payment formula provision represents what might be called the heart of the entire home rule proposal. It is generally considered to be a maxim that the "party holding the purse strings also is the party holding the power." Therefore, if home rule in the true sense is to be accorded to the Capital City of this Nation, its citizenry should have the vital assistance that the Federal payment formula would give while the interest of the Federal Government would remain adequately protected by the continuing ability of the Congress to amend the formula at any time it saw fit.

TITLE VIII—ELECTIONS IN THE DISTRICT

The bill continues the Board of Elections as established by the District Primary Act. Successors to the present Board after their terms have expired, would be appointed by the mayor, by and with the advice and consent of the Council, for a term of 3 years. The Board is charged with maintaining a permanent registry; conducting registrations and elections; determining appeals; provide for recording and counting votes by means of ballots or machines or both, dividing the District into 14 wards as nearly equal as possible in population and of geographic proportions as nearly regular as possible; establishing voting precincts; operating polling places, certifying election results, and other duties. The Board is given authority to prescribe such regulations as may be necessary for the purposes of the act, and the salary of each member is fixed at the rate of $1,500 per annum. Present law provides compensation for Board members at $25 per day while performing duties.

The Board of Elections, in addition to elections conducted pursuant to the District Election Act of 1955, shall conduct—

1. A primary election to be held on the first Tuesday in May of each even-numbered calendar year commencing after this title takes effect.

2. A general election, to be held on the first Tuesday following the first Monday in November in each even-numbered calendar year commencing after this title takes effect.

3. Special elections and referendum elections held pursuant to sections 335(c), 602, 806, 812(b), or 812(c).

The offices to be filled by partisan election are members of the Council, the mayor, and the District Delegate. Members of the Council shall be elected for 4-year terms beginning on January 2 of the odd-numbered year following such election.

The mayor shall be elected for a 4-year term beginning on January 2 of the odd-numbered year following such election. The District Delegate shall be elected for 2 years beginning on January 3 of the odd-numbered year following such election. Members of the Board of Education would have 4-year terms.

Vacancies would be handled as follows—

(a) Delegate: By the mayor, with the advice and consent of the Council.

(b) Mayor: Filled at the next general election and before such election, the successor will be filled by appointment by the District Council.

(c) Council member: Appointment by the mayor with the advice and consent of the Council; except that any vacancy in any at-large Council seat, must be a member of the same political party of the person who vacated the office.

(d) Board of Education: Appointment by the mayor, without regard to political affiliation, with the advice and consent of the Council.

At primary elections, the candidate of each party receiving the highest vote, would be declared the winner and his name placed on the general election ballot as the candidate of his party. An exception would be in the councilmen at large contests where three candidates of each party receiving the highest vote shall be declared winners and their names placed on the general election ballot as their party's candidates for councilman at large. No political party shall be permitted to have more than three persons as candidates to fill the five councilmen at large seats, thus assuring that not more than three members of any one political party shall hold office of the five councilmen at large to be elected.

Staggered terms of office are provided for all members of the council except the five councilmen at large, who shall be elected for

4-year terms every 4th year. Seven members of the 14 ward councilmen will be elected for 4-year terms at general elections to be held every 2 years.

Thereby the concept of minority party representation is carried out together with the advantages to be gained from having the electorate speak every 2 years.

A committee amendment to the bill provides a procedure for the recall of any elective officer of the District of Columbia by the qualified electors of the District in lieu of only the office of mayor as provided in the original bill. The petition to be filed demanding the recall by such qualified electors of any elective officer must be signed by not less than 25 percent of the number of qualified electors voting at the last preceding general election. The petition must set forth the reasons for such demand, and be filed with the secretary of the Council.

On the ballot at such election shall be printed in not more than 200 words the reason for demanding the recall of any elective officer, and in not more than 200 words, the officer's justification or answer to such demands. No petition demanding the recall of any officer shall be circulated until he has held office for a period of 6 months.

The Board of Elections is authorized to prescribed such regulations as may be necessary with respect to the form, filing, examination, amendment, and certification of petition for recall, and with respect to the conduct of any special election held for this purpose.

A qualified voter shall be a person (1) who has maintained a domicile or place of abode in the District continuously during the 6-month period ending on the day of the election; (2) who is a citizen of the United States; (3) who is on the day of the election at least 18 years old; (4) who has never been convicted of a felony in the United States, or, if he has been so convicted, has been pardoned; (5) who is not mentally incompetent, as adjudged by a court of competent jurisdiction; and (6) who certifies that he has not, within 6 months immediately preceding the election, claimed the right to vote or voted in any election in any State or territory of the United States (other than in the District).

The bill provides that no person shall be registered unless he shall be able to qualify otherwise as a voter on the day of the next election; he executes a registration affidavit on a form prescribed by the Board of Elections showing that he will meet on election day all the requirements of a qualified voter, and if he desires to vote in a primary election, such form shall show his political party affiliation. The bill provides that the Board shall accept as evidence of registration a Federal post card application for an absentee ballot prescribed under the Federal Voting Assistance Act of 1955. If a person is not permitted to register, such person, or any qualified candidate, may appeal to the Board of Elections, but not later than 3 days after the registry is closed for the next election. The Board shall decide within 7 days after the appeal is perfected whether the challenged voter is entitled to register. If the appeal is denied the appellant may, within 3 days after such denial, appeal to the District of Columbia Court of General Sessions. The court shall decide the issue not later than 18 days before the day of the election. The decision of such court shall be final and not appealable. If the appeal is upheld by either the Board or the Court, the appeal is pending on election day, the challenged voter may cast a ballot marked "Challenged," as provided in section 811.

The bill provides for two methods of nominations: Nomination of a candidate to be included on the ballot for a primary election shall take place when the Board of Elections receives a declaration of candidacy, accompanied by the filing fee in the required amount: *Provided, however,* That the candidate is duly registered as affiliated with the political party for which the nomination is sought and otherwise meets the qualifications for holding the office for which he seeks nomination. Nomination of any independent candidate who desires to have his name on the ballot in the general election shall take place when the Board of Elections receives a petition signed by the required number of registered voters and accompanied by a filing fee in the appropriate amount.

Petitions nominating an independent candidate for District Delegate or Mayor shall be signed by not less than 500 qualified voters registered in the District. The registration fee for these offices is $200. Petitions nominating a candidate for the District Council shall be signed by not less than 100 qualified voters registered in the ward from which nomination is sought. The registration fee for Council is $50. No person shall be barred from nomination as an independent candidate in the general election because he was a candidate for nomination in a primary election. No person shall be a candidate for more than one office in any election. If a person is nominated for more than one office, he shall within 3 days after the last day on which nominations may be made, notify the Board of Elections, in writing, for which office he elects to run.

Elections for all offices shall be partisan except for members of the Board of Education whose candidacies will be nonpartisan. The ballot is to show the wards from which each candidate, other than the District Delegate and Mayor, has been nominated. Each voter is entitled to vote for one candidate from the ward in which the voter is a resident and also vote for five councilmen at large, and one candidate for District Delegate, and one candidate for Mayor. Absentee voting will be permitted under regulations adopted by the Board of Elections.

The bill makes inapplicable to District elections that section of the Hatch Act which prohibits officers or employees of the executive branch of the Federal Government from taking an active part in political management or campaigns. Section 16 of the Hatch Act gave the Civil Service Commission power to permit certain political activity in the National Capital area by Federal employees where special or unusual circumstances warranted such permission.

The committee felt that the District represents a striking example of the "unusual circumstances" anticipated in the Hatch Act. The proportion of its total population who are Federal employees is estimated to be from 10 to 15 percent. The percentage of District residents 18 or over who are Federal employees would be about 20 percent, and of eligible electors, probably something substantially greater—possibly as high as 35 percent. Thus, to foreclose participation of such a large proportion of the population from political activity would be to deny the District one of its major civic resources and deny participation by a substantial percentage of the District's populace in its government.

Provision for challenging voters and for appeals to the Board of Elections are made. Poll watchers are authorized, and a procedure is set up pertaining to recounts parallel to that of the District Primary Act with a modification to take care of referendums. The petitioner must deposit a sum of $20 for each precinct to be recounted. The fee is refunded if the election result is changed by the recount. The petition is to the Board of Elections, and is filed by qualified candidates in the elections. In the case of referendums, since there are no candidates in a referendum, any person who voted in any election is eligible to petition the Board for a recount of votes cast on a referendum question.

Violations of any provision of this title or regulations published under its authority are declared misdemeanors and penalties are provided.

TITLE IX—MISCELLANEOUS

Except where the terms of intergovernmental contracts are prescribed by other provisions of law, the District and Federal Governments are authorized to contract with each other for the rendition services in order to prevent duplication of effort and to otherwise promote efficiency and economy. Such contracts are to be negotiated by the Federal and District authorities concerned and be approved by the Director of the Bureau of the Budget and by the mayor, by and with the advice and consent of the Council. Such contracts will provide for payment for the actual cost of furnishing such services.

The costs to each Federal officer and agency in furnishing services to the District pursuant to any such contract is to be paid out of appropriations made by the Council to the District officers and agencies to which they are furnished.

The costs to each District officer and agency in furnishing services to the Federal Government pursuant to any such contract shall be paid from appropriations made by the Congress to such Federal officers and agencies.

No member of the Council and no other officer or employee of the District shall have any financial interest direct or indirect in any contract or sale to which the District is a party.

Except for the qualifications already enumerated, no person is ineligible to serve or to receive compensation as a member of the Council or the Board of Elections because he occupies another office or position or receives compensation from another source. The right of a person to another office under the laws of the United States shall not be abridged by the fact of his service as a member of the Council or the Board of Elections if such service does not interfere with the discharge of his duties in the other office.

The U.S. Civil Service Commission is authorized to render advice and assistance to the new government in the development of a merit system.

TITLE X—SUCCESSION IN GOVERNMENT

Whenever the functions of any existing agency or officer are transferred under the bill, the personnel (except the members of Boards or Commissions abolished by the bill), property, records, and unexpended balances of appropriations which relate to the functions are also transferred. Provision is made for the settling of disputes which may arise out of such transfers.

Any statute, regulation, or other action relating to any officer or agency from which any function is transferred by the bill shall, except to the extent modified or made inapplicable by or under authority of law, continue in effect as if such transfer had not been made. No pending judicial or administrative action shall abate by reason of the provisions of the bill becoming effective, but such actions shall continue with appropriate substitutions of parties.

The purpose underlying this title is to provide continuity in the transfer of existing personnel, property, and funds; to continue in effect present statutes and regulations; and to provide for orderly disposition of pending actions and proceedings.

TITLE XI—SEPARABILITY OF PROVISIONS

This title provides that, should a part of the act be held invalid, the remainder of its provisions shall not be affected thereby.

TITLE XII—TEMPORARY PROVISIONS

The President of the United States is authorized and requested to take such action

during the transition period between the enactment of the bill and the first meeting of the Council as he deems necessary to enable the Board of Elections properly to perform its functions. The sum of $750,000 is authorized to be appropriated to the District to pay the expenses of the Board of Elections and in otherwise carrying into effect the provisions of the bill. The full amount of expenditures made under this authorization shall be reimbursable by the District to the United States without interest, during the second fiscal year which begins after the effective date of title V.

TITLE XIII—EFFECTIVE DATES

The charter (titles I to XI, inclusive, and titles XV, XVI, XVII, and XVIII) shall take effect on the day following the date on which it is accepted in the charter referendum provided by title XIV, except as provided in section 1406. (Pt. 2 of title III provides that certain agencies abolished by the act may continue to operate for a period of 180 days after the effective date of this title unless within such period the District Council shall otherwise direct.)

TITLE XIV—SUBMISSION OF CHARTER FOR REFERENDUM

The bill provides that on a date to be fixed by the Board of Elections not more than 4 months after the enactment of the act, a referendum shall be conducted to determine whether the registered qualified voters of the District accept the charter. The Board of Elections established under the District Election Act of 1955, is charged with conducting the charter referendum and certifying the results thereof. Provision is made for the form of ballot to be used in the referendum and for the method of voting. If a majority of the registered qualified electors voting in the charter referendum vote for the charter, the charter shall be accepted as of the time the Board of Elections certifies the result of the charter referendum to the President. Also, the Board of Elections within 30 days after the date of the charter referendum, shall certify the result of the charter referendum to the President of the United States and to the Secretary of the Senate and the Clerk of the House of Representatives.

TITLE XV—DELEGATE

The bill provides for a Delegate from the District of Columbia to the House of Representatives. He shall have the right of debate, may make any motion, except to reconsider, shall be a member of the House Committee on the District of Columbia, but may not vote, which is the same status as the Territorial Delegate. His term of office shall be for 2 years. No person shall hold the office of District Delegate unless he (1) is a qualified voter; (2) is at least 25 years old; (3) holds no other public office; and (4) is domiciled and resides in the District, and during the 3 years next preceding his nomination (a) has been a resident in and domiciled in the District, and (b) has not voted in any election (other than in the District) for any candidate for public office. The bill amends several statutes relating to a Territorial Delegate and the Federal Corrupt Practices Act, to make them applicable to the District Delegate. The Delegate is to be elected as provided in title VIII.

TITLE XVI—BOARD OF EDUCATION

S. 1118, as it was introduced, abolished the Board of Education, and thereby provided the District Council complete discretion in determining the future organization of the Board. The committee approved an amendment to S. 1118 which provides for the Board of Education to be elected directly by the people.

Under the amendment, as approved, elections for members of the Board of Education would be nonpartisan. The Board would consist of 14 members, with 1 member elected from each of the 14 wards, for terms of 4 years each. As provided in section 803(e), seven members would be elected every 2 years, thus assuring continuity—of experience on the Board of attentiveness to the wishes of the electorate. The amendment, as approved by the committee, does not provide the Board of Education with any independent taxing or borrowing authority. The Board would be required to seek approval of its budget from the District Council as in the case of any other municipal agency.

It was the intent of the committee that the public school system of the District of Columbia shall continue to be under the control of the Board of Education as under prior law. It was the further intent of the committee that the Board of Education shall continue to exercise its control in accordance with the provisions of laws applicable to the school system which existed immediately prior to the date of enactment of this act until such time as such laws are changed by the District Council, the qualified voters, or the Congress, in which case the Board of Education shall exercise its control in accordance with such laws as changed.

The purpose of this amendment is to secure the direct responsiveness of the electorate on matters of educational policy that the direct election of individual school board members would achieve.

TITLE XVII—INITIATIVE

The committee amended the bill to provide initiative powers. Subject to the provisions of section 324 of the bill, the qualified voters are given the power, independent of the Mayor and Council, to propose and enact legislation relating to the District with respect to all rightful subjects of legislation not inconsistent with the Constitution or with the laws of the United States which are applicable but not confined to the District.

In exercising the power of initiative, not more than 10 percent of the number of qualified voters voting in the last preceding general election shall be required to propose any measure by initiative petition. The method for holding elections under the initiative procedure is set forth in this title.

TITLE XVIII—TITLE OF ACT

Provides that this act, divided into titles and sections according to the table of contents, and including the declaration of congressional policy, which is a part of such act, may be cited as the "District of Columbia Charter Act."

Mr. BIBLE. Mr. President, I believe it essential that I outline the main legislative provisions not heretofore covered.

The bill provides:

First. An elected mayor and an elected 19-member City Council, 5 to be elected at large with not more than 3 thereof to be a member of the same political party, and the other 14 elected, 1 from each of 14 wards. Councilmen's terms will be 4 years with terms to be staggered on a 2-year basis.

Second. An elected nonvoting Delegate to the House of Representatives to have the same powers as those now granted to a territorial delegate.

Third. The Council to be vested with local legisative power, including taxing and borrowing authority, subject to certain enumerated restrictions and to the overriding power of the Congress—to which I have previously alluded—to repeal, amend, or initiate local legisation and to modify or revoke the charter itself; the Council to assume functions presently carried out by the Board of Commissioners, which would be abolished. The Council to control the city's financial affairs, to borrow for capital improvements, prepare and approve an annual budget, and provide for the payment of bonds and notes, an so forth.

Fourth. A provision for a Federal payment by the Congress to the District of Columbia annually, with such to provide an automatic authorization and appropriation by means of a flexible formula which the committee believes will more fairly represent the Federal Government's fiscal responsibility to the District of Columbia than the present in-lieu-of-tax, lump-sum Federal payment.

Fifth. Partisan elections for all officeholders except members of the Board of Education, who shall be elected on a nonpartisan basis.

Sixth. Full participation by all District residents, including Federal and District government employees, in election campaigns.

Seventh. Initiative and recall to permit the electorate to propose legislation and to recall any elected officer of the District.

Eighth. A 14-member Board of Education elected, 1 each from the 14 wards, to exercise control over the public school system of the District of Columbia, with such control equal to that presently exercised by the appointive Board of Education. Under the bill, the Board of Education would not have independent taxing or borrowing authority. It would be required to seek approval of its budget from the District council, similar to any other municipal agency.

Ninth. A charter referendum whereby the District's qualified voters must choose within 4 months of the bill's enactment whether District residents do or do not want self-government.

Mr. President, it must be borne clearly in mind that by adoption of this home rule legislation, Congress does not lose its power over the District of Columbia in any way. Congress only delegates the housekeeping chores to a municipal, elected council, but the Congress, under the Constitution, must retain ultimate power over the District of Columbia as set forth in article I, section 8 of the Constitution, which provides:

> Congress shall have power * * * To exercise exclusive legislation in all cases whatsoever, over such District (not exceeding 10 miles square) as may, by cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States.

Mr. President, there is one aspect of this home rule bill which I believe deserves greater explanation because, as the Committee report sets out, the Federal payment formula provision represents what might be called the heart of the entire home rule proposal.

Since the District was established in 1879, the Federal Government has, in each year, made an in-lieu-of-tax payment to the District of Columbia government. The primary purpose of the payment has been to compensate for the fact that the Federal Government, as the principal employer and the owner of almost 50 percent of the District's land area, is tax exempt, thus depriving the city of a major source of tax revenue always available to other cities.

From 1879 to 1920 the Federal payment was 50 percent of the general fund appropriation; that is to say, for every dollar of operating costs, 50 cents was paid by local taxpayers and 50 cents was paid from the Federal Treasury. The percentage has fallen over the years from the earlier fixed formula. For the 1965 fiscal year, the percentage paid by the Federal Government amounted to 13 cents out of each dollar of operating costs.

Under the formula concept, as proposed in this bill, the Federal payment would be set at an amount equal to the sum of, first, the real estate taxes the District would receive if property owned and used by the Federal Government and property exempted by special act of Congress, were taxable; second, the personal property taxes it would receive if tangible federally owned personal property, with certain exclusions, were taxable; and, third, the business income and related taxes which it could reasonably expect to receive if the Federal Government were a private business with an equivalent number of employees.

The Federal payment would be subject to certification by the Administrator of General Services Administration that payment is based upon a reasonable and fair assessment of real and personal property of the United States and a proper and accurate computation of the specified factors incorporated in the formula. Under the formula, it is estimated that the Federal payment to the District would be $57 million for fiscal year 1966, contrasted with the present annual Federal payment authorization of $50 million and an appropriation of $43 million.

It was the committee's belief that a local government, if it is to operate successfully, must be reasonably assured that the Federal Government will automatically recognize its obligation to provide additional revenues from the locally assessed taxes that are needed to meet legitimate increased expenditure requirements.

In forwarding Federal payment formula legislation to the Congress this year, President Johnson stated that enactment of such legislation—"is essential to the proper assignment between the Federal Government and the local citizens of the responsibility of providing the necessary funds."

The committee believes that the formula provision will assure an orderly basis for determining each year the appropriate level of Federal contribution to the District. It takes into consideration the Federal Government's proper obligation to the District government; it provides a basis for Congress to alter the formula by legislative action at any subsequent time should such formula appear excessive or inadequate.

Certainly, if Congress believes home rule is proper and right for the Capital City of this Nation, then its citizenry should have the vital assistance that the Federal payment formula would give to the stability of a local government while the interest of the Federal Government remains adequately protected by the continuing ability of the Congress to amend the formula at any time it sees fit.

In my years as chairman and as a member of the Senate Committee on the District of Columbia, I believe I have learned something about this great city whose problems are multiplied by the inability of its residents to govern themselves.

Washington, D.C., has two distinct roles. First and foremost, it is the seat of our Federal Government, a symbol of our great Republic, reflecting the spirit, history, and personality of our country.

Second, Washington is a great American city, with all the problems, increasing as they are, that New York City, Chicago, or Los Angeles has. The influx of record populations into urban centers, such as Washington, and the accompanying social upheavals that flow from this urbanization are dramatic evidences of increasingly critical situations.

It is my best judgment that the District of Columbia cannot continue to meet its growing needs by the present system of half-way government where all of its housekeeping and municipal legislative problems are weighed on the national scale by a Congress whose concern should not be focused on the city's daily activity but on those of the Nation and the world.

I am not wedded to any rigid concept of home rule for the District. However, I do believe that a Congress which seeks to help the world solve its ills is capable of bending itself to fashion some form of self-government for the three-quarters of a million people who live here.

Today, 87 cents out of every dollar of the $300 million—plus, annual District of Columbia budget are taxes paid by local residents who have no voice on how their dollars are collected or spent.

This Nation was founded 185 years ago on a successful crusade against taxation without representation. Is the crusade any less right or proper today?

Mr. President, I submit that the 89th Congress should restore self-government to Washington, D.C.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. DOMINICK. Mr. President, before I submit any amendments, I should like to make some comments for the purpose of the RECORD and for the benefit of those of our colleagues who are present.

First of all, I have thoroughly enjoyed my tenure on the District of Columbia Committee under the able chairmanship of the Senator from Nevada [Mr. BIBLE]. He has been most fair. He has dedicated himself to the work of the District of Columbia and the problems that are inherent in this Capital City. I believe that with the aid and cooperation of other members of the committee we have probably developed a far better home rule bill this year than had previously been submitted to the Senate.

I personally wish that we had gone further and faster with our improvement on the crime bill. However, I must say, in all fairness, that the chairman has done a very fine job in keeping us working on these other problems, in trying to develop remedial legislation which will be helpful to everyone who resides in the District of Columbia.

Mr. President, despite the fact that I shall offer some amendments, I believe I should make it clear for the record that I was the one who moved that the bill be reported from the committee. I make that statement because I do not want anyone to get the impression that I am against a home rule bill for the District of Columbia. I am not.

In reviewing what we had done, it seemed to me that there were some glaring defects in the bill that should be pointed out and should be argued as a matter of policy before the Senate itself.

The committee adopted several amendments which in my opinion strengthen the bill.

First, as the chairman has stated, we have adopted a provision for a separate school board, which would be elected. Furthermore, we have stated that the members of the board would be elected on staggered terms, so that there would be some continuity of effort in the school system in the District of Columbia.

I do not believe there is any Senator who is acquainted with the problems of the District of Columbia who is not aware at the present time of the great and crying need of the school system in the District of Columbia.

I was happy to see that we would have staggered terms and elections for the council, although that provision would apply only to the 14 members and, of course, not to those who are elected at large.

The chairman made reference to the fact that there would be a certain degree of minority representation on the council under the bill.

I should make it very clear that this so-called minority representation is quite illusory. It would apply only to the five persons who would be elected at large. It would not apply to any of the 14 members elected from the wards.

It is conceivable that there would be 17 members of one political party controlling the council, and 2 members attempting to put the other viewpoint forward, at least for discussion.

I believe we made a vast improvement in the bill in the recall and initiative provisions.

These particular provisions would be most valuable. They are incorporated in almost all the State constitutions in the Western States, and in many of the ordinances establishing a city council in areas throughout the country.

But there are some provisions in the bill which I believe cause concern, and I would like to discuss them one after another.

First, I wish to deal with the school system. On March 4 I introduced a bill to establish an independent school board in the District of Columbia, which would be another governmental entity operating within the geographic boundaries of the District of Columbia. It would have autonomous authority over schools, teachers, and construction, and would consist of elected members. It would be dedicated to school purposes and school purposes only, and would have the ability to cause the District to raise such funds as it might deem necessary for school purposes.

I offered this proposal as an amendment in committee. It was upon that proposal and the amendment of the Senator from New York [Mr. KENNEDY], which merely provided for a separate school board, that we had considerable discussion. Portions of the suggestions of the Senator from New York [Mr. KENNEDY] were adopted and portions of mine were adopted.

None of the financing features would be included in the bill.

While I am most familiar with Denver, Colo., there are a number of States in which cities have separate school boards with separate means of financing. That system has worked extremely well.

This separate financing takes the school board out of political pressure, and the school board is not so completely at the mercy of the city council in Denver for reasonable financing for the schools. This prevents a regression in school activities and it provides a mechanism by which the best school experts in an area can be brought to work on the problems in that district.

I believe that perhaps the bill would cut out the heart of the proposal that I have heretofore advanced. I believe it would cut out the heart because I do not believe any school board in the District of Columbia or elsewhere could possibly operate efficiently unless it had the assurance of adequate funds to fulfill the plans that it was formulating.

At the appropriate time, I plan to offer an amendment for discussion, which would restore to the bill the opportunity for a school board to cause to be levied taxes in such a manner that the school board would have sufficient funds to go forward with its program for the school district in this great area.

The second thing that bothered me and bothered a number of the rest of us on the committee was the question of partisanship in elections. The difficulties are inherent in the fact that we would have minority representation in the five members who would be elected at large on the theory that the elective process within the District would be partisan.

In the hearings we tried to develop a statistical situation to determine whether a majority of cities have partisan or nonpartisan elections.

I am frank to say that until I came to Washington, D.C., I had never heard of partisan municipal elections. In the State of Colorado we have nothing but nonpartisan elections. I believe this is true in the State of Nevada; is it not?

Mr. BIBLE. That is correct.

Mr. DOMINICK. It is true in most of the Western States, as far as I am aware, and it is true in a number of the Eastern States.

Where we are dealing with a municipality and you are trying to get as many qualified people as possible to serve in offices which can often be most disagreeable, certainly troublesome, and full of problems, we can do the work more effectively if we have elections on a nonpartisan basis.

We can call the parties anything we wish. They would not be affiliated directly with either the Democratic Party on the Republican Party. They could be Progressives or almost anything we can think of. We would get away from the political parties which so often control a number of votes, regardless of what party we might be talking about, and whether or not the candidate himself appears to be the most adept or apt for the particular job sought.

That question bothered me, and we discussed it at considerable length. The vote in the committee on the question was extremely close. I believe there was a difference of only one vote.

In the process of that debate we had another discussion concerning a provision in the bill which has not been mentioned, so far as I know.

We have eliminated the application of the Hatch Act. We did so in the city which is the center of the greatest number of Federal employees of any municipality in the country. Suddenly we decided that the Hatch Act should not apply in this area. Why? The report will show that we took that action because we thought there were a great number of highly qualified Federal employees who would be perfectly capable of holding an office in a municipality of this kind, as it is envisaged, without jeopardizing their position, and without being subject to pressure.

I completely concur that there are a great number of highly qualified and able people who would probably like to serve in elective or even appointive offices of one kind or another, but that would be a major change.

It would be a major change in the application of the Hatch Act which, it seems to me, should not be inserted as a part of a home rule bill which, heaven knows, will get past the other body only with difficulty.

I have had called to my attention S. 1474, which is a bill to create a bipartisan committee to study Federal laws limiting political activity by officers and employees of the Federal Government. The measure has been reported from the Committee on Rules and Administration without amendment. It would create a commission to study the proposal that we are supposed to be acting on in the bill.

I cannot conceive of the reasoning in a situation in which a new law is initiated for self-government in the District of Columbia, and while so doing a major change is proposed in one of the fundamental acts that has been on the statute books of the country for a long time, an act to prevent improper activities by virtue of political pressures regardless of party.

It strikes me that we should withhold action on this proposal until such time as an opportunity has been afforded a committee to study the effectiveness of the Hatch Act, and determine whether in some instances it should be modified so as to permit Federal employees to hold local office and serve and participate in local elections.

The third, and perhaps most important, of all the defects, as I read the bill, is the Federal payment, which was discussed at some length by the Senator from Nevada [Mr. BIBLE]. Congress is the body that has been designated by the Constitution to levy taxes. The Constitution and rules of our system require that all revenue-raising bills shall originate in the other body. That principle has been applied not only to revenue-raising bills but also to general appropriations bills. I do not intend to enter into a discussion as to whether appropriations actually fall within that constitutional requirement; nevertheless, the procedure, for as long as I can remember, has been that all appropriation bills originate in the House of Representatives.

What is proposed by the bill? The bill provides a system whereby Congress would grant to an elective council the right to withdraw funds from the Federal Treasury without any review, without any veto, and without any other action by Congress, unless Congress passed a law to prohibit a particular appropriation. The procedure to be followed would merely be a statement that the council could levy taxes on Federal property in the entire District of Columbia on the basis of its assessed valuation. The council would determine what the assessed valuation would be. Once that had been certified, and the new levy imposed by the council, the amount would automatically be submitted to the Treasury for automatic payment without any other procedure.

This is a highly important subject. Not only does it put in question the reasonableness of the valuations on Federal property; it also has the inherent danger of removing from Congress the responsibility which the Constitution by its very wording has placed in that body.

For example, to be somewhat dramatic, what valuation would be placed on the U.S. Capitol, the building in which we are now sitting? Who would determine the basis on which the valuation would be placed? Who would decide whether it was $1 or $1 billion? Under the bill, the proposed District of Columbia Council would decide, not those who authorize the maintenance of the building, not those who appropriate funds for its maintenance, not the historians who are seeking to have it restored to the beautiful condition which was originally envisaged. It would be the District of Columbia, which is interested in providing funds for its own governmental services and its own school board.

Who would decide the valuation of the Senate Office Buildings? The National Archives? The Treasury? The White House? Who would say what the valuations on those structures should be?

If perchance a valuation could be put on them—and I frankly say that I have difficulty in determining how a valuation could be put on any of those buildings—who would determine whether it was reasonable or not?

It strikes me that the bill should contain more safeguards than it does. The bill contains a right of veto, in effect, by the Administrator of General Services. I believe that is correct.

Mr. BIBLE. That is correct.

Mr. DOMINICK. But that does not give Congress any right of its own to determine whether a valuation placed on

Federal buildings is anywhere near reasonable.

At a later date, I shall propose an amendment that when a certification is made and a valuation has been approved by the General Services Administration and submitted to the Treasury the amount of the funds proposed by such certification shall be submitted to the Committees on Appropriations in the general appropriations process, so that Members of Congress will know the amount being asked, why the funds are sought, and whether the amount that is proposed is based on a reasonable assessment.

To me, this is extremely important. I shall offer an amendment on this subject, and at the appropriate time I shall ask for a yea-and-nay vote.

Other factors are involved in the Federal payment problem. One is the question of in-lieu taxes. In every public lands State, whether it be the State of the distinguished Senator from Nevada [Mr. BIBLE], chairman of the Committee on the District of Columbia, the State of the distinguished Senator from California [Mr. KUCHEL], the State of the distinguished Senator from Arizona [Mr. HAYDEN], the President pro tempore, or any other State in which public lands are situated, if Congress were to start to let one governmental entity impose taxes upon another, where would the practice stop? Shall we say that we will allow the District of Columbia to impose taxes on the Federal Government, but that we will not let California do so; that we will not let Nevada do so; that we will not let Colorado or Oklahoma do so?

It may be said that because of the particular nature of this proposal, no precedent of any kind would be set, but that we are merely providing, by practical means, for the financing of the District of Columbia government. That can be said, but it will not hold. All over the country, the people of the States will be saying, "If that can be done in the District of Columbia, it can be done elsewhere." If once it can be said that a city can impose a tax on the Federal Government, or that a State can impose a tax on the Federal Government, why cannot a city impose a tax on State property, or a State impose a tax on city property? One governmental unit after another would be imposing taxes on one another—all the taxes being paid, let us not forget, by the general taxpayer.

It strikes me that Congress would be creating a grave danger if the bill were passed in its present form.

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

Mr. DOMINICK. I yield.

Mr. KUCHEL. The junior Senator from Colorado has made a remarkably constructive address with respect to the proposed legislation. Advocacy of home rule legislation for the District of Columbia is not a new position for the Senator from California to take.

I voted for legislation to provide home rule every time it has been pending here. The comments which my able colleague, the Senator from Colorado, has made concerning the problems facing the School Board of this Capital City strike me as requiring a thorough discussion on the floor of the Senate. There is great merit in the problems he has outlined here.

I recall the problems which we have had in the Senate in dealing with the broad-gage question of in-lieu payments. I believe that the Senator from Colorado has performed a service in bringing this problem before us. I look forward to a discussion on that problem before the Senate proceeds to vote on amendments. Congress has a direct interest in making this beautiful city an outstanding world capital. We must understand our responsibilities and discharge them.

I rise particularly to congratulate my friend the Senator from Colorado, however, on his comments concerning nonpartisan government in the Capital City of the United States.

My State of California has enjoyed municipal and county government free from party politics, completely unfettered by the traditional, historic municipal ward heeling ever since the early days of this century. It is not unique in the great cities of California, Los Angeles, San Francisco, Sacramento, Fresno, San Diego, or my own home city of Anaheim, any of them, to find public-spirited citizens from all walks of life—businessmen, laborers, and farmers from both parties—coming together to determine how best they can elect representatives to municipal government dedicated to giving the people in that municipality simply clean, honest, decent, forward-looking municipal government without any irrelevant, unnecessary overlay of party politics.

I shall support, without any hesitation whatsoever, the amendment which the Senator from Colorado intends to offer. I hope that under the managerial capabilities of my friend, the able Senator from Nevada, the Senate will approve the home rule bill and that at long last the other body will do the same. However, I must, and do, tell the Senate what a great thing it would be for the cause of good government, not party politics, if the amendment of the Senator from Colorado were to be agreed to.

I am a Republican, but I want to say I object to party politics in local government. Why should we exacerbate the problems of home rule in the District of Columbia by superimposing party politics on top of all the other questions that this city must solve? It does not belong here. Aside from a few Senators, perhaps on both sides, U.S. Senators would say, "Let us make the government of the District of Columbia—and this is its charter—responsible to the people, all the people, the rich people and the poor people, white and black, big and little. Let us give to the people of the District of Columbia for the first time in history their long overdue right to cast a franchise based solely and only on whether they believe that the men running for the council and for mayor of this city are qualified as decent, honest, potential public servants. Let us not make people hesitate on the basis of party politics."

I am glad to recall that the municipal government of California has been good government.

Mr. DOMINICK. Mr. President, Mr. Healy, who is executive director of the National League of Cities, formerly the American Municipal Association, testified at the hearings that both nonpartisan and partisan councils are members of their league.

On page 187, Mr. Healy testified as follows in answer to a question from the chairman:

> Mr. HEALY. Detroit is nonpartisan, Los Angeles and San Francisco are nonpartisan. I think Philadelphia and New York are partisan, but I might comment here that in the opinion of a great many students of government, the local governments in California, the cities, are perhaps outstanding in the entire United States in their government, in their operation, their caliber of people that are attracted into the local government. The League of California Cities attributes this, among other things, to the fact that they have nonpartisan government out there. It is all nonpartisan, throughout the State of California, and I am going to have to say that they are outstanding as city government goes.

Mr. KUCHEL. Mr. President, I thank the Senator from Colorado.

Mr. President, I can forthrightly tell my able friend the Senator in charge of the bill that we have honest municipal government in California. When a bad apple occasionally comes along, the law enforcement authority can deal with that situation. I used to participate in city government. In my younger days as a lawyer, I was city attorney for a municipality in my State. We never had the problem of someone getting in the back room and talking over either Republican or Democratic politics.

They were interested in how the new schools were going to be constructed, how the new parks were to be created, whether they could give the taxpayer a better break on the ad valorem tax that he was required to pay. They were interested in governing all people, with no problem of party politics superimposed.

I have said enough. I repeat my earnest and enthusiastic congratulations to the Senator from Colorado for offering a constructive amendment that ought to be accepted wholeheartedly, in my judgment, by Members of Congress from both political parties. We could then demonstrate that no politics is contained in the bill that would disfranchise second-class citizens politically in the District of Columbia, but that they could look forward to an opportunity to work together as citizens of the District and to the elective offices of the District by a majority of the people determining the competence, credibility, and capability of the candidiates.

I look forward to voting in favor of the amendment. I most earnestly hope that my able friend the Senator in charge of the bill will give serious consideration to the problem.

Mr. DOMINICK. Mr. President, I sincerely appreciate the very powerful dialogue that we have had. It is extremely important.

In the statement which was presented by the National League of Cities, it is interesting to note that for cities of over 25,000 population, 157 cities have partisan elections for councils. However, 414 are nonpartisan.

There is almost a 3-to-1 majority.

This is something that we ought to accomplish in the District of Columbia. As the Senator from California has so ably stated, we are starting a landmark type of legislation for this city. In the entire history of the country, the District of Columbia has never had such a provision. Why should we clutter it up with the possibility of partisan fighting? This would not necessarily be for the benefit of our own political party, because we have guaranteed to us at least 2 of the 19 members of the council. If we were to eliminate partisan politics, we might not get that. I do not know how the problem would be worked out. But it seems to me to be important. As a result I shall press on that one as well.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. BIBLE. Mr. President, I appreciate the comments of both my distinguished western colleagues. The question of partisan versus nonpartisan elections was thoroughly and exhaustively and at length discussed in committee, and there were very close votes on some of these questions. There were 4-to-3 votes. When there is a 7-member committee, it sometimes comes out that way.

It might also be said that the support and the record indicate, as we took the facts before our committee, that where there are partisan elections it is rather clear that there is a tendency to have a much larger turnout than when there are nonpartisan elections.

The executive director of the U.S. Conference of Mayors appeared before our committee, as did Mr. Healy, representing the National League of Cities, and they presented a contrary viewpoint. This might be a rather appropriate place to mention their views on this particular subject.

The executive director of the U.S. Conference of Mayors has stated his view in this way:

> Politics should not be taken out of government. Indeed, it is a misconception of both politics and government when there is an attempt to so sterilize the local situation. As an observer of elections in large cities, it is readily apparent that the party affiliation of the individual candidates is generally known and often plays an important role. Indeed, often the candidate for mayor of a large city in a nonpartisan election has in the past held partisan office as a member of the State legislature, a county official, or a Member of Congress, so that the nonpartisan nature of the election is more fiction than a reality.
>
> On the other hand, the pretense of nonpartisanship often weakens the city executive in relation to the political machinery of his State and the Nation. It would seem particularly appropriate that in a strong mayor council system that partisan elections would be desirable. In such a system the mayor needs to be a political leader, and particularly here in the District of Columbia in many matters the mayor would be dealing directly with State Governors and nonpartisanship is not a characteristic of Governors.

That is a contrary viewpoint to those who support partisan elections. I am frank to admit that there are differences of opinion. There are nonpartisan elections in my State. It is certainly demonstrably true that the turnouts at nonpartisan elections are low. I do not know whether that pattern follows in the Nation as a whole, but it is true in my State. A smaller percentage of those qualified to vote and registered to vote participate in nonpartisan elections.

It is also interesting to note that of the cities having a population of one-half to 1 million, 6 have partisan elections, and 10 have nonpartisan elections.

I am sure we shall get into further discussion of this point as the bill reaches the amendment stage.

I yield now to the Senator from Idaho [Mr. CHURCH].

APPOINTMENT OF ARTHUR GOLDBERG AS UNITED STATES REPRESENTATIVE TO THE UNITED NATIONS

Mr. CHURCH. Mr. President, I am sure that all Americans share my pleasure upon hearing that President Johnson has appointed Justice Arthur Goldberg as U.S. representative to the United Nations. A man of highly developed intellect, incisive will, and humane concern for others, Mr. Goldberg will represent his country with great distinction.

Of course, it will be difficult for any man to take Adlai Stevenson's place at the United Nations, but Arthur Goldberg, much like Stevenson in temperament and compassion, is as fine a choice as could be made.

It is a sacrifice, rarely assumed, for a Justice to leave the Supreme Court. Arthur Goldberg deserves our thanks for taking on the U.N. assignment. Knowing how important the position is for the United States, especially in this time of troubles, Justice Goldberg has once again placed his duty to his country first.

Arthur Goldberg has had a very illustrious career. The possessor of the degree of doctorate of jurisprudence, he had an outstanding record as a lawyer and labor mediator before being appointed to the position of Secretary of Labor by President Kennedy in 1961. Mr. Goldberg has made outstanding speeches on U.N. affairs while serving on the Supreme Court, and is familiar with the problems of the United Nations Organization. His gracious wife, Dorothy, is a woman of great cultural attainment and social concern, and will be of much help to her husband in representing the United States at the United Nations.

I am certain that Mr. Goldberg will be speedily confirmed by the Senate. We all wish him well.

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

Mr. CHURCH. I yield.

Mr. KUCHEL. Announcement of the appointment of Justice Arthur Goldberg as U.S. Ambassador to the United Nation is welcome news to this Senator and, I feel assured to the people of the Nation. I have had the pleasure of knowing Ambassador-designate Goldberg during the past several years, both officially and personally. I know something of his record. His is the story of a splendid American, born of humble parents, learning the ageless values of his family's faith, acquiring, with honor, a legal education and an impeccable reputation. As a lawyer and as a judge, he brought to the practice of law, to the Presidential Cabinet, and then to our highest court a superb intellectual competence and legal ability, reflected in his history as a practitioner and public servant, and then in the judicial opinions he rendered on our highest bench.

I know our new U.N. Ambassador as a highly articulate advocate and persuasive debater. Surely the representatives of countries on the other side of what Sir Winston Churchill aptly called the Iron Curtain, when they arise to inveigh against the cause of freedom and against the Government of the United States, they will have met their master. Arthur Goldberg does not deal in polemics. His is the shield of logic and the rule of law. Americans may be assured that, at the town meeting of the world, their representative will speak with telling force. He will bring to the United Nations a renowned background and an unyielding devotion to our Republic and to the cause of peace with justice.

I am glad to rise and say that the nomination of Ambassador-designate Goldberg is welcome news. His nomination will be speedily confirmed by the Senate.

Mr. CHURCH. I thank the Senator for his comments.

Mr. BIBLE. Mr. President, I would not want this opportunity to pass by without associating myself with the remarks of both the Senator from Idaho and the Senator from California. In the nomination of Justice Goldberg, the President of the United States has chosen a man who has demonstrated an ability to get along with people, to meet problems, and to serve well in legal capacities in Government positions, as Secretary of one of the Departments, and more recently as an Associate Justice of the Supreme Court. He is a highly articulate, brilliant, and capable man. The United States is fortunate to have the President of the United States designate a man of his proven capabilities to be the spokesman for this country before the United Nations.

Mr. KENNEDY of New York. Mr. President, I am highly pleased with the appointment of Arthur Goldberg as our representative in the United Nations. He has served with great distinction in the labor movement and with great honesty and integrity. Then, as Secretary of Labor under President Kennedy, his counsel and advice were sought not only on subjects dealing with the labor-management field, but also on other subjects. He was frequently called into consultation on foreign affairs, and his counsel was highly regarded.

I do not believe that there is anyone who enjoys as much confidence in both the labor and management field and with the general public as does Arthur Goldberg.

It is highly important that our representative in the United Nations should enjoy that confidence, and that those who represent other countries should have confidence in the integrity and idealism of the individual who represents us in that organization.

That was the unique role that Adlai Stevenson played. No one can fill Adlai Stevenson's shoes better than Arthur Goldberg.

I compliment President Johnson on his appointment of Arthur Goldberg and also wish Justice Goldberg well.

Mr. GORE. Mr. President, I join in the Senator's expression of satisfaction on the selection of Mr. Justice Goldberg. Not only will he be an able advocate, which is needed, but his personality is one which will lend itself to the establishment of the personal equation with the delegates and representatives from many countries in the world. That will be very useful.

Only those who have been close students of the work of the United Nations can realize, perhaps, the extent to which the equation between the U.S. Ambassador to the United Nations and ambassadors and representatives from other countries plays an important part.

To begin with, Arthur Goldberg possesses the integrity of which the Senator spoke. He has had long experience in work dealing with the United States. He is steeped in the traditions of our democracy. He has a wonderful affability, which enables him to establish relationships which I know will be very helpful.

I, too, congratulate President Johnson on this selection. Adlai Stevenson's shoes are unique. They hardly fit any living person. But Arthur Goldberg is unique in his own way, too, and will bring to this high office the integrity and ability and personality which will serve our country well.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY of New York. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed a bill (H.R. 9075) to amend title 37, United States Code, to increase the rates of basic pay for members of the uniformed services, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 9075) to amend title 37, United States Code, to increase the rates of basic pay for members of the uniformed services, was read twice by its title and referred to the Committee on Armed Services.

DISTRICT OF COLUMBIA CHARTER ACT

The Senate resumed the consideration of the bill (S. 1118) to provide an elected mayor, city council, and nonvoting Delegate to the House of Representatives for the District of Columbia, and for other purposes.

Mr. KENNEDY of New York. Mr. President, I compliment the able chairman of the District Committee on the persuasive and articulate statement he has given in support of home rule for the District of Columbia. Without his intelligent guidance and patient leadership, as S. 1118 was being considered in committee, it would not have emerged in the improved and amended form which is before the Senate today. The Senator from Nevada has done an outstanding job for the cause of home rule. I hope the Senate will follow his lead and pass the bill in its present form, so that we can fulfill our responsibilities and finally restore home rule to the Capital City.

There is little need to dwell either on the case for home rule or its importance. We have allowed a classic situation of taxation without representation to persist on our very doorstep for far too long.

The ramifications of this are enormous. It is not just a question of the District resident having no say in how much he is taxed and in what manner, although that is certainly important. The critical thing is that he has no elected official to turn to—no one to whom he can say, "I and others like me won't reelect you unless you are more responsive to our needs."

Under the circumstances, the District Commissioners, working together with Congress, have done the best they could. But the limitations have been crippling. The Commissioners can take no major action without turning to Congress, and most Members of Congress, with some justification, act first in response to the place where the votes come from. The District resident, despite powerful advocacy on his behalf by a handful of interested Senators and Congressmen, always ends up at the end of the line.

This is really a national disgrace. Washington is the ninth largest city in the country. More people live here than in 11 of our States. These 750,000-plus people have no elected official to turn to for installation of a traffic signal on the corner, or better trash collection. When someone comes along with a plan to put a freeway through their neighborhood, they do not have an elected representative to speak on their behalf. When an urban renewal project is proposed for their area, they have no one to ask the right questions and insure that it has been properly planned and located. They have no spokesman for better playgrounds, better schools, and better treatment at the hands of various local officials.

It is time we ended this outrage. And let no one forget that history is on our side. The District had home rule for three-quarters of a century before the conjunction of financial crisis and racial fear caused it to be taken away in the 1870's. I hope this will be the year in which we finally give it back.

I would like to turn, if I may, to one issue which, it appears, will be the major item at issue on the Senate floor this afternoon. That is the question of the annual Federal payment to the District, which is provided for in section 741 of the bill.

Those who would change this provision would not deny Federal funds to the District. Nor do they oppose the idea of home rule.

But we should not be misled. Removing the automatic Federal payment and replacing it with the annual ritual of consideration and approval by the House and Senate Appropriations Committees cuts to the heart of the home rule concept. The very autonomy that S. 1118 seeks to create is thereby subverted. A major purpose of S. 1118 is to get us in Congress out of the business of analyzing the specific needs and problems of the District as though were were the rightful occupants of city hall. As written, S. 1118 would leave us ample supervisory power while relieving us of the need for day-to-day supervision of the operations of the District's local government. We certainly have a few other things to do.

Changing the automatic Federal payment back to the status quo would subvert these purposes. And the arguments against the automatic Federal payment are, in my judgment, without substance.

First, it is argued that the assessed value of Federal, real, and personal property in the District is difficult to determine, and that the District assessor is in a position to act arbitrarily in making such determinations. Actually, the Senator from Colorado took whatever steam there was out of this argument with his successful amendment in committee. This amendment fully clarifies the strong position of the Administrator of GSA in being able to disagree with the computations of District officials, both on technical grounds, and on grounds of reasonableness and propriety. The GSA Administrator is fully empowered to prevent unreasonable claims by the District.

And I am somewhat surprised at the worry that we in the Congress will be hard put to overturn an unreasonable assessment. We have retained the power to change the formula, and I can't imagine our having any difficulty in doing that if it became clear that it needed doing. I have a basic faith that District officials will act responsibly in operating under the Federal payment. Our very presence a few blocks away should insure that, even if it were not otherwise assured. But apart from that, Congress is not as hard to move as the Senator seems to suggest. If there are shenanigans, we can act to correct them.

Second, it is argued that guaranteeing an annual payment will discourage the utilization of local taxes. I would suggest that not guaranteeing an annual payment disrupts orderly metropolitan planning. If the city cannot chart its own financial course, its entire administration of its own affairs is jeopardized. I should suppose that is far worse. Furthermore, if the Senator from Colorado really believes the city ought to receive a Federal payment of some kind, then this argument makes little sense. The city

will expect the Federal aid one way or the other. It is just that one way makes planning impossible and the other approach, the approach of S. 1118, which the Senate is now considering, facilitates it.

Third, it is argued that the automatic payment sets a bad precedent, both because States and localities where there are large Federal holdings will also demand such a payment, and because local communities will use it as the basis for demanding a similar payment from their State governments. The District has been receiving a Federal payment in one form or another from Congress since 1879. Until 1920 it was quite automatic—a fixed 50 percent of the District's annual budget. In recent years it has dropped to as low as 11 percent. I do not think we are suddenly creating any new precedent.

Further, our treatment of the District creates no precedent, because the Federal Government's relationship with the District is unique. The Federal Government owns 44 percent of the total land area in the District. It imposes height limitations on commercial buildings, thereby cutting down on other District tax revenues. It gives numerous tax exemptions for other property in the District.

In short, the Federal Government really pervades every aspect of District life. That is why Congress has been giving the District a Federal payment since 1879. What we do for the District creates no precedent for the rest of the Nation. Indeed, in situations where the Government was as deeply involved as it is here—in Oak Ridge, Tenn., and Richland, Wash.—it has provided a Federal payment very much like the one contained in S. 1118.

Fourth, it is argued that the automatic payment, based as it is on the sum that the Federal Government would have paid in taxes if its property and business were taxable, undermines the concept of tax exemption for governmental entities. This argument ignores the unique position which the Federal Government occupies in the District of Columbia. Since the Government has been making a Federal payment since 1879, I do not see that any new undermining of intergovernmental immunity is occurring here.

We just cannot have it both ways. If we are finally going to divest ourselves of the day-to-day responsibility for the District so that its citizens can have meaningful self-government, we must do so without self-defeating strings attached.

Let us pass S. 1118, and let us pass it with the automatic Federal payment intact as amended by the committee.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. RUSSELL of South Carolina in the chair). Without objection, it is so ordered.

Mr. TYDINGS. Mr. President, the granting of local self-government to the District of Columbia is long overdue. Therefore, I find a great deal of personal satisfaction in being a cosponsor of the District of Columbia home rule bill.

The bill seeks to extend the basic American right to have a voice in one's government to the citizens of our Nation's Capital. It is most fitting that the bill be passed at the present session of the Congress, when there will also be enacted into law a measure which will assure to American citizens in every part of our Nation the right to vote.

The people of the District of Columbia, no less than the citizens of every other area, deserve the right to vote in order that they may elect their own local officials, who will be responsive to their own local needs.

That there should be any controversy about the merits of granting local self-government to any American municipality is, I believe, most unfortunate, for local self-government is the keystone of our democratic Federal system. Washington is our National Capital, the seat of the Federal Government; but it is also a great city, with all of the municipal problems of a great urban complex. By extending local self-government to the residents and citizens of the District of Columbia, we are voting to allow American citizens to elect their own officials to manage and handle their own local affairs. The national interest in the District of Columbia would be protected by provisions in the pending measure which provide for a Presidential veto, and by the continuing power of the Congress to legislate concerning District of Columbia affairs.

The proposed legislation is not a constitutional amendment; the measure pending would be an act of Congress.

Many issues come before Congress relating to the District of Columbia which it would be in the national interest to have handled at the municipal level by local officials elected by the citizens of this municipality.

To cite an example, soon after World War II, when Congress was considering ways to restore a war-ravaged Europe with some degree of strength and vigor, debate on the floor of the Senate concerning economic assistance to Great Britain was interruped so that the Senate, the greatest deliberative body in the world, could consider a bill to establish the size of rock fish which might legally be taken from the Potomac River.

There are many decidedly local issues. For example, there are the issues of snow removal, sanitary measures, the eradication of starlings, vivisection, elimination of the duplicate filing system in the Department of Motor Vehicles, the requirement that dogs be kept on leashes, the permissible length of leashes when one is walking in the streets, the definition of a dead tree, and the requirement that dead branches be cut from trees. All those issues, and more, should be handled by an elected local city council for the District of Columbia. My own bill to require blood tests before the issuance of marriage licenses in the District of Columbia would fall into the category of proposed legislation which should be considered and enacted by a locally elected District Council, with executive leadership provided by the mayor of Washington.

These are categories of legislation which could better be considered and enacted by a local municipal body, elected by local citizens.

The national interest in the District of Columbia would not be at all impaired if locally elected officials could legislate concerning their local affairs. There is no great pressing reason why Congress and the President should be saddled with continuing responsibility for the housekeeping details of the District of Columbia. The residual powers of the President and of Congress will amply protect the Federal interest after home rule is enacted. I repeat: We are considering a legislative enactment, not a constitutional amendment.

Mr. President, it has been a great pleasure for me to participate in the deliberations on this bill, under the most able and dedicated leadership of the senior Senator from Nevada [Mr. BIBLE].

The Senator from Nevada has a long record of creative leadership in advancing the interests of the District of Columbia, and thereby advancing the interests of every American. Under his chairmanship, the District of Columbia Committee has adopted several amendments to the home rule charter bill, in an attempt to seek out the most practical and workable system for the exercise of local self-government.

Mr. President, the bill which the Committee on the District of Columbia has unanimously reported to the Senate, is, I believe, well-designed to extend to the residents of the Capital of the free world the basic rights of popularly elected Government which are a part of the heritage of every American citizen.

HOME RULE NOW

Mr. BARTLETT. Mr. President, I strongly support the bill now before us, S. 1118, to provide home rule for the District of Columbia. I plead for its passage. It is time—it has always been time—for home rule for the District of Columbia. It is time—it has always been time—for the Congress to be done with its hasty and incompetent masquerade as the city council of our Nation's Capital.

I feel very strongly about this. As a member of the Senate Appropriations Committee, I sit with seven other Senators on the District of Columbia Subcommittee. As a member of four other appropriations subcommittees I must pass upon requests for literally billions and billions of dollars. As a member of the full committee, I must review the close to $100 billion of appropriations requests made by the President.

In addition to this, I am a member of two other Senate committees, the Small Business Committee and the Commerce Committee. The Commerce Committee is charged with the legislative responsibilities arising out of the production, transportation, and communication industries. All interstate and foreign commerce and all that is associated with it is within the purview of this committee.

In addition to all of this, I must concern myself—and I do so willingly—with the problems, the interests, and the welfare of my own State of Alaska. Ninety-eight percent of the land mass of Alaska is owned by the Federal Government. Alaska's future is tied to the development of its resources and most of its resources lie on Federal ground. Alaska's industrial development depends upon the expansion of Pacific trade. What Congress does and does not do are of immense importance to Alaska and must take perforce a substantial amount of an Alaska Senator's time.

And yet, I am a member of the Appropriations Subcommittee charged with reviewing the District of Columbia budget. It is obvious that I cannot give this review the time it deserves and requires.

I am distressed about this. I am embarrassed about this but there is nothing that I can do about it.

I venture to say that much the same thing is true of the other members of the Senate District of Columbia Appropriations Subcommittee as well as the District of Columbia Authorization Committee. In fact, the citizens of Washington are fortunate indeed for the two selfless Senators who give so much of their time to the District and its welfare. Were it not for the hard work, dedication, and ability of the senior Senator from Nevada [Mr. BIBLE], who is chairman of the District of Columbia Committee, and the junior Senator from West Virginia [Mr. BYRD], who is chairman of the District of Columbia Appropriations Subcommittee, conditions in the District would be a good deal worse than they are today.

The case for home rule is as simple as it is clear. It is as old as the American Revolution; more than that, it is as old as the Athenian city state. It is intolerable to be governed by people who do not care and who are not electorally responsible to those whom they govern.

In the case of the Nation's Capital, it is not only intolerable, it is absurd. The Congress has no business wasting its time in debates over whether women can stand or must sit in taverns or how used car or parking lots are to be run. Not only does Congress squander its time when it takes up such items, it takes them up badly. Ninety-nine percent of the Congress does not care about and will not spare the attention to find out the merits of such matters.

The District of Columbia is the only major capital in the world without local self-government. Washington is the ninth largest city in the United States. It has more citizens than 11 of our States, and yet it cannot vote for mayor, and it does not have a voice in the Congress.

It is extraordinary in this day and age and country that Washington should be totally denied self-government. For even during the darkest days of imperialism, even in the farthest flung reaches of empire, the colonial powers allowed a modicum of self-government at the local level. Alaska, during the long years before the emancipation of statehood, was allowed an elected territorial legislature and an elected municipal government. In Africa, in Ghana, in Nigeria, in Tanganyika, in Kenya, in Malawi, and in Zambia, in all these places the villagers were allowed to select their own village leaders.

But not in the District of Columbia. For 95 years Washington, our Nation's Capital, has been ruled as a conquered city by an occupation army. It has been ruled by the threat of force and the control of parsimony. The Congress has begrudged it funds and denied it taxes and refused it the right held by all but the most benighted, the right to choose its local leaders, the right to run its local affairs.

UNITED STATES URGED TO DEFEND WORLD PROSPERITY UNTIL WORLD MONEY REFORM IS ACHIEVED

Mr. HARTKE. Mr. President, the American Government's expressed willingness to participate in the work of world monetary reform is a vital step in the continuing process of living up to our international responsibilities. This historic commitment by the Johnson administration represents a determination to defend world prosperity by means of world cooperation. But, as Treasury Secretary Fowler himself said in his landmark speech of July 10:

> It is not * * * easy to arrive at the degree of international consensus we must have for any workable reform of the international monetary system. We can expect no overnight solution—but only patient exploration of the alternatives with our trading partners.

The action of the French yesterday bears out Secretary Fowler's statement.

Let us make no mistake about it, fundamental and far-reaching reform of the world monetary system is going to take time, years of time. It is unimaginable that the process of preparation and negotiation, of agreement and ratification can take less than 2 years. It may well take as many as 3, 4, or 5 years. Our Government has faced up to the critical long-term problem of international credit and liquidity. Now we must face up to the short-term, yet equally critical problem of what must be done in the meantime. We must keep the machinery running until it is either overhauled or replaced.

Mr. President, the basis of our newfound international bargaining power is the mounting balance of payments surplus which the President's emergency payments program has produced. But our new position of strength—both economic and political—has in turn produced a new dilemma. On the one hand, the United States may continue to run payments surpluses, during the entire long, drawn-out process of monetary reform—and the result threatens to be exactly the shortage of international liquidity and the resultant international recession world monetary reform is intended to head off. On the other hand, the United States may find itself falling back into unintended payments deficits as exports fall due to lack of adequate credit availability—and, then, lost bargaining power threatens to be the result even as negotiations for reform are underway.

Put simply, the United States must now fashion a third alternative to the dilemma of attaining a balance-of-payments position too strong for the world's good or falling back into one too weak for our own good. During the coming months and years of negotiation over monetary reform, this dilemma is certain to grow even more acute if it is not attacked today. Fortunately for the world and for ourselves, the material out of which a solution to this new dilemma can be fashioned is at hand.

Today, the international and domestic economic strength of the United States is now clear to all the world. Even more, we have proven to all the world—from Paris to Peiping—that a free society can live up to its commitments and responsibilities without coercion or the threat of it. Let us not forget that the heart of the President's emergency payments program which has succeeded so brilliantly is a voluntary program of self-restraint, voluntarily joined in by the bankers and businessmen of this Nation. The result is a position of strength and an opportunity for leadership which few nations have ever enjoyed.

On the basis of its position of strength, our Government today has the opportunity as well as the responsibility to take the lead in defending world prosperity, and our own, during the critical years of negotiation for world monetary reform. The first step in the direction of such a defense is a clear understanding that balance-of-payments equilibrium on the part of the United States does not necessarily mean a surplus or even a zero balance. If our trade surplus is strong and stable, if our outflow of investment capital is restrained, if our governmental commitments overseas are under control—a payments deficit of as much as $1 billion can represent balance-of-payments equilibrium so long as those dollars are being used to finance trade and protect prosperity.

The second step in the direction of defending prosperity of the world is a clear understanding that the proper balance-of-payments position of the United States must be judged in terms of the needs of the world and of world trade. As long as the dollar is the major trading and reserve currency—and it will continue to be so at least until world monetary reform is accomplished some years hence—the world will need dollars. Fifteen years ago, the United States was in a strong and continuous payments surplus, and the rest of the world suffered from the dollar gap. Five years ago, the United States was in deep and growing payments deficit, and the rest of the world thrived on our shipments of dollars. We must not react to the threat of a dollar glut by re-creating the conditions of the dollar gap.

No one can say with accuracy exactly how many dollars—how large an American payments deficit—the world needs until a world monetary conference provides new means of expanding the international money supply. It is clear, however, that enlightened American policy will recognize that supplying the interim need of the world for dollars is fully consistent with the maintenance

of overall American payments equilibrium. Such a policy will avoid a destructive and ultimately disastrous piling up of payments surpluses in order to show our critics that we mean business, at a time when it is already clear that we have put our international house in order. Such a policy would be clearly evidenced by a general relaxation of the voluntary program of restraint on foreign lending commensurate with the success that program has already achieved. As well as easing the strain overseas caused by the new dollar shortage, such a relaxation would insure against an inadequate supply of export credit causing a drop in U.S. exports and a deterioration in our trade surplus. It should be remembered that fully 13.5 percent of U.S. employment is dependent—directly or indirectly—on American exports.

This policy of defending world prosperity in the short term while fundamental, long-term reform is being negotiated requires the cooperation of all nations. Of greatest importance is that any small but significant increase in the world money supply be allowed to do its work—namely the work of financing world trade. If dollars continue to be cashed in for gold, if other nations refuse to allow those dollars to do their work—then our Government's response should be unequivocal. With the machinery of the President's emergency program still in existence, the means for a return to clear payments surplus will always be at hand.

Now that our Government has assumed its proper place at the head of the movement for responsible reform of the world monetary system, now that the consensus is growing that such reform is critically necessary to meet the needs of world trade and world prosperity, it would be a tragedy of historic import if the world economy were to falter even as a world conference to protect it was underway. Secretary Fowler has said, "To meet and not succeed would be worse than not meeting at all." I would add that to identify a threat—and to then allow it to become a reality before acting to meet it—would be worse than not identifying it at all.

DISTRICT OF COLUMBIA CHARTER ACT

The Senate resumed the consideration of the bill (S. 1118) to provide an elected mayor, city council, and nonvoting Delegate to the House of Representatives for the District of Columbia, and for other purposes.

UNANIMOUS-CONSENT AGREEMENT

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Oregon.

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

Mr. MORSE. I yield.

Mr. MANSFIELD. Mr. President, I have discussed this matter with the interested parties. I ask unanimous consent that, beginning at the conclusion of the morning business tomorrow, there be a time limitation, in the usual form, of 1 hour on each amendment, the time to be divided equally between the author of the amendment and the Senator in charge of the bill, the distinguished Senator from Nevada [Mr. BIBLE]; and that, on the Dominick Federal payment amendment, there be 2 hours, the time to be equally divided between the distinguished Senator from Colorado [Mr. DOMINICK] and the distinguished Senator from Nevada [Mr. BIBLE].

The PRESIDING OFFICER. Is there objection? The Chair hearing none, it is so ordered.

The unanimous-consent agreement, subsequently reduced to writing, is as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That, effective on Wednesday, July 21, 1965, at the conclusion of routine morning business, during the further consideration of the bill S. 1118, to provide an elected mayor, city council, and nonvoting Delegate to the House of Representatives for the District of Columbia, and for other purposes, debate on any amendment (except an amendment No. 355 to be offered by the Senator from Colorado [Mr. DOMINICK] which shall be debated for two hours), motion, or appeal, except a motion to lay on the table, shall be limited to one hour, to be equally divided and controlled by the mover of any such amendment or motion and the Senator from Nevada [Mr. BIBLE]: *Provided*, That, in the event the Senator from Nevada [Mr. BIBLE] is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or some Senator designated by him: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Mr. MORSE. Mr. President, I wish to express my sincere appreciation to the members of the Senate Committee on the District of Columbia, to whom the people of this city and the people of the Nation are greatly indebted for the work they have done to further the cause of home rule legislation for the Nation's Capital.

I pay particular tribute to the chairman of the committee, the Senator from Nevada [Mr. BIBLE], who has performed an excellent service in helping to direct home rule legislation through the Senate in the past several years.

It has been a great pleasure for me to work with the Senator from Nevada and other members of the committee to further the cause of home rule legislation. Throughout our executive session meetings on home rule legislation, I have attempted to work within the committee to combine the best features of both the Morse home rule bill and the administration bill. The bill pending before the Senate represents the best judgment of the committee.

I suppose I could be described as one of the District of Columbia Committee's veterans on the home rule issue. For 20 years, year after year, the senior Senator from Oregon has fought for the adoption of home rule in the District of Columbia.

As I have said ad infinitum, over those many years, we cannot justify on any ground whatsoever—and I have yet to hear the first sensible ground that would justify it—the denying to the several hundreds of thousands of people in the District of Columbia the same rights of citizenship that our constituents back home enjoy.

I wish that a former colleague in the Senate were alive today as we debate once again the home rule issue. I wish that he could witness the vote that I am satisfied will take place tomorrow when, for the fifth time, a home rule bill would be passed by the Senate. I shall always be proud of the fact that my name has been associated on three previous occasions with this former colleague, the great liberal Senator from West Virginia, Matthew Neely. For many years Matt Neely was chairman of the Senate District of Columbia Committee. He and I worked shoulder to shoulder as we pressed, on three occasions, the merits of the bill which became known, in the first instance, as the Neely-Morse bill, and, after the death of the Senator from West Virginia, I had to introduce the measure then, as the Morse-Neely bill.

The bill which has now been offered by the distinguished Senator from Nevada, the present chairman of the committee, encompasses the major features of the Neely-Morse bill, as it was passed by the Senate over the years, and improved the Neely-Morse bill in the particulars I am about to mention.

That does not mean that I supported this measure in all of its particulars in the committee. I offered several amendments in committee that I shall very briefly discuss here. However, of the amendments that I offered in committee, I shall offer only one on the floor of the Senate.

I believe that the bill before the Senate today is a good bill. I would be pleased with its passage in its present form, although I have an obligation to try to improve it in one respect, and I shall offer my amendment shortly.

As a member of the Committee on the District of Columbia for many years, I have fought for long overdue home-rule legislation for the District of Columbia. The denial of first-class citizenship to the people of the District of Columbia is much better known and understood in the capitals of the underdeveloped areas of the world than in the capitals of the 50 States of the United States, I am sorry to say.

For years I have pointed out that I thought the final passage of home rule for the people of the District of Columbia depend more on the American people in our 50 States throwing off their cloak of lethargy in regard to this great problem than on any other one thing.

It has been extremely gratifying to me, as I have gone about our country in the past several years, to find increasing knowledge about and interest in the problem of the denial of home rule or self-government in the District of Columbia. Only time will tell whether the American people have sufficiently advised their Representatives in both Houses of Congress of their wish to end this unconscionable discrimination against the citizens of the District of Columbia.

Imagine a population of 850,000 people. Imagine the adults in that population being denied the right to elect the aldermen, the mayor, and the school board, and being denied the right

to really engage in government and participate in the affairs of their own municipality.

I know the argument is made that this is a Federal city. That is a lot of "bosh" in the sense that it is used as an alibi or a rationalization for making second-class citizens of the adults in a population of 850,000 people who happen to reside within the District of Columbia.

That is not the reason. There are other reasons, some of them sordid, some of them ugly, that really explain why the American people have tolerated this discrimination against the people of the District of Columbia.

I hope that is all behind us. I hope that we shall see a new day dawn and that, at long last, we place 850,000 fellow Americans in the District of Columbia on a footing of equality with 180 million people from the other parts of the United States.

I am grateful to both the Kennedy and the Johnson administrations for recognizing the soundness of the bills I have introduced in the Senate, on which the Senate acted in recent years.

The soundness of the previous bills is demonstrated by the fact that the administration bill which the Senate is considering today closely resembles in many ways the Morse-Neely bills acted upon by the Senate in the last Congress.

I believe that, if Senators will compare the present bill with the previous Morse-Neely home-rule legislation, they cannot escape finding markedly similar language. However, I believe that the Federal payment provision in the administration bill is a great improvement over the provision in my bill. I strongly support the Bible Federal payment provision.

I commend the Senator from Nevada for his leadership in enlarging upon the original proposal of the Morse-Neely bill, giving it, in my opinion, a much sounder basis. The Bible Federal-payment provision bill is essential if we are to have a soundly operated municipality in the District of Columbia.

I realize that this part of the bill will develop into one of the most controversial sections of the bill in the hours ahead, but the senior Senator from Oregon goes on record now, unequivocally and emphatically, in support of the Bible Federal-payment provision. The senior Senator from Oregon believes that those who are given the responsibility of governing this municipality, once a home rule bill is adopted and becomes law, are entitled to the assurance that the Bible Federal-payment plan gives to them.

How in the world can we expect people who are charged with the responsibility of governing the District of Columbia under a home rule law to run the District efficiently and effectively without the Bible Federal-payment provision?

If anyone wants to ask me what I believe is probably the most important section of the bill, if the sections of the bill could be separated as to evaluation, I would name the Bible Federal-payment provision as really the heart of the bill, so far as a successful administration under any home rule is concerned.

I recognize that every other part of the bill is important. In my judgment, we cannot eliminate any section of the bill and have a workable home rule government in the District of Columbia. We all know the importance of the money base for the operation of any municipality. If we are to entrust the mayor and city council with the responsibility of governing this city, we must do it with the Bible Federal-payment provision.

In support of the observation I made a very few minutes ago, that the bill does not conform exactly to the blueprint of the Morse-Neely bill, we all know that legislation must involve compromises. Although I was disappointed in the rejection of some of my amendments in committee, only one of those amendments was fundamental from the standpoint of the principle of what I think is essential to our system of government, so I shall offer no amendment except the one pertaining to that principle. However, I regret that the committee did not see fit in executive session, when the bill was marked up, to adopt the Morse amendment, which would call for a nonpartisan city government.

I have been advised that in all probability the Senator from Colorado [Mr. DOMINICK] will offer an amendment similar to the one I offered in committee. If he does, I shall vote for that amendment. But I shall not offer it myself, because I feel that I have had my day in court in respect to this matter in committee.

We have a choice, it seems to me, of two political forms of city government organization. I was outvoted in my preference for the nonpartisan form of city government. I do not feel that any basic principle of government policy or structure is involved, as I do feel in connection with the one amendment I shall offer shortly.

Nevertheless, I wish to restate, in capsule form, my reasons for supporting a nonpartisan city government.

First, I point out that that is the point of view in the testimony of what I consider to be the preponderance of opinion among experts in the field of municipal government. That has been the increasing trend for many years. It is unfortunate, so long as we are setting up a city government in the District of Columbia, that we do not come closer to what is recognized as a model form in respect of this particular issue. But a majority of my colleagues in the committee are just as sincere in their feeling that partisan politics are good for municipal elections. I do not happen to share that view.

The record should show that the vote in opposition to my amendment in committee was a vote of 4 to 3 against.

The hearings show—and I invite the attention of Senators to page 289 of the hearings—that in cities of over 1 million in the United States, 3 out of 5 have nonpartisan mayors and city councils.

With respect to cities of 500,000 to 1 million, the ratio is 6 to 16. Six have nonpartisan mayors and city councils, and 16 have partisan mayors and city councils. But it is only in recent years that the trend has been toward the development of nonpartisan mayors and city councils in those cities, as represented by the figures.

In cities having populations of 250,000 to 500,000, the ratio is 7 to 31; but, here again, the 7 nonpartisan city governments are of recent development, and in line with the testimony that the municipal authorities gave in our committee.

There is another reason why I think we should have a nonpartisan mayor and a nonpartisan city council. There is a corollary trend in the evolutionary development of city governments, which is to have a city manager in addition to a mayor and city council. He is a rather highly paid official who really is the administrator of the city in an executive sense, from the standpoint of managerial operation.

It will be found that writers on municipal government problems point out that it is extremely difficult to be a city manager or a city administrator if he is to be constantly involved in matters of partisan politics between the mayor and a majority of the members of the city council who may be of a political party opposite to that of the mayor, or even if he has a strong minority belonging to a party opposite to that of the mayor.

So I felt we ought to follow what I consider to be the advice of leading authorities on this matter, of taking the city government out of partisan politics, and I offered my amendment to that effect. I was defeated 4 to 3, and I shall stand, so far as I am concerned, with that defeat, except that I shall vote for the Dominick amendment if he decides to offer the amendment for a nonpartisan city government.

He voted with me in committee and argued in support of my position. However, there is one part of the bill which I believe involves a basic principle that should be changed as it appears in its present form. Senators have probably become a little bored with my consistent, persistent insistence upon keeping faith with the constitutional system of checks and balances. I do not believe that we can maintain our constitutional form of government if, as a Congress, we constantly delegate away our constitutional controls over the chief executive. I believe that we are giving to the chief executive, through this bill, authority which does not belong to him, an authority with which he should not be plagued and harassed, and an authority which, in my judgment, would violate the system of checks and balances.

Therefore, I regret that the committee did not adopt an amendment offered in executive session, which has been in my previous bills for a good many years, which would prohibit the President from exercising veto power over acts of the city council. I believe that the committee made a serious mistake in allowing the President to exercise the veto power over acts of the city council. The provision in my bill would permit Congress to exercise its legislative responsibility over the city government.

As the Senator from Nevada [Mr. BIBLE] has pointed out in his speech

in the Senate earlier today in support of the bill, he states in part:

It must be borne clearly in mind that by adoption of home rule legislation, Congress does not lose its power over the District of Columbia in any way. Congress only delegates the housekeeping portion to a municipal elected council, but Congress under the Constitution must retain ultimate power over the District of Columbia as set forth in article I, section 8 of the Constitution

Which provides—and the Senator from Nevada quotes it as follows:

Congress shall have power to exercise exclusive legislation in all cases whatsoever, over such District (not exceeding 10 miles square) as may by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States, * * *

Mr. President, that is a constitutional authority which continues to vest in Congress, making perfectly clear what our Constitutional Fathers intended as to who was to exercise, in the first instance, jurisdiction and authority over the District of Columbia.

The Senator from Nevada [Mr. BIBLE] is quite correct. It is not the intention of the bill to take away that inherent congressional power.

I am reminded of a game of checkers where, instead of jumping one square at a time, in the pending bill we would jump almost the length of the checkerboard, and would give to the President the original jurisdiction to veto an act of the city council.

In my opinion, if the city council should pass an act which violates Federal interest, and it cannot be justified in the opinion of Congress, Congress should take the necessary action and has the inherent right to do so. The President can then either approve or veto congressional action. Then, if a two-thirds vote is not obtained to override the veto, the President's action would stand.

I find it difficult to reconcile the granting of a veto power over the city council by the President with article I, section 8 of the Constitution.

Furthermore, I believe that it is almost silly to burden the President with the job of serving as a supermayor of the District of Columbia, in the first instance. Suppose the city council should pass an ordinance, and the mayor should sign it, and then representations—I was about to say pressures, but I will call them merely representations—were made to the President that he should veto it. Why should the President, with all the other burdens that go with his office, have placed upon him this additional responsibility, in the first instance?

Suppose the city council passes an ordinance, and it is signed by the mayor, and that ordinance had the effect of interfering with the interests of the Federal Government in the operation of the District of Columbia so as, in the opinion of Congress, to do violence to the inherent right of Congress to determine what the final policy shall be in the District of Columbia, as vested in it by article I, section 8 of the Constitution? The job should be done by Congress, not by the President.

I never could understand the objective of this proposal in the bill. I do not know what purpose would be served by giving the President this additional chore, in addition to his other heavy duties, which time and time again harass the President. We should be thinking of ways to relieve him of many of his burdens, not adding to them.

There are two committees in Congress on the District of Columbia. They should, as committees, consider, in the first instance, any claims that some city ordinance or act of the city government imposes upon the Federal interest, and decide the question legislatively.

Then, if it is a matter of such importance that the President does not wish to sign the action, he can veto it.

The next point I wish to make is that I am strong for the amendment because it is in keeping with what I consider to be the structure of our Government.

I believe that this proposal would have the effect—and I speak respectfully—of being a run around of Congress, because I believe Congress should have the responsibility to act legislatively. If the city council should pass a bill which interfered with what we find, upon due hearing, to be a Federal interest, Congress should handle it legislatively and set it aside by way of a law to repeal the act of the city council. Then the President, under our system of separation of powers, would have the opportunity to veto the action of Congress. That is the proper procedure to follow.

Therefore, Mr. President, I shall send my amendment to the desk momentarily. I say that through my amendment, Congress would be carrying out its clear legislative responsibility under article I, section 8 of the Constitution, and, in this way, the President, if he disapproves of the action taken by Congress in the normal course of events, can exercise his veto power, and thus keep faith with what I consider to be a principle basic to the preservation of our form of government, namely, the separation of powers doctrine, and the application of our precious system of checks and balances.

Therefore, Mr. President, I send my amendment to the desk and ask that it be stated, and ask for its careful consideration by all Senators.

The PRESIDING OFFICER (Mr. TYDINGS in the chair). The amendment will be stated for the information of the Senate.

The legislative clerk read as follows:

On page 106, line 12, strike out "he shall present the act to the President." and insert in lieu thereof "such act shall become law.".

On page 106, line 18, beginning with "he", strike out all through the period on line 19 and insert in lieu thereof "it shall become law.".

On page 106, line 22, beginning with the comma, strike out all through the period on line 24 and insert in lieu thereof a comma and the following: "it shall become law.".

On page 106, line 22, beginning with the out all through line 10 on page 107.

On page 107, line 11, strike out "(f)" and insert in lieu thereof "(e)".

On page 107, line 21, strike out "(g)" and insert in lieu thereof "(f)".

On page 108, line 9, strike out "(h)" and insert in lieu thereof "(g)".

On page 108, line 17, strike out "(i)" and insert in lieu thereof "(h)".

On page 108, line 21, strike out "(j)" and insert in lieu thereof "(i)".

On page 185, line 11, immediately after the period, add the following: "Any measure so proposed by petition shall, if approved by a majority of the qualified voters voting thereon in such election, take effect and become law on the day following the day on which the Board of Elections certifies the results of such election or on the date provided for by such measure."

On page 185, beginning with line 12, strike out all through line 4 on page 186.

On page 186, line 5, strike out "(d)" and insert in lieu thereof "(c)".

On page 186, line 8, strike out "(e)" and insert in lieu thereof "(d)".

On page 186, line 12, strike out "(f)" and insert in lieu thereof "(e)".

On page 186, line 15, strike out "(g)" and insert in lieu thereof "(f)".

On page 186, line 21, strike out "(h)" and insert in lieu thereof "(g)".

Mr. MORSE. Mr. President, in essence, the amendment provides that the President shall not be given the original authority, in the first instance, to veto an action of the city council, and that Congress shall have the responsibility to take legislative action, retaining, of course, to the President, his right subsequently to veto the action of Congress if he does not approve.

Mr. President, I yield the floor.

Mr. BIBLE. Mr. President, I compliment the distinguished Senator from Oregon upon his usually persuasive and erudite presentation of the home rule bill. He has been a leader in this field for many years. I am merely following in his footsteps.

Whatever differences we may have are rather minor, I am sure, and will not cause a great deal of difference as we move the bill forward later during the day or tomorrow.

Mr. MORSE. I deeply appreciate the remarks of my friend from Nevada, the chairman of my committee. I wish he would include in his very kind remarks his appreciation of my unusual brevity.

Mr. BIBLE. I commend him on that too. This bill has many facets. It is a complicated bill. He has explained it very well in a very short period of time.

I do not know whether the Senator from Oregon was in the Chamber at the time, but the Senator from Colorado indicated that he would offer three amendments; first, on the so-called Federal payment aspect of the bill; second, on the nonpartisan problem, to which the Senator has alluded; and third, dealing with the taxing authority.

These are the three amendments that will be offered by the Senator from Colorado.

Mr. MORSE. I say to the Senator from Colorado that I understood he would offer an amendment on nonpartisan elections. I offered the amendment in committee, and the Senator supported me. We were defeated by a vote of 4 to 3 on that amendment. I said I would not offer the amendment in the Senate, but would support the Senator from Colorado if he offered it. I said I felt I would not offer it because I had had my day in court, so to speak, and I did not feel that subject involved a basic principle, such as the presidential veto. It involves a matter of sound policy so far as the trend in modern

municipal governmental development is concerned. I shall therefore support the Senator's amendment.

Mr. DOMINICK. I welcome the support of the Senator from Oregon. He is a valiant battler. I know that if he takes up the battle I shall have a great ally on my side.

The nonpartisan election amendment will be combined with the elimination of the Hatch Act waiver which is incorporated in the bill. The two subjects dealing with political activity will be combined in one amendment.

Mr. BIBLE. Mr. President, I should like to ask my friend from Oregon if it is his position that he would like to have a yea-and-nay vote on his amendment, which is now pending. I ask the question merely for guidance, because a number of Senators have asked me if there would be any yea-and-nay votes today, in the light of the unanimous-consent agreement that has been entered into. I did not anticipate that there would be any such votes today. However, I would like to be completely frank with the Senator from Oregon and ask him whether he wishes a yea-and-nay vote on his amendment.

Mr. MORSE. If I may have the attention of the majority leader, to accommodate the majority leader and the chairman of the committee, I would be perfectly willing, if it is not convenient to have a yea-and-nay vote today, to withdraw the amendment and offer it tomorrow, because I wish to have a yea-and-nay vote on the amendment.

Mr. BIBLE. That was the purpose of my inquiry of the Senator. It would seem to be indicated that there will be three or four yea-and-nay votes tomorrow.

Mr. DOMINICK. If the Senator from Oregon wishes to withdraw his amendment, I have an amendment which I do not anticipate carrying to a vote today. If he wished to withdraw his amendment, I would be happy to make my amendment the pending business. It deals with the financing of the school board.

Mr. MORSE. If the majority leader and other Senators have an understanding with any group of Senators that there will be no yea-and-nay votes today, I shall be perfectly willing to withdraw my amendment and offer it tomorrow.

Mr. MANSFIELD. If the Senator will carry out the latter part of his suggestion, it would be best for all concerned. I appreciate his courtesy. It is my understanding that there will be a considerable amount of discussion of the subject to be brought up by the distinguished Senator from Nebraska [Mr. HRUSKA]. It might be in the best interest of all concerned if the Senator from Oregon would follow his suggestion and allow the distinguished Senator from Colorado [Mr. DOMINICK] to offer his amendment.

Mr. BIBLE. I believe that course of action would be desirable.

I have assured some Senators that there would be no yea-and-nay votes today, in light of the unanimous-consent agreement.

Mr. MORSE. If I had known that, I would not have offered the amendment. Our lines of communication broke down. I ask unanimous consent that I may withdraw my amendment.

The PRESIDING OFFICER (Mr. TYDINGS in the chair). The Senator does not need unanimous consent. He controls his own amendment.

Mr. MORSE. I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. MORSE. May I have an understanding that I shall be allowed to bring up the amendment some time early tomorrow?

Mr. MANSFIELD. Yes; the Senator has our word on that.

AMENDMENT NO. 361

Mr. DOMINICK. Mr. President, I send an amendment to the desk, to establish an independent school board for the District of Columbia, and for financing purposes. I ask that it be made the pending business.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 93, in the table of contents, strike out the following:

TITLE XVI—BOARD OF EDUCATION

Sec. 1601. Control of public schools.
Sec. 1602. Qualifications.
Sec. 1603. Per diem.
Sec. 1604. Amendments.

And insert in lieu thereof the following:

TITLE XVI—DISTRICT OF COLUMBIA INDEPENDENT SCHOOL BOARD

Sec. 1601. Independent School Board.
Sec. 1602. Initial Election.
Sec. 1603. Meetings; Officers.
Sec. 1604. General Powers.
Sec. 1605. Duties.
Sec. 1606. Personnel.
Sec. 1607. Referendums; Initiative.
Sec. 1608. Actions Requiring Referendum.
Sec. 1609. Referendum Procedure.
Sec. 1610. Duties of Election Board.
Sec. 1611. Composition of School Board.
Sec. 1612. Qualifications of Members.
Sec. 1613. Terms.
Sec. 1614. Interim Members.
Sec. 1615. Amendment to District Election Law.
Sec. 1616. Amendment to District Election Law.
Sec. 1617. Amendment to District Election Law.
Sec. 1618. Amendment to District Election Law.
Sec. 1619. Amendment to District Election Law.
Sec. 1620. Amendment to District Election Law.
Sec. 1621. Petition for Removal.
Sec. 1622. Ineligibility.
Sec. 1623. Petition; Procedure.
Sec. 1624. Suspension From Office.
Sec. 1625. Judgment of Removal.
Sec. 1626. Bond for Costs.
Sec. 1627. Effect of Dismissal.
Sec. 1628. Budget—Fiscal Year.
Sec. 1629. Budget.
Sec. 1630. Borrowing Power; Debt Limitations.
Sec. 1631. Contents of Borrowing Resolution.
Sec. 1632. Publication of Borrowing Resolution.
Sec. 1633. Short Period of Limitation.
Sec. 1634. Issue of Bonds.
Sec. 1635. Public Sale.
Sec. 1636. Borrowing in Anticipation of Revenue.
Sec. 1637. Redemption and Sale of Notes.
Sec. 1638. Credit of the United States.
Sec. 1639. Treasurer.
Sec. 1640. Financial Duties of the Treasurer.
Sec. 1641. Surety Bonds.
Sec. 1642. Accounting Supervision and Control.
Sec. 1643. Independent Audit.
Sec. 1644. Amendment of Budget and Accounting Act.
Sec. 1645. General Account.
Sec. 1646. Capital Construction Account.
Sec. 1647. Real Property Tax.
Sec. 1648. Sales and Personal Income Taxes.
Sec. 1649. Repeal of Certain Laws.
Sec. 1650. Technical Amendment.

On page 96, between lines 2 and 3, insert the following:

(19) The term "School Board" means the District of Columbia Independent School Board created by title XVI of this Act.

(20) The term "Board of Education" means the Board of Education of the District of Columbia, created by the Act of June 20, 1906 (D.C. Code, sec. 31–101).

(21) The term "school election" means any election or referendum held under section 1610, or under sections 1615 through 1620 of title XVI of this Act.

(22) The term "school electoral district" means one of the fourteen districts created by the Election Board pursuant to section 5(a)(7) of the District Election Act of 1955.

(23) The term "school elector" means a person entitled to vote in a school election according to section 7(f) of the District Election Act of 1955.

On page 94, strike out line 13 and insert in lieu thereof the following:

(7) The terms "District Election Act of 1955" and "District election law" mean.

On page 95, strike out line 7 and insert in lieu thereof the following:

(13) The terms "Board of Elections" and "Election Board" mean the Board.

On page 99, beginning with line 17, strike out all through line 5 on page 100.

On page 100, line 6, strike out "(2)" and insert in lieu thereof "(1)".

On page 100, line 11, strike out "(3)" and insert in lieu thereof "(2)".

On page 100, line 18, strike out "(4)" and insert in lieu thereof "(3)".

On page 100, line 22, strike out "(5)" and insert in lieu thereof "(4)".

On page 101, line 22, strike out "(6)" and insert in lieu thereof "(5)".

On page 102, line 4, beginning with the second comma, strike out all through the first comma on line 5.

On page 102, beginning with line 14, strike out all through line 23.

On page 152, line 6, strike out "the Board of Education" and insert in lieu thereof "the District of Columbia Independent School Board".

On page 152, beginning with line 22, strike out all through line 3 on page 153.

On page 153, line 20, strike out "(1)".

On page 154, beginning with line 3, strike out all through line 5.

On page 161, beginning with line 1, strike out all through line 7 and renumber succeeding subsections accordingly.

On page 161, line 19, strike out "or a candidate for the Board of Education".

On page 161, line 22, beginning with "or", strike out all through "Education" on line 23.

On page 162, line 11, strike out "Board of Education" and insert in lieu thereof "school board".

On page 163, line 8, beginning with the comma, strike out all through "resident" on line 10.

On page 163, line 13, beginning with "or", strike out all through line 14 and insert in lieu thereof "has been nominated".

On page 182, beginning with line 12, strike out through line 12 on page 184 and insert in lieu thereof the following:

TITLE XVI—DISTRICT OF COLUMBIA INDEPENDENT SCHOOL BOARD

School Board

SEC. 1601. (a) There is hereby established the District of Columbia Independent School Board, which shall manage and control the school system of the District and shall be an independent agency of the District. The School Board may contract, sue, and be sued in its own name and capacity, and no member shall be personally liable for any action taken in good faith by the School Board, or by him in his official capacity as a member. The School Board shall have the authority, according to the provisions of sections 1628 through 1648, inclusive, of this title to tax, to issue bonds, and to expend all revenues accruing to it by this Act for any educational purpose related to the needs of the District school system.

(b) On the effective date of this title the control of the District school system and the functions of the Board of Education shall be transferred to the School Board, and the Board of Education abolished. The School Board shall, in addition, have the functions accorded it by subsection (a) of this section and sections 1603 through 1606, inclusive, of this title. Where functions transferred by this section conflict with limitations imposed by such subsection and sections on powers of the School Board, such subsection and sections shall govern.

(c) A transfer of a function under this title shall, in addition, be a transfer of the personnel necessary for the administration of the function and of property, records, and funds which relate primarily to the function so transferred. The Director of the Bureau of the Budget shall decide any question arising out of this subsection.

(d) No suit, action, or other judicial proceeding nor any administrative proceeding lawfully commenced shall abate solely by reason of the taking effect of any provision of this title. Such proceeding shall be continued with such substitutions as to parties and officers or agencies as the court or agency deems appropriate.

(e) Any statute concerning or administrative action concerning or taken by any officer or agency from which any function is transferred by this title shall, except to the extent made inapplicable by or under authority of law, continue in effect as if such transfer had not been made. After such transfer references in a statute or administrative action to an officer or agency from which a transfer is made by this title shall be deemed to refer to the officer or agency to which the transfer is made.

(f) As used in subsection (e) of this section, the "administrative action" includes any rule, regulation, order, contract, policy, determination, directive, grant, authorization, permit, requirement, or designation.

Initial election

SEC. 1602. (a) As soon as practicable after the effective date of this section, the Election Board shall announce the date for an election to be held for the purpose of electing the initial members of the School Board, and shall immediately create the school electoral districts referred to in section 5(a)(7) of the District Election Act of 1955. Such election shall be held on the second Monday in the first month of September which begins after the effective date of this section. No member of the Board of Education shall be prohibited from being a candidate for membership on the School Board by reason of his membership on such Board of Education. Members of the School Board shall be elected for terms of two years. Terms of the members initially elected shall begin on the fourth Monday in the first month of September which begins after their election.

(b) The initially elected members of the School Board shall meet at a place and time of day designated by the Chief Judge of the Court of General Sessions to take the oath of office, and after not less than six members have taken the oath, to proceed with the initial meeting pursuant to section 1603 of this title.

Meetings; officers

SEC. 1603. The School Board shall annually hold a meeting on the fourth Monday in September at which time new members shall take the oath of office and officers shall be elected. The officers shall consist of a president and secretary chosen from the School Board, and a nonmember treasurer chosen according to the provisions of section 1639 of this title. The School Board shall also hold meetings every month on a date set at the previous meeting. Special meetings may at any time be called by any officer upon notice to members by registered letter mailed not less than five days before the meeting. Meetings shall be public. A quorum shall consist of eight members. If a quorum is present, a majority of members present may decide any question (except those requesting a special referendum under section 1609 of this title and of removing the Treasurer under section 1639 of this title). Members shall serve without compensation.

General powers

SEC. 1604. The School Board shall have the following powers:

(1) To reorganize the school system.

(2) To establish standards of academic achievement for pupils in the school system.

(3) To assign pupils to the schools in school system.

(4) To make rules for the use of school buildings and school grounds (subject to rules relating to public meetings adopted by referendum under section 1607 of this title).

(5) To fix the number and location of schools.

(6) To fix the length and dates of the school year.

(7) To fill vacant memberships on the School Board in accordance with section 1614 of this title.

(8) To take private property for public use in accordance with the first section of the Act of March 1, 1929 (45 Stat. 1415).

(9) Subject to any referendum which has been or may be initiated in accordance with section 1607, to act upon any question on which such referendum may be initiated.

(10) To call a referendum, according to the provisions of section 1609 (a) and (b) of this title, on any subject on which it is empowered to act or which it is required to submit to referendum before acting.

Duties

SEC. 1605. The School Board shall have the duty to—

(1) examine books, accounts, and financial statements of the school system; and

(2) visit or delegate one of its members to visit each school during each school year.

Personnel

SEC. 1606. (a) Subject to subsections (b), (c), (d), and (e), the School Board shall have the power—

(1) to appoint, promote, and dismiss all employees of the school system, and to employ a superintendent who shall be the chief executive officer of the School Board;

(2) to establish classes of teaching and supervisory positions;

(3) to set salaries and other terms and conditions of employment for all employees of the school system;

(4) to make rules for the conduct of teachers and other employees; and

(5) to establish standards of professional ability for teachers and other employees.

(b) Civil service and other personnel laws and regulations applicable to employees of the Board of Education before their transfer to the School Board shall remain applicable after their transfer until such time as the School Board, pursuant to this section, provides similar or comparable coverage under a personnel system based on merit. Such personnel system shall be established by resolution of the School Board and shall provide coverage similar or comparable to, or shall provide for continued participation in, all or part of the Federal civil service system. Such personnel system shall take effect not earlier than nine months or later than five years after the effective date of this section.

(c) Any person who, on the effective date of this title, is covered by the Act of January 20, 1920 (D.C. Code, sec. 31–701), or by the Act of August 7, 1946 (D.C. Code, sec. 31–721), as amended, shall have the option of continuing under the coverage of said Acts.

(d) Contracts with teachers shall be in writing, and shall state the length of time the school is to be taught, the compensation per week or month, and such other matters as may be agreed upon, including employment for a term not exceeding one year, and payment by the calendar or school month. The contract shall be signed by an officer of the School Board and teacher, and shall be filed with the Secretary of the School Board before the teacher enters upon performance of the contract.

Such contract shall remain in force and effect for the period stated in the contract and thereafter shall be automatically continued in force and effect for equivalent periods, except as modified or terminated by mutual agreement of the School Board and the teacher, until terminated as hereinafter provided. On or before April 15 of each year the teacher may file his written resignation with the Secretary of the School Board, or the School Board may by a majority vote cause said contract to be terminated by written notification of termination, by a registered letter mailed to the teacher not later than the 10th day of April; in event of such termination, it shall take effect at the close of the school year in which the contract is terminated by either of said methods. The teacher shall have the right to protest the action of the School Board, and to a hearing thereon, by notifying the President or Secretary of the School Board in writing of such protest within twenty days of the receipt by him of the notice to terminate, in which event the School Board shall hold a public hearing on such protest at the next regular meeting of the School Board, or at a special meeting called by the President of the School Board for that purpose, and shall give notice in writing to the teacher of the time of the hearing on the protest. Upon the conclusion of the hearing the School Board shall determine the question of continuance or discontinuance of the contract by a rollcall vote entered in the minutes of the School Board, and the action of the School Board shall be final. The foregoing provisions for termination shall not affect the power of the School Board to discharge a teacher for cause under the provisions of subsection (e).

(e) The School Board may, by a majority vote, discharge any teacher for incompetency, inattention to duty, partiality, or any good cause, after a full and fair investigation made at a meeting of the School Board held for that purpose, at which the teacher shall be permitted to be present and make defense, allowing him a reasonable time therefor.

Referendums—Initiative

SEC. 1607. The school electors may direct the School Board—

(1) to set the curriculum in the school system;

(2) to choose textbooks;

(3) to sell the property of the school system;

(4) to permit public meetings in school buildings;

(5) to establish a junior college;

(6) to levy the tax provided for by section 1647 of this title;

(7) to make rules for the conduct of pupils; and

(8) to transfer funds from the capital construction account to the general account, subject to the limitations as to amount in section 1646(d)(2) of this title, by initiating a referendum in accordance with section 1609(c) of this title.

Actions requiring referendum

SEC. 1608. The School Board may not—

(1) issue bonds, or

(2) transfer funds from the capital construction account to the general account in accordance with section 1646(d)(1) of this title, unless the school electors approve in a referendum required by section 1630 or 1646, as the case may be.

Referendum procedure

SEC. 1609. (a) Subject to the time limitations of section 15(c) of the District election law, the School Board may by resolution initiate a referendum to be held at the next school election by sending the Election Board a certificate setting forth (1) the resolution directing the referendum, and (2) the question to be presented to the school electors.

(b) Not less than seven members of the School Board may initiate a referendum to be held under the provisions of section 15(b) of the District election law by sending the Election Board a certificate signed by the members favoring the resolution directing the referendum and setting out (1) such resolution and (2) the question to be presented to the school electors.

(c) Subject to the limitations of subject matter contained in section 1607 of this Title, and of time contained in section 15(c) of the District election law, fifty school electors may initiate a referendum to be held at the next school election by signing a petition in the form prescribed by the Election Board.

(d) All propositions submitted to referendum under this title shall be decided by a majority of the valid votes cast for and against the proposition. The conduct of referendums shall be governed by the District election law and by such regulations as the Election Board may make.

Duties of Election Board

SEC. 1610. The District election law is amended by adding a new section 15 to read as follows:

"Referendum

"SEC. 15. (a) The Board shall conduct all referendums provided for by title XVI of the District of Columbia Charter Act. It shall hold a referendum—

"(1) pursuant to section 1609(b) of such title, not less than forty nor more than fifty days after the receipt of the certificate required by such section, and

"(3) pursuant to section 1609 (a) and (c) of such title, on the second Monday in the first month of September which begins more than thirty days after the receipt of a certificate from the District of Columbia School Board (under section 1609(a) of such title), or after the receipt of a petition signed by fifty electors (under section 1609(c) of such title).

"(b) The Board shall publish once a week for four weeks in a newspaper of general circulation in the District a notice of the referendum stating the proposition to be voted upon and the date, time, and polling places for the referendum stating the proposition to be voted upon and the date, time, and polling places for the referendum. Not more than seven days after the refendum the Board shall certify the results to the District of Columbia Independent School Board and shall promulgate such results by publication in a newspaper of general circulation in the District. The other provisions of this Act shall apply to referendums insofar as they are applicable. The Board shall make necessary regulations for conduct of referendums. Any voter may demand a recount according to section 11 of this Act."

Composition of school board

SEC. 1611. The Board shall consist of fourteen members. The members shall be elected according to the provisions of sections 8(h) and 10(a)(3) of the District election law.

Qualifications of members

SEC. 1612. Each member at the time of his nomination shall be a school elector in the school electoral district from which he seeks election and shall have been a resident of the District of Columbia for five consecutive years.

Terms

SEC. 1613. Except as provided in sections 1602(a) and 1614 of this title, every member's term shall be for two years and shall expire on the fourth Monday in September. A member may serve until his successor has taken the oath of office and may serve more than one term.

Interim members

SEC. 1614. Each membership vacated before the expiration of the last incumbent's term shall be filled by election (pursuant to section 10(a)(3)(B) of the District election law) for an interim term equal to the unexpired portion of the last incumbent's term, but the School Board may temporarily designate a person to fill the vacancy pending such election. Such designee shall have the qualifications required of the last incumbent.

Amendment to District election law

SEC. 1615. The first section of the District election law is amended by inserting in the first section after the words "United States" where they first appear, the following: "the members of the District of Columbia Independent School Board,".

Amendment to district election law

SEC. 1616. Section 5(a) of the District election law is amended by renumbering paragraphs (7) and (8) as paragraphs (8) and (9), respectively, and by inserting after paragraph (6) the following new paragraph (7):

"(7) divide the District into fourteen compact and contiguous school electoral districts of approximately equal population, maintain a registry in each school election district, and reapportion the districts according to population after each decennial census;".

Amendment to district election law

SEC. 1617. Section 7 of the District election law is amended by inserting after subsection (e) the following new subsection:

"(f) A person shall be entitled to vote in any election of a member of the District of Columbia Independent School Board or in any referendum held under section 15 of this Act if he meets the requirements of subsection (a) of this section, and if in addition he files an affidavit that he resides in the school electoral district in which he wishes to vote. Such affidavits must be filed with the Board not less than seven days before such election. A person who moves his residence from one school electoral district to another shall be entitled to vote in the school electoral district to which he moved seven days after filing with the Board an affidavit of change of residence, but shall not be entitled to vote in the school electoral district from which he moved more than one month after quitting his former residence or more than seven days after he files an affidavit of change of residence, whichever is sooner. Absentees may vote in the district in which they last resided."

Amendment to District election law

SEC. 1618. Section 8 of the District election law is amended by inserting a new subsection after subsection (g) as follows:

"(h) A candidate for membership on the District of Columbia Independent School Board—

"(1) shall meet the qualifications prescribed by section 1612 of title XVI of the District of Columbia Charter Act, and

"(2) shall have filed with the Board not less than thirty days before the election a nomination petition in the form prescribed by the Board and signed by fifty persons entitled to vote in a school election in the district from which he seeks election."

Amendment to District election law

SEC. 1619. Section 10 of the District election law is amended by inserting after subsection (a)(2) the following new paragraph:

"(3) Elections of members of the District of Columbia Independent School Board shall be held on the second Monday of September in each year in any school election district in which—

"(A) the term of the member representing such district will expire during the calendar year, or

"(B) the membership has been vacated before the expiration of the last incumbent's term and before the second Monday in July of such year."

Amendment to District election law

SEC. 1620. Section 10 of the District election law is amended by inserting after the word "officer" in subsection (d) the words "(other than a member of the District of Columbia Independent School Board)".

Petition for removal

SEC. 1621. The Attorney General, the chief legal officer of the District, or five school electors may petition the United States District Court for the District of Columbia for the purpose of removing the Treasurer or any member of the School Board for any of the following reasons:

(1) willful or habitual neglect or refusal to perform the duties of his office;

(2) disability preventing a proper discharge of the duties of his office;

(3) failure to produce and fully account for all public funds and property in his hands at any inspection or settlement;

(4) ineligibility to hold the office by reason of section 1622 of this title; or

(5) corruption, extortion, oppression, gross partiality, intoxication, conviction of a felony, maladministration in office or willful misconduct.

Ineligibility

SEC. 1622. If a member becomes ineligible to continue to hold office at any time he would be ineligible under sections 1611, 1612, 1613, or 1614 of this title for election to the same office.

Petition; procedure

SEC. 1623. The removal petition shall be filed in the name of the petitioner and the accused shall be named as defendant. The petition shall be in the form of a complaint in a civil action and, unless filed by the Attorney General, shall be verified. The Federal Rules of Civil Procedure shall govern throughout the action.

Suspension from office

SEC. 1624. Upon commencement of the action, the judge may suspend the accused from

office, if in his judgment sufficient cause appears from the petition and from affidavits presented in support of the petition. Any order of suspension shall be served upon the member in question, and it shall be unlawful for such member to exercise or attempt to exercise any of the functions of his office until such suspension is revoked.

Judgment of removal

SEC. 1625. Judgment of removal shall be rendered if the allegations of the petition are sufficient and true. Such judgment shall be entered of record, and the vacancy forthwith filled as provided by sections 1611, 1612, 1613, and 1614 of this title.

Bond for costs

SEC. 1626. If the petition for removal is filed by anyone other than the Attorney General or the chief legal officer of the District, the court shall require the petitioners to file a bond (in such amount and with such surety as the court may require) to cover costs taxable to the petitioner under section 1627 of this title.

Effect of dismissal

SEC. 1627. (a) If the petition is dismissed on the merits, the defendant shall have judgment—

(1) against the United States, if the action was commenced by the Attorney General, or

(2) against the District, if the action was initiated by the chief legal officer of the District, for the reasonable and necessary expenses incurred by the defendant in making his defense, including a reasonable attorney's fee to be fixed by the court or judge.

(b) If the action is instituted by the electors, and if it appears to the court that there was no reasonable cause for filing the petition, the expenses referred to in subsection (a) may be taxed as costs against the petitioners.

Budget-fiscal year

SEC. 1628. The fiscal year of the School Board shall begin on the 1st day of October and shall end on the 30th day of September of the succeeding calendar year.

Budget

SEC. 1629. Not later than July 1 of each year, the Treasurer shall prepare and submit to the School Board, in such form as the School Board shall require, the annual budget for the school system. The budget shall contain separate accounting classifications for expenditures from the general account and from the capital construction account. The School Board shall by resolution adopt a budget for each fiscal year not later than August 15 of the preceding fiscal year.

Borrowing power; debt limitations

SEC. 1630. (a) The School Board may incur indebtedness by issuing bonds in either coupon or registered form. Funds obtained by borrowing pursuant to this subpart shall be included in the capital construction account. Unless the school electors approve in a referendum provided for in section 1609 of this title, the School Board shall not issue bonds in an amount which will cause the aggregate of indebtedness of the School Board to exceed 1¼ per centum of assessed valuation of District property. The School Board shall not issue bonds in an amount which will cause the aggregate of indebtedness of the School Board to exceed 5 per centum of such average assessed value.

(b) For the purposes of this section, the term "indebtedness" includes principal and unpaid accrued interest on bonds issued under this subpart, but excludes short-term borrowing under subpart 2 of this part. A deduction from indebtedness shall be made in an amount equal to moneys set aside into any sinking fund and irrevocably dedicated to the payment of such bonded indebtedness.

(c) For the purposes of this section, "assessed value of District property" means the average assessed value of the real property in the District subject to taxation by the School Board under section 1647 of this title or by the District or by both as of the first day of July of the ten most recent fiscal years for which such assessed values are available.

Contents of borrowing resolution

SEC. 1631. A resolution authorizing the issue of a series of bonds shall contain at least the following provisions:

(1) The denomination and serial numbers of bonds to be issued in such series;

(2) The maximum amount of the principal of the indebtedness to be incurred in such series;

(3) The maximum rate of interest to be paid on such indebtedness; and

(4) The date on which the referendum will be held, the manner of holding such referendum, the manner of voting for or against the incurring of such indebtedness, and the form of ballot to be used at such referendum, if the School Board is required by section 1630, or if it decides in its discretion, to submit the question of issuing such bonds to referendum.

Publication of borrowing resolution

SEC. 1632. Not later than five days after the passage of a resolution authorizing the issuing of bonds, the Treasurer shall publish such resolution in a newspaper of general circulation in the District, together with a notice that a suit or other proceeding questioning the validity of such bonds shall be forever barred unless commenced within the period provided for in section 1633 of this title.

Short period of limitation

SEC. 1633. No suit or other proceeding contesting the validity of bonds issued pursuant to sections 1630 through 1635, inclusive, may be commenced later than twenty days after (1) the publication, in accordance with section 1632 of this title, of notice of passage of an authorizing resolution, if the question of issuing bonds is not submitted to referendum, or (2) the promulgation of the results of the referendum if such question is submitted to referendum.

Issue of bonds

SEC. 1634. After the expiration of the twenty-day limitation period provided for in section 1633 of this title, the School Board may by resolution issue a series of bonds described in a resolution passed in accordance with section 1631 of this title. The bonds of any authorized series may be issued all at one time, or from time to time in such amounts as the School Board shall deem advisable. The resolution issuing any series of bonds shall fix the date of issue of the bonds of such series. Bonds of each such series shall be payable in annual installments beginning not more than three years after the date of issue of the bonds and ending not more than twenty years from such date. Such resolution shall also prescribe the form of the bonds to be issued thereunder, and interest coupons, the manner in which said bonds and coupons shall be executed and in which they may be registered, and the place where they are payable.

Public sale

SEC. 1635. All bonds issued under sections 1630 through 1635, inclusive, shall be sold at public sale upon sealed proposals at such price or prices as shall be approved by the School Board after publication of a notice of such sale at least once not less than ten days prior to the date fixed for the sale in a daily newspaper carrying municipal bond notices and devoted primarily to financial news or to the subject of State and municipal bonds published in the city of New York, New York, and in a newspaper of general circulation published in the District. Such notice shall state among other things that no proposal shall be considered unless there is deposited with the Treasurer as a downpayment a certified check or cashier's check for an amount equal to at least 2 per centum of the par amount of bonds bid for. The School Board shall reserve the right to reject any bid.

Borrowing in anticipation of revenue

SEC. 1636. For any fiscal year, in anticipation of the receipt of revenues of that fiscal year, the School Board may by resolution authorize the borrowing of money by the execution of negotiable notes of the School Board, not to exceed in the aggregate at any time outstanding 25 per centum of the total revenue anticipated for that fiscal year, each of which shall be designated "Revenue Note for the Fiscal Year 19 ". Such notes may be renewed from time to time, but all such notes, together with the renewals, shall mature and be paid not later than the end of the fiscal year for which the original notes have been issued.

Redemption and sale of notes

SEC. 1637. (a) No notes issued pursuant to in sections 1630 through 1636, inclusive, shall be made payable on demand, but any note may be made subject to redemption prior to maturity on such notice and at such time as may be stated in the note.

(b) All notes issued pursuant to in such sections referred to in subsection (a) may be sold at not less than par and accrued interest at private sale without previous advertising.

Credit of United States

SEC. 1638. Bonds and notes issued by the School Board pursuant to this title shall not be deemed obligations of the United States or the District (except for the purposes of section 103(a) of the Internal Revenue Code), and the full faith and credit of the United States shall not be pledged in payment of them.

Treasurer

SEC. 1639. The School Board shall annually, on the fourth Monday of September, elect a Treasurer. The Treasurer shall receive such salary as the School Board may direct. The Treasurer may at any time be removed by a vote of not less than nine members of the School Board, or by the district court under sections 1621 through 1627, inclusive, of this title.

Financial duties of the treasurer

SEC. 1640. The Treasurer shall have charge of the administration of the financial affairs of the school system and to that end he shall—

(1) prepare and submit in the form prescribed by the School Board under section 1629 of this title the annual budget estimates;

(2) supervise and be responsible for all financial transactions to insure adequate control of revenues and resources and to insure that budgetary authorizations are not exceeded;

(3) maintain systems of accounting and internal control designed to provide—

(A) full disclosure of the financial results of the School Board's activities,

(B) adequate financial information needed by the School Board for management purposes,

(C) effective control over and accountability for all funds, property, and other assets,

(4) submit to the School Board a monthly financial statement in such form as the School Board may specify;

(5) prepare, as of the end of each fiscal year, a complete financial statement and report;

(6) receive all money receivable by the School Board from the Federal Government and from the District of Columbia;

(7) have custody of all public funds belonging to or under the control of the School Board, and deposit all funds coming into his hands, in such depositories as may be designated and under such terms and conditions as may be prescribed by the School Board; and

(8) have custody of all investments and invested funds of the School Board and have the safekeeping of all bonds and notes of the School Board.

Surety bonds

SEC. 1641. The Treasurer, and such other officers and employees of the School Board as the School Board shall require, shall be bonded with such sureties and in such amounts as the School Board may prescribe. The premiums for all such bonds shall be paid out of the funds of the School Board.

Accounting supervision and control

SEC. 1642. (a) The Treasurer and his duly authorized subordinates shall—

(1) prescribe the forms of receipts, vouchers, bills, and claims to be used by the School Board;

(2) examine and approve all contracts, orders, and other documents by which the School Board incurs financial obligations, having ascertained that moneys have been allotted and will be available when the obligations shall become due and payable;

(3) audit and approve before payment all bills, invoices, payrolls, and other evidences of claims, demands, or charges against the School Board and with the advice of the legal officials of the School Board determine the regularity, legality, and correctness of such claims, demands, or charges; and

(4) perform internal audits of accounts and records of the School Board, including the examination of any accounts or records of financial transactions, and giving due consideration to the effectiveness of accounting systems, internal control, and related administrative practices of the respective agencies.

Independent audit

SEC. 1643. (a) The financial transactions of the School Board shall be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States. In the determination of the auditing procedures to be followed and the extent of the examination of vouchers and other documents, the Comptroller General shall give due regard to generally accepted principle of auditing, including consideration of the effectiveness of the accounting organizations and systems, internal audit and control, and related administrative practices. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the School Board and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians.

(b) (1) The Comptroller General shall submit such audit reports as he may deem necessary to the Congress and the School Board. The reports shall set forth the scope of the audits and shall include such comments and information as may be deemed necessary to keep the School Board informed of the operations to which the reports relate, together with such recommendations with respect thereto as the Comptroller General may deem advisable. The reports shall show specifically every program, expenditure, and other financial transactions or undertaking which, in the opinion of the Comptroller General, has been carried on or made without authority of law.

(2) The School Board shall make such report, together with such other material as it deems pertinent thereto, available for public inspection.

Amendment of budget and accounting act

SEC. 1644. Section 2 of the Budget and Accounting Act, 1921 (31 U.S.C. 2), is hereby amended by inserting in the first paragraph after "legislative branch of the Government" the words ", the District of Columbia Independent School Board,".

General account

SEC. 1645. The School Board's general account shall consist of all of the Board's funds except those in the capital construction account. The revenue accruing to the general account in any fiscal year (other than revenues diverted to the general account from the capital construction account under section 1646(d) of this title shall not exceed $200 per pupil enrolled at the end of the previous school year in the District school system.

Capital construction account

SEC. 1646. (a) The capital construction account shall consist of all revenues accruing thereto under subsection (b) not expended pursuant to subsection (c).

(b) The revenues accruing to the capital construction account shall consist of (1) five-sevenths of the tax to be levied pursuant to section 1647 of this title; (2) the proceeds of sale of bonds issued pursuant to sections 1630 through 1635, inclusive, of this title; and (3) funds transferred by resolution from the general account to the capital construction account.

(c) Funds in the capital construction account may be expended (1) for acquisition of land, construction of buildings and improvements, and purchase of school equipment; (2) for the payment of principal and interest on bonds issued pursuant to sections 1630 through 1635, inclusive, of this title; and (3) if transferred to the general account pursuant to subsection (d), for other purposes.

(d) (1) If approved by the school electors in a referendum in accordance with section 1608(2), the School Board may in any fiscal year transfer from the capital construction account to the general account an amount not exceeding the amount by which the capital construction account (at the time of transfer) exceeds sums falling due in such fiscal year for principal and interest on bonds issued pursuant to sections 1630 through 1635, inclusive, of this title.

(2) Without approval in referendum under section 1608(2), the School Board may in any fiscal year transfer from the capital construction account to the general account an amount not exceeding either (A) the amount transferable under subsection (d) (1) of this section or (B) 10 per centum of the revenue accruing to the capital construction account in that fiscal year.

Real property tax

SEC. 1647. The School Board may cause to be levied an ad valorem real property tax on all the taxable real property in the District. Not later than August 15 of each year the School Board shall certify to the District Council the amount proposed to be raised by the tax in the next fiscal year. The tax shall be levied by the council in the same manner as is the real property tax levied under the authority of any act of Congress relating to the District or any act of the council, and the amounts so raised shall be paid to the account of the School Board in such manner as the School Board may direct. The amount so certified and paid shall not—

(1) be less than amounts falling due in that fiscal year on principal and interest on bonds issued pursuant to sections 1630 through 1635, inclusive, of this title, and

(2) exceed fourteen mills when divided by the assessed value of taxable real property in the District (paragraph (1) of this section notwithstanding).

Sales and personal income taxes

SEC. 1648. The School Board may cause to be levied a sales tax in an amount not to exceed one-half of the amount levied by the District under the District of Columbia Sales Tax Act, and a personal income tax in an amount not to exceed one-half of the amount levied by the District under the District of Columbia Income Tax Act. Upon receiving from the School Board a certificate showing the amount to be raised by such taxes, the Council shall collect the taxes in the same manner as the respective District taxes are collected. The District shall diminish the amount of taxes levied by the District and collected for its own account to an amount which, if added to the taxes collected for the account of the School Board, shall not exceed the amount which (this section notwithstanding) the District would by law be authorized to levy and collect for its own account.

Repeal of certain laws

SEC. 1649. The following Acts are hereby repealed:

(1) The Act entitled "An Act to fix and regulate the salaries of teachers, school officers, and other employees of the Board of Education of the District of Columbia", approved June 20, 1906 (D.C. Code, sec. 31–101).

(2) The Act entitled "An Act to authorize the appointment of public school employees between meetings of the Board of Education", approved April 22, 1932 (D.C. Code, sec. 31–106).

Technical amendment

SEC. 1650. The first section of the Act of March 1, 1929 (D.C. Code, sec. 16–619), is amended by inserting after the words "any board or commission of the United States" the following: ", including the District of Columbia Independent School Board,".

On page 176, line 8, strike out "and".

On page 176, line 12, strike out the period and insert in lieu thereof a semicolon and the following: "and".

On page 176, between lines 12 and 13, insert the following:

(4) other than with respect to section 1602 of title XVI, title XVI shall take effect on the day on which the eighth member of the first School Board takes the oath of office.

Mr. DOMINICK. Mr. President, I could go into an explanation of the amendment, but the Senator from Nebraska [Mr. HRUSKA] has been very kind in permitting us to continue this discussion. Prior to the Senator from Nebraska obtaining the floor, I had explained what was involved. If I may do so at this point, I shall have the amendment as the pending business before the Senate and shall make my argument in connection with it at a later date.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

LET THE PEOPLE DECIDE FAIR APPORTIONMENT

Mr. HRUSKA. Mr. President, I am speaking today to urge approval by the Senate of the Dirksen amendment (S.J. Res. 2) in its modified form now before the Senate Judiciary Committee, as set out on page 16978 of the CONGRESSIONAL RECORD for July 15.

It is particularly fortunate that the Senator from Nebraska is able to address the Senate on this occasion with the present occupant of the chair [Mr. TYDINGS] in charge, because he has been highly articulate and frequent in expressing his opposition to the position of the Senator from Nebraska on this particular issue. I welcome him as a Presiding Officer on this occasion.

I believe it is also particularly fortunate that this particular subject be considered at the present time, because the pending business relates to the right of self-determination by the citizens of the District of Columbia. That is, not only the possession of the right to vote—but also an opportunity to cast it in the process of self-determination.

So that no one will misunderstand the clear meaning of this amendment, I will read the language of Senate Joint Resolution 2 as it is now before the Senate, leaving out the preamble.

S.J. RES. 2

SECTION 1. The people of a State may apportion one house of a bicameral legislature using population, geography or political subdivisions as factors, giving each factor such weight as they deem appropriate, or giving similar weight to the same factors in apportioning a unicameral legislature, if, in either case, such plan of apportionment has been submitted to a vote of the people in accordance with law and with the provisions of this Constitution and has been approved by a majority of those voting on that issue. When the first plan of apportionment is submitted to a vote of the people under this section there shall also be submitted, at the same election, an alternative plan of apportionment based upon substantial equality of population.

SEC. 2. Any plan of apportionment which has been approved under this article shall be resubmitted to a vote of the people, or, another plan may be submitted under the provisions of section 1, at the November general election held two years following each year in which there is commenced any enumeration provided for in section 2 of article I, and upon approval by a majority of those voting thereon, such plan of apportionment shall continue in effect until changed in accordance with law and with the provisions of this Constitution.

It is incredible to me that any person who believes in American principles of democratic government—and, I might add, self-determination—can oppose this constitutional amendment to guarantee the people of the 50 States the right to exercise their democratic right of decision with respect to the composition of their State legislatures.

Opponents of this amendment are saying, in effect: the people have no right to make their own decisions; the people cannot be trusted to make the right decisions.

It is particularly incredible that, in the very year when this body is taking the historic step of guaranteeing all the people of all the States their civil right to register to vote, there are some voices in the Senate which would deny the people the opportunity to exercise an even more important civil right: the right to vote, once they have registered.

FAITH IN THE ELECTORATE

I utterly reject the implied arguments of the opponents of this amendment that the people are too stupid to be allowed to vote—on a one-man, one-vote basis, at statewide elections—on how they wish to constitute their States legislatures. I reject the premise of the opponents of this amendment that our country is an oligarchy rather than a democracy.

Actually, this amendment is a very moderate measure. It does not require the people of any State to constitute one house of their legislature on a basis other than population. It is simply permissive in this respect, leaving the decision up to the people themselves, State by State. And, because there is general consensus that this permissive right of decision is desired for one house only of bicameral legislatures, the amendment guarantees that at least one legislative house in each State will be chosen on a strict population basis.

NO QUARREL WITH COURT

The U.S. Supreme Court has corrected abuses that existed for many years in some States in which State legislatures were apportioned under plans that had not been reviewed for decades, and in which the people of those States were never afforded the right to vote on reapportionment proposals in keeping with changing times and conditions.

The philosophy of this amendment in no way quarrels with the effects of the Court's decisions which have forced revisions of long frozen-in apportionment plans never subjected to popular approval; nor with its decisions as to States in which legislative bodies were apportioned in a fashion which violated provisions of the State's constitution.

This amendment takes up from where the Court necessarily left off. It assures that any apportionment plan on a basis other than population will be subjected to popular approval. It assures that the composition of one legislative house will be on a strict population basis, and it allows the composition of the other house to be on a basis—whether population, area, or a combination of both—that the majority of all the voters within the State actually want.

POPULAR APPROVAL

This amendment buttresses the democratic process. Opposition to it stems from inherent lack of faith in the democratic process. In fact, such opposition constitutes a rejection and repudiation of the democratic process.

Opponents of the amendment demonstrate a singular and chilling lack of faith in the integrity and viability of this august body, the U.S. Senate.

For in the final analysis what we are talking about is a right of the people and those States who so wish to continue a long tradition existing in many States of constituting their State legislatures along the Federal plan—whereby the members of one house are elected from districts formed on a population basis, and the members of the other house are elected from districts formed on an area basis, or a combination of area and population.

Evidence of this lack of faith is to be found continuously in the testimony before the Senate Subcommittee on Constitutional Amendments and before the House Judiciary Committee.

By way of example, one need only to follow the testimony for instance of the Senator from Illinois [Mr. DOUGLAS] in pages 35–62 of the report of the hearing of the Senate subcommittee in which the lack of faith in the intelligence and wisdom of the people is displayed in such frightening manner.

Or one might turn to pages 699–717 of the same hearings and find this same strange logic, this same concept that the people have so little ability to decide how they wish to be governed themselves, as presented by the Honorable ANDREW JACOBS, Jr., a Member of the House of Representatives from Indiana.

One could turn to the testimony submitted to the House Judiciary Committee presented by Mr. Andrew J. Biemiller, a representative of the AFL–CIO, who blithely rejects the concept that the majority of the people of a State have any right to devise laws affecting all the people of that State.

These should suffice for quick examples.

THE CONGRESS

The U.S. Constitution provides that the Members of one House of our Federal legislative body—the U.S. Senate—shall be selected on an area basis: two Senators from each State. This provision is reaffirmed in the 17th amendment to the Constitution.

The House of Representatives of the U.S. Congress is elected, basically, on a population, one-man, one-vote basis. But no one can contend that the Senate is elected on a one-man, one-vote basis. It is elected on area basis—the areas being determined by the boundaries of the States, which vary greatly in geographic size and population content.

Does anyone in this body claim that the two Senators from the State of New York are less effective in the service of their country and in representing the interests of their constituents than the two Senators from the State of Rhode Island merely because, following the statistical arguments of the strict, one-man, one-vote dogmatists, the people of New York have only one-twentieth as much so-called voting strength in the Senate as the people of Rhode Island?

Does anyone contend that the people of Rhode Island have secured undue advantages, preferences, and privileges from this body?

Are the opponents of the amendment prepared to argue that the two Senators from the State of California are less effective in the service of their country and in representing the interests of their constituents than the two Senators from the State of Hawaii because the people of California have only one twenty-fifth as much representation, on a statistical basis, in the U.S. Senate as the people of Hawaii?

Do the opponents of the amendment contend for a moment that the people of Hawaii have secured advantages, preferences, and privileges from this body in excess of what they are entitled to as citizens of the United States?

I am quite aware that the 50 States are, in a sense, sovereign, and that the various counties within the States are not, but are instead political subdivisions created by the State governments.

The point is that the counties are viable political subdivisions of the States, just as the States are viable political subdivisions of the Nation. They form communities of common interest, just as the States do. And just as the geographic, demographic, and political interests of the people of the State of Hawaii differ widely from the interests of the people of California—just as Rhode Island differs from New York, as North Dakota differs from North Carolina—the community interests of counties and areas within many States vary widely.

The point is that whether the U.S. Senate in its present form was comprised as a result of a compromise permitting the formation of a Nation is irrelevant in this instance. The real point of issue is that our system of government has worked outstandingly well to provide a balanced, effective, and fair government, regardless of its origin. Because it has worked so well, the system has been followed by States. Where this has been done by legal, constitutional means, it should be permitted to stand. Where it has been done in violation of State constitution or law, it should be corrected by proper court action.

LET THE PEOPLE DECIDE

In those States where the people, voting as a whole, choose to follow the example of the Federal Government in the constitution of their legislatures, the Federal plan of area representation in one house and population representation in the other can function well. It has functioned well in many States in the past, and the constitutional amendment now under discussion will make it possible for the people of the various States to choose this proven system if it is deemed appropriate in their State by the consent of the governed—that is, by a vote of the people.

The opponents of the amendment argue that both houses of State legislatures must be apportioned on a strict population basis, regardless of the people's desires. They contend, by a strained logic that escapes me, that to choose one house on an area basis is immoral.

Will the opponents of this amendment argue that the U.S. Senate is constituted on an immoral basis? Do they argue for repeal of the 17th amendment? Do they argue for an amendment of their own that would erase State lines and elect the Members of this body from arbitrary and constantly changing districts based on population?

I believe the opponents of this amendment ignore the evidence of all the years since the founding of our Nation—all the years that the U.S. Senate has honorably served as one of the prime movers in our time-tested governmental system of checks and balances, a system that has been responsive to the needs of the people and at the same time, primarily because of the unique basis for selection of the Members of this body, a system that has respected and protected the rights of minorities against the transient, shifting winds of political change.

A vote for the proposed amendment is a vote of confidence in the intelligence of the people of the 50 States to choose the system of legislative representation that best meets their individual needs and circumstances.

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

Mr. HRUSKA. I am happy to yield to my colleague from Nebraska.

Mr. CURTIS. I appreciate the courtesy of my colleague from Nebraska in yielding. I must leave the Chamber to attend a committee meeting. I am familiar with the Senator's manuscript. I commend him for it and congratulate him on an excellent statement.

Do I correctly understand that the substance of what the Senator has just stated is that what is really involved is the right of the people of each of the States to determine for themselves the question of legislative apportionment?

Mr. HRUSKA. That is correct.

Mr. CURTIS. It is not essentially an argument that they cannot apportion on the basis of population alone, but that they should have the right to decide that question?

Mr. HRUSKA. That is correct. If the people of a State do not take any action, the rule uttered by the Supreme Court in the case of Reynolds against Sims will prevail; namely, both houses of the legislature of the State shall be apportioned substantially on the basis of population.

Mr. CURTIS. Might it not be stated in this way: Were we to contend for the principle that the Federal Government has a right to say that only population shall be considered, the same Federal Government might have the right to institute any practice.

Mr. HRUSKA. Yes, indeed.

Mr. CURTIS. What is really involved is the right of the people to be self governed.

Mr. HRUSKA. And to change from the basic, organic law in a way that will conform to their wishes, rather than to the wishes of any branch of the Federal Government, whether it be the legislative branch or the judicial branch.

Mr. CURTIS. As to the constitutional forms involved, had it been stated in the Constitution, even vaguely, that the ratifying States were conveying to the new Federal or Central Government the power to determine how legislatures were to be constituted, in the Senator's opinion would the Constitution have been ratified.

Mr. HRUSKA. The opinion of this Senator from Nebraska on that score may not be persuasive with many persons; but when we consider the dissenting opinion of Justice Harlan in the case of Reynolds against Sims, in which he spells out and documents from the debates and from the records of this body—and that debate was held in this very Chamber—that had that construction been placed upon the 14th amendment and the equal protection clause thereof, it is virtually certain that that amendment never would have been ratified by the necessary three-fourths of the States that existed at that time nor approved by those voting on that amendment.

A reading of that opinion would clearly convince anyone on that question.

Mr. CURTIS. It is also a general rule of law that language means what it says.

Mr. HRUSKA. That is what we like to think. Sometimes we are baffled by the nonacceptance of that rule by some judicial body. However, that is the usual rule.

Mr. CURTIS. In the absence of ambiguity, when we can determine what something says, the general rule is that the writers intended the document to speak for itself.

Mr. HRUSKA. The Senator is correct.

Mr. CURTIS. Very likely there was no overt statement to the effect that such power was being conferred upon the Federal Government.

Mr. HRUSKA. That can be said.

Mr. CURTIS. Mr. President, I congratulate the distinguished Senator on his statement. I regret that I cannot remain longer.

Mr. HRUSKA. Mr. President, I appreciate the comments of the Senator.

Mr. HOLLAND. Mr. President, will the distinguished Senator yield without losing his right to the floor?

Mr. HRUSKA. I yield.

Mr. HOLLAND. I congratulate the distinguished Senator from Nebraska on a speech that is searching and sound. I think his speech cannot be successfully refuted.

In addition to all of the technical arguments, it seems to me so hopeless to find any one method of distributing the citizens in the legislative bodies of the various States that would be equally applicable to all States, regardless of their size, stage of development, or problems. Does the Senator not believe that the individual rights of the citizens of a State should be recognized when, in their opinion, they think one house of their legislature should be set up in a different way from the one-man, one-vote principle because the new way would serve their own needs much better than the one-man, one-vote principle?

Mr. HRUSKA. That is precisely the objective of the proposed amendment.

The Supreme Court in its decision in Reynolds against Sims pointed out that it is impossible to achieve a precise mathematical arrangement of population in apportionment problems, and other factors would have to be considered. When we get into the problem of using factors other than population, we enter the field of legislation. It has been always been our understanding that the function of legislating belongs to Congress and State legislatures, rather than to any other branch of the government.

Mr. HOLLAND. Mr. President, I thoroughly agree with the distinguished Senator.

Would the distinguished Senator mind my asking a set of questions based upon a little research which I have done—not

applicable to the highly developed States, but to some of the States which are highly desirous of further development and which offer great assets for the entire Nation if they can be further developed?

I should like to ask these questions with reference to four States.

Mr. HRUSKA. I very much welcome the propounding of such questions.

Mr. HOLLAND. I thank the distinguished Senator. First, I shall mention the new State of Alaska. The State of Alaska is a pioneer area, with great possibilities. It revives the opportunities that American citizens used to have with reference to the great areas of the West.

I shall read some statistics with reference to the State of Alaska.

The State of Alaska has a total area of 571,065 square miles. It is more than twice as large as our former largest State, the State of Texas.

The population of Alaska, by reason of its nonuniform development, is largely found in two counties. The county of Anchorage has 82,833 people. The county of Fairbanks has 43,412 people. The two counties have a combined total population of 126,245 people. These figures are obtained from the 1960 census.

The total population of the State of Alaska at the time of the 1960 census was 226,167. Therefore, more than half of the population of the new State, which we hope and want to see develop, is contained in the two counties of Anchorage and Fairbanks, which have a combined area of less than one-twentieth of the area of the State.

Does the Senator believe it is possible that the people of Alaska might not feel—desirous as they are of developing that great area—that the outlying area not now heavily populated should be given a voice in one house, disproportionate to the present population?

Mr. HRUSKA. This Senator would believe that even granting the utmost good faith to the representatives from this concentrated area of population, it would be difficult indeed to understand the complex and distant problems which exist in the remote areas of Alaska, so that the representatives could deal with them intelligently. This is to be contrasted with the kind of representation which representatives from those distance places would provide. I believe that under the one-man, one-vote rule, they would be foreclosed from doing so.

Mr. HOLLAND. Under the one-man, one-vote rule, if it were to operate, those two counties alone—comprising much more than half the population of the State of Alaska and less than one-twentieth the area of Alaska—would dominate the legislative process in the State of Alaska.

Mr. HRUSKA. That would be an inevitable, inescapable wrong.

Mr. HOLLAND. I thank the Senator.

I shall next discuss the statistics from the State of Arizona. Arizona is nearer than Alaska. It is a State which has great potentials of developing rapidly. I believe it is now one of the fastest growing States, if not the fastest growing.

The State of Arizona has a total area of 113,575 square miles. Therefore, the State of Arizona is twice as large as the State of Florida, which I represent in part.

Mr. HRUSKA. It is one and one-half times as large as the State which I represent in part.

Mr. HOLLAND. The State of Arizona, in the 1960 census, had a population of 1,302,161 people.

The county of Maricopa, in which the city of Phoenix is located, had more than half the population of Arizona, having 663,510 people. At the same time, it had only 9,226 square miles, of the total area of the State.

The county of Pima, in which Tucson is located, is the next most heavily populated county with a population of 265,660.

In 1960 those two counties had a combined population of 929,170 people, leaving between 300,000 and 400,000 people in the rest of the State. There are only 14 counties in the State of Arizona.

Does the Senator think it is possible that in order to emphasize the chance of development and growth in the other 12 counties, the people in the counties of Maricopa and Pima would say, "By all means, let us give them direct representation in one house so that they may be heard and their legitimate ambition for growth may be better realized."

Does the Senator believe it is possible that the State of Arizona might, if given a chance, adopt a program different from the one-man, one-vote principle as to one house of its legislature?

Mr. HRUSKA. There can be no question that under the plan which would be adopted by the legislature from time to time, even granting again, the utmost of good faith and good intentions on the part of the one-man, one-vote rule, those more distant points would not be able to be properly represented.

There is another factor of which I am sure the Senator from Florida is aware. The people in the more distant parts of the State would not have access to the representatives as those from the concentrated areas of the two counties would have. So that their sentiments, views, and desires could not even be made known, let alone be considered.

Mr. HOLLAND. The Senator is correct in that conclusion. Of course, one of the primary objects of representative government is to have people feel that they are personally represented by someone charged with the responsibility for making the laws which govern them.

Mr. HRUSKA. Yes, and fairly and practically accessible to that representation.

Mr. HOLLAND. Exactly.

I took the opportunity to ask the Senator to put the facts in regard to these matters into the RECORD because I find that some of us who come from States developed within their boundaries—but not completely developed, because I do not think that any one American State is developed to its full potential, but more uniformly developed throughout their boundaries—have not given due consideration to the needs of the newer States, the greater States in area, which are not as fully developed, and not by any means fully populated.

I come now to the State of Hawaii, with a population, according to the 1960 census, of 632,772. We find that State is divided into five counties. There are eight islands that are habitable in that State, some of them at substantial water distances from each other. From the standpoint just mentioned by the Senator from Nebraska, it is exceedingly difficult for the people in some of the outlying islands to have speedy, convenient, and ready access in terms of cost and transportation to the more populated islands, where presumably their representation would be if the one-man, one-vote principle applied.

In the County of Honolulu, which embraces the Island of Oahu, are found nearly five-sixths of the present population of Hawaii, according to the figures for 1960. The population of Honolulu County in 1960 was 500,409, out of a total population of 632,772 in the whole of Hawaii.

It seems clear to me from looking at that picture that the people in Honolulu County, despite their great preponderance in numbers, would be so anxious to see their State develop and realize its full potentiality that they might easily feel that departure from the one-man, one-vote principle would be preferable as regards one house of its legislature, so that the outlying areas might have direct representation and direct opportunity to develop and help bring those farflung areas to the great potentiality which they possess.

Does the Senator from Nebraska join me in that thought?

Mr. HRUSKA. I join the Senator from Florida in that comment. It applies in the case of Hawaii just as much as it applied to the case of Alaska and Arizona.

Mr. HOLLAND. I thank the Senator.

I now come to the last of the States, and a much older State, a State which was given statehood during the Civil War; namely, the State of Nevada.

Yet its growth has been only recent, and it has been a great growth. There has been a great growth since 1960, which I think accentuates the figures shown by the 1960 census.

In that State, with its 17 counties, there are 2 counties which have about three-fourths of the population of the State, or did in 1960. The county of Clark, where Las Vegas is located, has a population of 127,016, and the county of Washoe, where Reno is located, has a population of 84,743, or a combined population of 211,759 out of the total of 285,278 people who were in Nevada when the 1960 census was taken.

Does not the Senator believe it is highly possible that the people of Nevada, anxious as they are to grow and develop, would believe that the outlying counties in that State of 109,788 square miles, with 17 counties, should be entitled to have direct representation in one house of the legislature, so that their ambitions and opportunities for growth and development might be better realized? Does the Senator believe that great and growing and relatively new State in develop-

ment would rather give direct representation to the people of the 15 as yet undeveloped counties so they could move ahead with their development?

Mr. HRUSKA. That is the feeling of the Senator from Nebraska, and it is also the feeling of the Senators from Nevada, because they testified before the subcommittee on this subject, they indicated their preference for that kind of organization.

Mr. HOLLAND. I thank the Senator. Only this morning I talked with one of the distinguished Senators from Nevada, who supplied me with the source of the information I previously stated. The disparity in size between the two cities of Reno and Las Vegas and the counties in which they are located and the rest of the State, as shown by the figures I have read into the RECORD for 1960, is even greater now because there has been greater growth in the two cities I have mentioned than in the rest of the State.

The Senator from Nevada said he was sure the disparity appearing in 1960 between the two counties and the rest of the State in population would be greater now than it was then.

I appreciate the courtesy of the Senator in yielding to me. It has seemed to me that some of us who represent older States, where the problems are different and which, because of uniform growth, have adopted in their own wisdom, what amounts to the one-man one-vote theory in both houses of their legislatures have overlooked the fact that one rule cannot adequately fit the needs of all 50 States of the Union. They are different in size, area, stages of development and number of industries to be found in a single State. There must be some flexibility, if the people of the State desire it, so that they may, in one house of the legislature, depart from the one-man one-vote rule in order to serve the people of the State and make their own decision.

I so completely approve of the position of the Senator from Nebraska that I wish to state for the RECORD that we would be blind to the needs of our States—and I have mentioned only four—if we sat idly by and watched the Supreme Court rule of one-man, one-vote requirement become fixed and necessarily applicable to all the States of the Union, regardless of their varying needs and their different degrees of development.

I am glad the Senator is making his scholarly statement on this subject, of which I approve completely.

Mr. HRUSKA. Let me observe that the Senator from Florida was one of the witnesses before our subcommittee. He appeared in company with, and introduced, a justice of the State of Florida's Supreme Court, Judge Caldwell, who, in my judgment, made one of the most incisive and persuasive statements which was received. We on the subcommittee were grateful, and all Senators should be grateful, not only for the appearance of the Senator from Florida, and for the remarks he has made in the Chamber today, but also for bringing in Judge Caldwell for the testimony which he gave on that occasion.

Mr. HOLLAND. I am happy that Judge Caldwell, formerly Representative Caldwell, and later Governor Caldwell, was able to appear. I gloried in his testimony. I thought it was sound and directly to the point.

For the RECORD, I invite attention to the fact that not only has he served as Governor of the State of Florida, in which position he served both as chairman of the National Governors' conference and chairman of the Southern Governors' conference, but he was also a Representative for several years. As a matter of patriotic duty, he was called to head the civil defense efforts of the Nation at a critical time, as the Senator knows. He is now a justice on our supreme court in Florida. He has had a wide opportunity to observe the differing situations throughout the Nation.

I thought his testimony was most persuasive.

I did not need to be persuaded, but if I had been undecided and had listened to the testimony of one with as much experience as he has, and the sound statements he made, I would have been persuaded even though I had been previously of a different attitude.

I thank the Senator from Nebraska for his kind remarks with reference to Judge Caldwell.

Mr. HRUSKA. In the case of Lucas against Colorado General Assembly, a few of the points which were made by the Senator from Florida in regard to these four States were commented upon by Justice Stewart, who says in part:

> I do not pretend to any specialized knowledge of the myriad of individual characteristics of the several States, beyond the records in the cases before us today. But I do know enough to be aware that a system of legislative apportionment which might be best for South Dakota, might be unwise for Hawaii with its many islands, or Michigan with its Northern Peninsula. I do know enough to realize that Montana with its vast distances is not Rhode Island with its heavy concentrations of people. I do know enough to be aware of the great variations among the several States in their historic manner of distributing legislative power—of the Governors' councils in New England, of the broad powers of initiative and referendum retained in some States by the people, of the legislative power which some States give to their Governors, by the right of veto or otherwise, of the widely autonomous home rule which many States give to their cities. The Court today declines to give any recognition to these considerations and countless others, tangible and intangible, in holding unconstitutional the particular systems of legislative apportionment which these States have chosen.

Mr. President, that is precisely the point the Senator from Florida brought out, giving the very fine examples of Alaska, Arizona, Hawaii, and Nevada.

Mr. DOMINICK. Mr. President, will the Senator from Nebraska yield?

Mr. HRUSKA. I am happy to yield to the Senator from Colorado.

Mr. DOMINICK. In view of the fact that the subject of Colorado comes up, in connection with what the Senator from Florida said, I thought it would be worth while to spread on the RECORD what happened to us in Colorado.

In the election of 1962, we put on the ballot, by petition of the people, the so-called Federal plan, one house based on population only, the other house to be districted on the basis of geography plus population. At the same time we did that, we put another one on the ballot for the people to vote on, again by petition of the people, providing for both houses to be selected on a one-man, one-vote basis.

When the election came and the returns were in, by a 2-to-1 majority, the people of Colorado had chosen the Federal plan over the one-man, one-vote rule.

Mr. HRUSKA. Is it not true that the proposal carried in every county in the State?

Mr. DOMINICK. That is correct, including the populous metropolitan area of Denver and the surrounding counties—almost two to one in every one of them. The Supreme Court said no, that we could not do that, and threw it out. Then we came back and, being dutiful citizens, as almost all the rest of the citizens of this country are, the State legislature went through the pattern of developing a new plan of the one-man, one-vote rule on both houses, and we submitted it to a three-man Federal court which said that it complied with the requirements of the Supreme Court, and the Governor signed it into law. But the State supreme court ruled it unconstitutional under our State constitution. So we stood with those who had been elected throughout the State, who had been doing their jobs, and good ones, but no one has the faintest idea whether they are properly, validly, legally elected, or what the effect will be on the State legislature.

We are now in a complete and hopeless mess. Until we can obtain some amendment of this kind, which will clarify the rights of the States, we shall continue to be in a difficult position.

Mr. HRUSKA. I am informed that the Federal district court in Colorado gave the Colorado Legislature only 15 days in which to reapportion during which time they had to call a special session, get a working quorum, make a plan, debate it out, pass it into law, and get it signed by the Governor.

That is only the beginning, because from the decision of Reynolds against Sims, the Supreme Court and the judiciary branch of the Government of this Nation will take continuing jurisdiction over the composition of all the State legislatures of the Nation. Later in my remarks, I expect to develop that point more in detail.

Mr. DOMINICK. I believe that the speech of the Senator from Nebraska is of such paramount importance that it should be reiterated every day throughout this session until we finally get some action.

Mr. HRUSKA. I refer the Senator from Colorado to the language in Reynolds against Sims, on page 42 of the original opinion:

> Mathematical exactness or precision is hardly a workable constitutional requirement.

Continuing on the next page:

For the present, we deem it expedient not to attempt to spell out any precise constitutional tests. What is marginally permissible in one State may be unsatisfactory in another, depending on the particular circumstances of the case. Developing a body of doctrine on a case-by-case basis appears to us to provide the most satisfactory means of arriving at detailed constitutional requirements in the area of State legislative apportionment.

This means that the needs of the States will be dealt with by the Supreme Court and its inferior court on a case-by-case basis. It will be they who will be legislating the needs of each State.

Mr. DOMINICK. And on a continuing jurisdictional basis.

Mr. HRUSKA. Yes; on a continuing jurisdictional basis.

Mr. DOMINICK. Along the lines that the Senator from Florida has stated.

It is important to note that in Colorado, for example, there are four major river systems. Those 4 major river systems are divided by some 50 mountains which are higher than 14,000 feet and over which there are only a few roads. Therefore, anyone elected from an area in the unpopulated portion of the State, trying to get an equal number of people into it such as we would from a suburban county outside Denver, has practically one-third of an empty State to cover, and he cannot keep in contact.

Mr. HRUSKA. Nor can people keep in contact with him.

Mr. DOMINICK. The Senator is absolutely correct.

Mr. HRUSKA. I thank the Senator for his fine contribution.

Mr. HOLLAND. Mr. President, will the Senator from Nebraska be tolerant enough to yield to me, to permit me to make one more observation?

Mr. HRUSKA. I am happy to yield to the Senator from Florida.

Mr. HOLLAND. In my own State, we have a classic example of the complete instability of the court's control of this question. A three-judge court nullified the districting program set up by our legislature, and required the legislature to act again. The legislature returned and worked with the court and enacted another program on districting. The three-judge court promptly approved it.

A little later the Supreme Court of the United States, without permitting oral argument, without allowing the State of Florida to be heard on the subject, ruled that the three-judge court, which was a court of considerable dignity and stature, was wrong, and eliminated that redistricting.

That is the kind of experience we can expect to have periodically in many of the States because under our program, based on the one man, one vote principle, we must recall that at least every 10 years a census is taken, and that no State is static, because there are always some changes in the distribution of its population, particularly in the newer States.

Therefore, if we wish to have complete insecurity and instability in that basic situation which is the distribution of our legislative representation, the best way to get it is to let the courts take charge of the whole subject.

Mr. HRUSKA. And keeping the whole subject up in the air.

Mr. ERVIN. Mr. President, will the Senator yield for an observation and for some questions, with the understanding that he will not lose the floor by doing so?

Mr. HRUSKA. I am happy to yield to the Senator from North Carolina, who serves so effectively on the Constitutional Rights Subcommittee of the Judiciary Committee.

Mr. ERVIN. Does not the Senator from Nebraska recall that in writing his dissenting opinion in the Baker case, Justice Felix Frankfurter said that the Supreme Court of the United States ought not to enter the political thicket involved in the reapportionment of State legislatures?

Mr. HRUSKA. Yes.

Mr. ERVIN. Does not the Senator from Nebraska agree with the Senator from North Carolina that the expression "political thicket" was well chosen by Justice Frankfurter in his dissenting opinion?

Mr. HRUSKA. There is no question about it. Even in the limited experience with legislative apportionment cases that have arisen in the last 12 months, that is true.

Mr. ERVIN. Mr. President, recently I received a letter asking me to stand by the opinion of the Supreme Court in the reapportionment cases. I read those cases. I came to the conclusion that I did not know which one to stand by, because following the Baker decision there have been five or six opinions entertained by five or six different judges who differed as to what should be done about it. Does the Senator from Nebraska find himself in more or less a similar state?

Mr. HRUSKA. Yes. The Senator from Nebraska derives some feeling of certainty about one aspect of the whole procedure, and that is, that the Supreme Court has now placed its imprimatur on this sentence in the opinion it wrote in Reynolds against Sims:

Developing a body of doctrine on a case-by-case basis appears to us to provide the most satisfactory means of arriving at detailed constitutional requirements in the area of State legislative apportionment.

It might be quite satisfactory to the judicial branch of the Government, but it surely is not the most satisfactory situation for a component part of the judicial branch of the Government to engage in what essentially and inescapably is a legislature chore. That is what it is.

Mr. ERVIN. Would not the solution of this problem by a case-by-case method result in confusion?

Mr. HRUSKA. There is no question about it. The momentum in achieving universal confusion is becoming greater every day.

Mr. ERVIN. I should like, as a three-time member of the State legislature of North Carolina to note that placing that limitation upon the action of the Colorado legislature is an indication that the court was unable to appreciate all the implications and factors which are involved in the reapportionment of the membership of a legislative body.

One of the most difficult tasks which falls upon a legislature is assigning representation in a State legislature on the basis of population. I have had some experience in that field as a member of the Legislature of North Carolina.

We have a system of apportionment of the State legislature that works as follows: North Carolina has 50 State senators. Membership in the State senate under the North Carolina constitution is apportioned solely on the basis of population. We have 100 counties, some large, some small. Our house of representatives has a membership of 120, under our State constitution. The State constitution assigns 1 member of the house of representatives to each county, regardless of population, and divides the extra 20 members of the house of representatives among the larger counties solely on the basis of population. When the legislature undertakes to apportion this membership among the various areas of the State, it has to take into consideration many factors. One of the factors is population. Another is the political ambitions of various members of the State legislature, whose interests, as in North Carolina, may be served by one kind of State senator as distinct from another.

There are different areas with different economic interests. Then there is the division in political parties. In my State some counties are strongly one way, and some counties are strongly another way, while still other counties are rather mixed in the political affiliations of their residents.

The legislature must take all these things into consideration when it reapportions its membership. It is possible to put certain counties into a State senatorial district, and others in another senatorial district, and change about the political affiliation of the one who is to represent them by so doing.

This is something that Justice Frankfurter had in mind when he spoke of this area as a "political thicket."

Does not the Senator from Nebraska agree with the Senator from North Carolina that that has been a tradition, and a fine tradition and a high tradition, throughout our country, that men occupying judicial office should refrain from too much activity in what are essentially political matters?

Mr. HRUSKA. That has been a tradition of the country, and it has been one of the finest traditions of our country.

Mr. ERVIN. Does not the participation of a Federal court in the reapportionment of the membership in a State legislature bring that Federal court into a position in which its action will have a political effect, one way or another, in a high percentage of cases?

Mr. HRUSKA. There is no question about it.

Mr. ERVIN. Does not the Senator from Nebraska agree with the Senator from North Carolina that there is nothing which robs the judiciary more quickly

of its prestige and its respect by the people if it takes actions which the people can infer are actions of a political nature?

Mr. HRUSKA. The Senator from Nebraska is totally in agreement with that statement.

Mr. ERVIN. I should like to ask the Senator from Nebraska if the amendment does not adopt the principle which the Federal Constitution applies to membership in the Senate and in the House of Representatives?

Mr. HRUSKA. The Senator is correct.

Mr. ERVIN. Does the Senator from Nebraska agree with the Senator from North Carolina that no one can very consistently oppose the proposed amendment unless he believes that the Senate is constituted in a manner in which it ought not to be constituted?

Mr. HRUSKA. The Senator from Nebraska firmly believes what the Senator from North Carolina has said. Those who would deny the proposition, and who rely on the history and the compromise nature of the body in which we have the honor to sit, miss the point. That is not the point. The point is that whatever the origin of our system, the system is working well. If the people of any individual State wish by popular vote to adopt a similar system, they should be the ones who should determine that question and not some other branch of the Government. No branch of the Government has that right, because the Constitution of our Republic starts with the statement, "We, the people." We ought to give that expression force and effect.

Mr. ERVIN. Is it not true that the membership of the Senate which was fixed by the original Constitution and the principle adhered to since 1789, has worked exceedingly well for our country?

Mr. HRUSKA. All of us think it has. We are the envy of the world for the system that we have developed under that very arrangement.

Mr. ERVIN. Can it not be said that the membership of the Senate is apportioned on the basis of geographical lines, or at least political subdivisions of the country?

Mr. HRUSKA. Political subdivisions or geography, either way.

Mr. ERVIN. All the amendment would do would be to permit not the State legislatures, but the people of the States, to apportion one house of their legislatures in States having bicameral legislatures, or a single house in States having a unicameral legislature, on the same basis—on the basis of population and geographical subdivision and political subdivision of the country. Is not that what the amendment would provide?

Mr. HRUSKA. The Senator is correct. That is all it would do. That is all the amendment provides. I point out also that it would be permissive in nature. We did not seek in the proposed amendment to dictate to the States. Each State would have a choice. It could follow the one-man, one-vote rule, if the State chose to do so, in both of its houses.

Mr. ERVIN. Does not the Senator from Nebraska agree with the Senator from North Carolina that those who oppose the amendment do not themselves believe in the one-man, one-vote rule in the sense that they are unwilling to submit the question of apportionment of a house of the legislature of a State on the basis of such factors as geographical and political subdivisions on the basis of the one-man, one-vote rule?

Mr. HRUSKA. The Senator is correct. As the Senator from North Carolina probably recalls, it has been my contention that, in coining the slogan "one man, one vote," the originators of the term stopped too soon. What they should have done was to keep going and say, "One man, one vote, and an opportunity to use that vote to determine whether the Constitution should be amended to modify in part the decision in the case of Reynolds against Sims."

Mr. ERVIN. Those who oppose the amendment are unwilling to have the one-man, one-vote rule applied on the particular question which we are discussing in any one of the 50 States of the Union.

Mr. HRUSKA. The Senator is correct. I cannot blame anyone for having a personal and sincere conviction on the subject.

When he seeks to impose his particular conclusions on his own State or on any other State, without giving the people of that State an opportunity to participate in an election to determine the question, I say that that person is gravely wrong.

Mr. ERVIN. After all, the members of the State legislature are supposed to represent the people of the State, and the people of the State ought to be permitted, even under the one-man, one-vote theory, to choose their representatives in the manner in which they see fit, at least in one house.

Mr. HRUSKA. The Senator is correct. It would be truly in keeping with the tradition of our country to allow the States to be as sovereign as possible along those very lines—which is another point which I intend to develop later in my remarks.

Mr. ERVIN. The amendment would make certain that at least one house in a bicameral legislature would be apportioned solely upon the basis of one man, one vote.

Mr. HRUSKA. That is true. That would be a requirement under the proposed amendment.

Mr. ERVIN. The Senator from Nebraska is familiar with the old expression that has come down to us from the days of the founding of our country, that all just powers of the Government are derived from the consent of the governed. The proposed amendment merely provides that the people in each State shall have the right to determine whether or not they can have one house in a State legislature apportioned on exactly the same basis as the membership of the U.S. Senate is apportioned by the Constitution of the United States.

Mr. HRUSKA. The Senator is correct. That is exactly what it proposes to do.

Mr. ERVIN. The proposed amendment respects the one-man, one-vote theory by stating that the problem should be solved by the people of each State on the basis of one man, one vote, and the people should be free—and their wisdom ought to be recognized—to determine that question to the extent of one house of the State legislature.

Mr. HRUSKA. That is exactly the situation.

Mr. ERVIN. In the final analysis, is not the alternative that instead of having the just powers of government derived from the consent of the governed, the people of all 50 States of the Union would be denied the right to apportion their own State legislatures by what might conceivably be called a judicial oligarchy of the 9 members of the Supreme Court of the United States?

Mr. HRUSKA. There is no question but that that is true. The Senator has already said that we are a democracy, not an oligarchy. I would make this suggestion to the Senator that, in this instance, it is not an oligarchy of nine men. It is an oligarchy of five of those nine men which made the basic decision which the Court has been following.

Mr. ERVIN. So the question that the proposed amendment presents to the Congress in the first instance is whether or not the 190 million Americans who inhabit the 50 States would have the power to say how 1 house of their legislature should be apportioned, rather than leaving that power vested in 5 of the 9 Supreme Court Justices.

Mr. HRUSKA. That is correct.

As the Senator from North Carolina has already pointed out, without finding any fault with the Supreme Court, and assuming that their construction of the Constitution is without fault there is still reserved to the people of this country under article V of the Federal Constitution the right to amend that Constitution. That is what is involved—the opportunity to submit the proposed resolution to the legislatures of the States. If the amendment is ratified by three-fourths of the States, the Constitution, as it is conceived in the eyes and the minds of the members of the Supreme Court, will be amended.

That is what is involved here.

Mr. ERVIN. The proposed amendment would not change the Constitution of the United States in any respect unless the people of three-fourths of the States desired it to be changed.

Mr. HRUSKA. Exactly. There must be a popular vote on any plan that would depart from the Constitution as it is presently envisaged and held to be by the Supreme Court of the United States.

Mr. ERVIN. So a vote in opposition to our resolution would be a vote to deny the people of a State not only the power to apportion the membership in one house of a State legislature on the basis of factors such as geographical considerations and political subdivisions, but also the opportunity to say if they want to amend the Constitution of the United States.

Mr. HRUSKA. Exactly. As the Senator from North Carolina has pointed out, when a proposal of this kind results in a change of a system that has existed for over a century and a half—and the decision in Reynolds against Sims did just that—where there is a great interest in having that rule changed back to

what it was, and when the people want an amendment to the Constitution, then and in that case it is the duty of the Congress to present that amendment to the people for ratification through their legislatures.

I remind the Senator from North Carolina that to date 28 State legislatures have approved resolutions calling for the convening of constitutional conventions, again under article V of the Federal Constitution, for the purpose of amending the Constitution so as to overcome the harshness, the unfairness, and the unwanted features of Reynolds against Simms.

So there is a widespread demand and desire on the part of the people to be heard on this issue, and we are now engaged in a debate to decide whether we shall let them be heard in that orderly fashion provided by the Constitution for the amendment of that basic document.

Mr. ERVIN. Mr. President, I commend the distinguished Senator from Nebraska upon a painstaking, thorough, eloquent exposition of one of the serious problems that confront our country at the present moment. He has pointed out what I believe is one of the fundamental reasons why the amendment should be approved; that is, that the question of the apportionment of the membership in a State legislature is essentially a legislative or political question, not a judicial question. It cannot be made a judicial question because there is no judicial standard by which State legislatures can be apportioned.

I thank the Senator from Nebraska for yielding.

Mr. HRUSKA. I thank the Senator from North Carolina for his pertinent and persuasive contribution to the debate.

Mr. President, a vote against the amendment is a vote, in the long run, to undermine public confidence in the integrity of the U.S. Senate, and the balanced Federal system of legislative representation, which stands as an example for so many States in the composition of their own State legislatures.

Prof. Alfred de Grazia, the noted political scientist, in his recently published work, "Apportionment and Representative Government," points out that:

> The proponents of equal population districts have fumbled for a logic that would prove State senates are not analogous to the Federal Senate. Historically, their argument is groundless and unworthy of attention. Moreover, as a political matter, it seems absurd to assert that the National Government may have a Senate based upon representation of each State equally, but that a State senate may not be composed of representatives from the counties or multicounty areas of the State. Still, if they wish the courts to destroy the State senate apportionments, they must chew this rag. Else the courts will perceive clearly that to disturb the structure of State senates must imply the right to reshape the U.S. Senate.

This is no idle possibility. In *Bolling* v. *Sharpe*, 347 U.S. 497, 500, the Supreme Court held that racial segregation in the public schools of the District of Columbia is a denial to Negro children of the due process of law guaranteed by the 5th amendment—not the 14th amendment, but the 5th—even though the 5th amendment does not contain an equal protection clause, as does the 14th amendment which applies only to the States and on which the Court's earlier decision prohibiting States from maintaining racially segregated public schools was based.

I am sure most of the Members of this body are in agreement with the Court's decision to end racial segregation in the public schools of the District of Columbia, but the constitutional precedent established by Bolling against Sharpe should be of grave concern to us today in our consideration of reapportionment problems. In the Court's opinion, delivered by Chief Justice Warren, it is stated:

> In view of our decision that the Constitution prohibits the States from maintaining racially segregated public schools, it would be unthinkable that the same Constitution would impose a lesser duty on the Federal Government.

THE GOAL OF THE PEOPLE'S OPPONENTS

It should be obvious that unless the Dirksen amendment is passed by Congress and ratified by the States, and the present doctrine of equal population representation in both houses of State legislatures is modified, the same reasoning used in Bolling against Sharpe could be logically applied to eliminate the traditional basis of representation in the U.S. Senate and substitute arbitrarily drawn equal population districts for State boundaries. Indeed, the Senator from Pennsylvania [Mr. CLARK] has publicly stated that he deplores the existence of the U.S. Senate. Presumably, he would be happy to see it abolished in the form we now know it, but I hope that Senator CLARK is a minority of one in this regard.

The speech delivered by the Senator from Maryland in this body on June 2—a compilation of arguments voiced by dogmatic opponents to the people's right of expression on this issue before the Subcommittee on Constitutional Amendments—raised various objections to the Dirksen amendment. Three of these objections have been rendered utterly superfluous by the wording of the amendment in the form now under consideration.

UNDER PROPOSED AMENDMENT JUDICIAL REVIEW EXISTS

The first of these objections was a fear that the Dirksen amendment in its original form could be interpreted as preventing judicial review of action taken as a result of the amendment. The sentence on which Senator TYDINGS based his fears was as follows:

> The right and power to determine the composition of the legislature of a State and the apportionment of the membership thereof shall remain in the people of that State.

The Senator from Maryland [Mr. TYDINGS] pointed out that the Senator from New York [Mr. JAVITS] had introduced a resolution with the same basic purpose as the Dirksen amendment which, however, did not contain the sentence just quoted, and Senator TYDINGS admitted that an amendment which did not include this sentence would not infringe upon the right of judicial review. This question is now moot as the sentence objected to has been eliminated from the Dirksen resolution as now before us.

PERIODIC REVIEW BY PEOPLE IS PROVIDED

A second objection of the Senator from Maryland was that the Dirksen amendment in its original form made no provision for periodic review of apportionment plans varying from strict equal population district representation. This question also is no longer valid as the Dirksen amendment now provides that any such apportionment plan must be resubmitted to the people and approved within 2 years following each decennial census.

RIGHTS OF MINORITIES ARE PROTECTED

A third objection of the Senator from Maryland, which has been rendered completely moot by the final wording of the Dirksen amendment, is the claim that the amendment would be inimical to the interests of racial minorities. This is a ridiculous argument on the face of it and is a particularly inapplicable argument with respect to the sponsorship of this amendment by Senator DIRKSEN, whose outstanding leadership contributed greatly to passage of the civil rights legislation of 1964 and the Voting Rights Act of 1965. At this very hour a conference is being held between Members of the House and Senate to reconcile differences between the two bodies on the voting rights bill. Both of those measures guarantee the right of all Americans of voting age to register regardless of race, and to be able to actually exercise the rights of citizens in every way.

The opponents of the Dirksen amendment have argued that permitting the people of the various States to choose to elect members of one house of their State legislatures on a basis other than population would permit the majority of the people in the various States to form districts in a way that would discriminate against racial minorities. This argument has been a spurious one to begin with and has now been effectively demolished by the revised wording of the Dirksen amendment which makes explicitly clear that apportionment plans must fully comply with all other provisions of the U.S. Constitution including those amendments which guarantee the equal rights of all citizens regardless of race, color, or creed. To be specific, the only qualifications for basing one house on factors other than population are factors of geography and political subdivision.

We are getting into a ridiculous and self-defeating situation when we try to catalog every move on the basis of its possible effects in terms of ethnic counts. I invite the attention of my colleagues to a recent decision of the U.S. District Court for the District of Hawaii, rejecting a Senate apportionment plan adopted by that State's legislature. The case I am citing is *Holt* v. *Richardson*, 240 F. Supp. 724 (D.C. Hawaii, 1965). Among various reasons for its decision, the court cited a statistician's findings that one proposed district "encompassed a highly heterogeneous area containing a multitude of Caucasian widows in the uplands area, and an overabundance of

Filipino males in the seaward portion of the district."

It is my opinion that the interests of Caucasian widows and Filipino males alike in any State are best served by not segregating them into arbitrary confinements but by regarding them as American citizens sharing a community of interests with their neighbors in the natural geographical and political subdivisions that exist.

Mr. President, I ask unanimous consent that the text of the opinion in Bolling against Sharpe, and the text of the opinion in Holt against Richardson be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

THE PEOPLE VERSUS POLITICAL POWER

Mr. HRUSKA. Mr. President, the opponents of this amendment are obsessed with the intricacies of political power, of putting group against group. I submit that this amendment is in the best tradition of American representative government, and that not the least of its beneficial effects will be to substitute, in reapportionment decisions, the will of the people, within proper constitutional safeguards, as expressed in statewide elections, for stultified, statistical legalistic wrangling in the courts such as has been going on since the decision in Reynolds against Simms.

It should be further pointed out that equal population districts, far from protecting minorities, are potentially dangerous to the interests of minorities. All of us, in one sense or another, are members of minority groups. In some States farmers are minorities, people living in small towns can be minorities, people dependent for their livelihood on resource industries can be minorities. That is the case in the State of Nebraska, as well as many other States.

The creation of arbitrary districts without reference to existing political subdivisions is an encouragement to gerrymandering schemes which, throughout our history, have been extremely harmful to minorities, whether those minorities are racial, ethnic, political, or economic. Multimember districts which are possible under strict application of the one-man, one-vote dogma are also a potential way to discriminate against minorities.

It is amusing that the opponents of the Dirksen amendment on the one hand claim that equal population districts are necessary to weaken the power of rural minorities, while on the other they argue that this same system is necessary to increase the power of racial minorities. They cannot have the argument both ways. As De Grazia says:

> The pressure of demographic effects in apportionment schemes is used by the advocates of equal population districts both to condemn the existing system and to praise the new. If one so-called minority is holding up the majority program, why do equal population advocates justify a new scheme on behalf of new minorities? They should be explicit so that a court of law and of opinion can judge whether they are truly majority advocates or minority advocates.

The whole purpose, theory, and intent of the Dirksen amendment is to permit States to insure protection to minorities by choosing systems of apportionment which, while giving due consideration to population, place emphasis on community interest and provide a weight against overcentralization of power. There are many valid reasons that large geographic areas, even though more sparsely populated than some urban areas, require greater legislative representation.

Mr. President, the saving grace of the Dirksen amendment is that the determination of those districts places emphasis on community interest and provides weight against overcentralization of power. It would be a power that would be exercised by elected representatives of the people of that State. The representatives would work out a plan to be submitted to the people of that State. That plan will not and cannot, under the Dirksen amendment, go into effect unless approved by a popular vote.

It is physically easier for a legislator to represent people densely concentrated in a city than the same number scattered throughout the countryside. In this connection, De Grazia points out:

> If one were to examine a map showing the location of the Ford car dealers, or of a life insurance company, or to plot locations of wholesalers of wrapping papers, he would probably find that these, like many other companies and governmental agencies, maintain offices doing less volume in rural and small city areas than other offices in big cities. More city business can be transacted through a single office than town and country business. The work of legislators is in good part liaison and broker between individual constituents, groups, and governmental units on the one hand and the agencies of the State on the other. The town and country legislators cannot transact the volume of business a city legislator can.

ELIHU ROOT PRINCIPLES

Historian Robert Luce in his penetrating work, "Legislative Principles," discussed the arguments of the late, great Senator Elihu Root on this subject. Senator Root stated:

> There were two reasons for not applying strict rules of representation according to absolute population of the whole state, first, that territorial extension, variety and separation of interests required a representation not necessary when there was a condensation in the great centers of population; and in the second place, that the great increase of effective force which comes from the election of a large number of representatives in one city—representatives who represent not in fact their separate districts but the whole city, representatives who are responsible to the same public opinion, and, in fact, represent but one combined interest of the citizens of that city—the great accumulated power created by that combination so far outweighed the effective power of a great number of scattered representatives of widely divided centers of population, small centers of population, that a difference in the ratio went but a small way toward equalization.
>
> Every man who is sent to the legislature from a great city represents not this artificial territory, this territory artificially defined; that is but a means of determining what voters shall pass upon the question of whether he or another man goes to the legislature. But he represents the whole city; every representative of every part of the city represents the whole city and no special part of it. I insist upon the principle which has been adopted in a large number of States in this Union, in almost every State which has had to deal with the problem of a great city within its borders and the relations of that city to an agricultural community that the problem which they have had to deal with shall be dealt with by us upon the same principle; that the small and widely scattered communities with their feeble power comparatively because of their division shall, by the distribution of representation, be put upon an equal footing, so far as may be, with the concentrated power of the cities. Otherwise, we never can have a truly representative Government.

MINORITY PROTECTION

In considering the need for minority protection through area representation in State legislatures, it should be pointed out that the need of any local unit does not diminish because some other unit has grown to great size. Opponents of the Dirksen amendment argue that to give minorities, other than racial minorities, effective representation is a form of discrimination against majorities—although they inconsistently talk out of the other side of their mouths with respect to racial minorities.

De Grazia points out:

> In numerous realms of life the law tries to engage in such preventive discrimination in favor of the probably or potentially weaker—laws giving extra assistance to the legal defense of the poor; relieving the poor from burdens that the well-to-do have to carry; providing educational opportunities to the poor; cutting down the estates of the rich deceased; giving minorities representation regardless of numerical proportions in committees and legislative bodies elsewhere; laws against tendencies to monopoly; laws giving minority elements some kind of "better deal" as labor unions are helped to organize within corporations.

Do the opponents of the Dirksen amendment, who base their opposition on claims that area representation discriminates against majorities in favor of minorities, wish to extend the logic of their argument to positions in opposition to the expenditure of public funds in the war on poverty programs on the grounds that such expenditures discriminate against the majority in favor of the minority?

Another reason why many States have adopted area representation in at least one house of their State legislatures is the need for protection of the less easily organized areas from the political power of more easily organized areas. Again, De Grazia points out:

> The big city presents better opportunities to organize on a large scale than the country and smaller cities do. There can be a boss of a rural area, there can be a county courthouse gang, there can be a clique that runs a small-sized city and all of these present serious problems * * * but a Chicago or New York machine might dominate a whole State if given the chance to repeat on a statewide scale what has perpetrated upon their own city.

CHIEF JUSTICE WARREN

Chief Justice Earl Warren, when he was Governor of California stated about this subject:

> There was a time when California was completely dominated by boss rule, but

liberal election laws and representative apportionment have liberated us from such domination.

Any weakening of these laws would invite a return of boss rule which we are happily rid of. Our State has made almost unbelievable progress under our present system of legislative apportionment. I believe we should keep it.

They (the 58 counties) are far more important in the life of our State than their population bears to the entire population of the State. In this respect they are comparable to some of the less populous but important States of the Union.

It is for this reason I have never been in favor of restricting their representation in our State senate to a strictly population basis.

It is the same reason that the Founding Fathers of our country gave balanced representation to the States of the Union—equal representation in one house and proportionate representation based upon population in the other.

Mr. President, we have testimony from members of the California Legislature on that very point. In their testimony they went into the plan in great detail.

I commend to my colleagues the reading of the testimony of the witnesses from the State of California. Their testimony will be found in the transcript of the hearings.

BIG CITY MACHINES

It is no secret that the hard-core opposition to the Dirksen amendment stems from those who speak for cities in the United States which are traditionally dominated by machine politics—New York, Chicago, Boston, Philadelphia, and Detroit.

The elimination of the three objections expressed by the Senator from Maryland to the Dirksen amendment which I have discussed already and which have been rendered moot by the actual wording of the amendment as now revised leave four main thrusts to remaining arguments made.

FALLACY OF THE OPPOSITION

The first of these objections I shall dismiss briefly because it is palpably false. This is the argument that apportionment plans submitted to the people could not be trusted to be fair ones as, in some instances, such plans would be drafted by allegedly malapportioned legislatures. This objection is totally without merit, for, if any plans are unfair and rejected by the voters, the strict population apportionment of both houses must apply under existing Supreme Court rules and the terms of the Dirksen amendment.

The second of the remaining arguments is contained in the Senator from Maryland's long, rambling piece of historical mish-mash attempting to demonstrate that the Founding Fathers of our country were dedicated to a man to the dogmatic principle of one man, one vote.

It is amusing that many of the people who normally denigrate tradition should appeal to it in this instance. I would raise the further question that if the submitted premise is correct; namely, that the ground rules for legislative apportionment changed from an 18th century concept of equal population districts to a 19th century concept of area representation, would that necessarily be bad? I would point out that the Founding Fathers defended slavery, which was eliminated in the 19th century. Would the opponents of the Dirksen amendment have us return to slavery merely because the concept of equal opportunity for all races came into being in the 19th century?

In any event, the historical arguments of the Senator from Maryland are arrant nonsense and disclose a shocking and inaccurate reporting of history, as a matter of fact.

The Senator quoted from Thomas Jefferson, Alexander Hamilton, Benjamin Franklin, and James Madison in an attempt to prove that the Founding Fathers were unanimously in favor of apportionment by strict equal population districts. The senior Senator from Wisconsin [Mr. PROXMIRE] even said:

All of our leading Founding Fathers—may I stress "all"—felt this way.

Senators TYDINGS and PROXMIRE, of course, neglected to observe that Thomas Jefferson vociferously favored agrarian supremacy and spoke from the standpoint of one who strongly felt that the power of urban centers should be curbed.

JAMES MADISON

As for James Madison, I should like to place in the RECORD his remarks from the Federalist Papers, No. 51:

In republican government the legislative authority necessarily predominates. The remedy for this is to divide the legislature into different branches; and to render them, by different modes of election and different principles of action, as little connected with each other as the nature of their common functions and their common dependence on society will admit.

JOHN ADAMS

John Adams, who has always been considered a member in good standing of the Founding Fathers, had this to say:

To expect self-denial from men when they have a majority in their favor, and consequently, power to gratify themselves is to disbelieve all history and universal experience * * * there is, in short, no possible way of defending the minority from the tyranny of the majority but by giving the former a negative of the latter.

Any contention to the contrary from these quotations could reasonably be classed as being held by one not as well read on the ramifications of the variety of opinions held by the various Founding Fathers on the subject of apportionment as he should be.

ORIGINAL STATE CONSTITUTIONS WERE ON NON-POPULATION APPORTIONMENT

The first constitutions of the Original States reflected a wide variety of opinion on desirable systems of legislative apportionment, and in the main demonstrated widespread approval for balanced systems giving recognition not just to population but to community interests and the necessity to counterpoise overcentralization of power. I shall list a brief rundown of the apportionment methods chosen by the Thirteen Original States.

This rundown is predicated upon analysis of the subject by the Legislative Reference Service of the Library of Congress. The material begins at page 1126 of the hearings. Three corrections would have to be made. Those are the ones pertaining to the State of Maryland, the State of New Jersey, and the State of Pennsylvania. I have those correcting pages in my hand, consisting of the constitutions that were in effect when the Republic came into being in 1789.

Mr. President, I ask unanimous consent to insert the constitutions in the RECORD.

The PRESIDING OFFICER. Without objection it is so ordered. (See exhibit 2.)

Mr. HRUSKA. Mr. President, the first State about which I shall comment is Connecticut, which apportioned its representatives by towns, starting after the Revolution with two representatives apportioned from each town, but gave but one each to newly incorporated towns regardless of size. That is not "one-man-one-vote." That is plainly a geographic or political subdivisions proposition.

Senators were also chosen on a geographic basis, with no regard to population.

Second. In Delaware, which proudly designates itself "The First State," both senators and representatives were chosen by counties with no regard to population.

Third. In Georgia, which had a unicameral legislature, 5 seacoast counties were given 36 legislators, 2 middle counties 20 legislators and one upland county given 10. Yet these three areas were approximately equal in population.

Fourth. In the State of Maryland, the house of delegates consisted of four members from each county and two each from Annapolis and Baltimore. Members of the senate were chosen by an electoral college, the members of which in turn, were elected on a county basis.

Fifth. In Massachusetts every town had at least one representative in the house. Forty senators were divided among 13 districts and proportioned to the State tax paid by each district.

Sixth. In New Hampshire there was a very large house elected by towns and a very small senate, the seats of which were filled by districts.

Seventh. The original constitution of New Jersey assigned three members of the assembly to each county, permitting the legislature to add to or diminish the number when they might judge it "equitable and proper on the principles of more equal representation." The senate consisted of one senator from each county, regardless of population.

Eighth. The New York Assembly consisted of 70 men elected from the counties in proportions constitutionally fixed, but subject to correction by septennial censuses. The senate was composed of 24 members elected from four large senatorial districts.

Ninth. North Carolina began as a State with one senator from each county and one from each of six specified towns.

Tenth. Pennsylvania originally had a unicameral legislature—as my own State of Nebraska now has, and has had for the last approximately 30 years—the members of which were to be elected annually by the counties and Philadelphia.

The State, however, soon revised its constitution incorporating a bicameral legislature modeled after the Federal Constitution, the lower house elected by population and the senate chosen from districts.

Eleventh. In Rhode Island, where no constitution was adopted until 1842, apportionment was by modified population with each city and town having at least one representative, and none to have more than one-sixth of the total. Each town and city had one senator, regardless of population.

Twelfth. The South Carolina constitution apportioned senators and representatives by parishes and districts and directed that reapportionment 7 years later, and then after every 14 years should "be proportioned in the most equitable and just manner according to the particular and comparative strength and taxable property of the different parts of the same."

Thirteenth. The Virginia constitution required each county annually to elect two members to the lower house, while the senate consisted of 12 men chosen from specially formed districts.

I would like to remind the Presiding Officer and listeners that that was the State of Thomas Jefferson.

The first State admitted to the Union after the formation of the Union was Vermont. It originally had a unicameral legislature with representatives apportioned by towns for the first 7 years, two from major towns and one from smaller towns, and after 7 years, one from each.

From this brief rundown, in spite of the many assertions to the contrary, it is readily apparent that the proposition that the doctrine of equal population districts is holy writ handed down as revealed truth by the Founding Fathers is unadulterated inaccuracy.

Mr. LAUSCHE. Mr. President, will the Senator yield for a question?

Mr. HRUSKA. I am glad to yield.

Mr. LAUSCHE. Will the Senator from Nebraska explain the source of the information reflecting the manner in which legislative representation was apportioned in the Original States? I believe he has already made mention of it.

Mr. HRUSKA. I made mention of it. The source of the information is the Legislative Reference Service of the Library of Congress. In that connection, the material is to be found in the hearings beginning at page 1126. That material, on that page and following pages, should be read in conjunction with the corrected sheets which have been inserted in the record in the case of New Jersey, Pennsylvania, and Maryland.

Mr. LAUSCHE. Based upon what has been related concerning the method by which legislators were apportioned, it would seem, on the basis of the information provided by the Senator from Nebraska dealing with the Thirteen States, that representation solely on the basis of population was a rare condition.

Mr. HRUSKA. It was, indeed.

Mr. LAUSCHE. Practically each of the Thirteen States, in one manner or another, and most of them completely, made the apportionment of representation on the basis of towns and counties: Is that the inference to be drawn from the statistical information given by the Senator from Nebraska?

Mr. HRUSKA. I did not understand the Senator's question completely.

Mr. LAUSCHE. In the Thirteen Original States, the representation was allocated principally and practically in all of the States on the basis of representation of towns and counties.

Mr. HRUSKA. That is correct. There is no question about it, in considering the original text of the constitutions involved in that situation.

Mr. LAUSCHE. That is, even though one town had a larger population than another, the allocation of the representatives was numerically identical.

Mr. HRUSKA. The Senator is correct.

Mr. LAUSCHE. I have not been able to identify a single instance, except probably New York, where representation was allocated on the basis of population. If we could take a look at New York for a moment——

Mr. HRUSKA. In New York, the senate was composed of 24 members elected from 4 large senatorial districts. The assembly consisted of 70 men elected from the counties in proportions constitutionally fixed, but that was subject to correction by a septennial census.

Mr. LAUSCHE. The first sentence of the paragraph dealing with New York reads as follows:

> The New York Assembly consisted of 70 men elected from the counties in proportions constitutionally fixed, but subject to correction by septennial census.

Mr. HRUSKA. That is correct.

Mr. LAUSCHE. It does not state whether the problems were on the basis of geographic area, or on the basis of population.

Mr. HRUSKA. In the brief description of the New York situation, the population of the senatorial districts is not detailed; but in my judgment, the Senator is correct in his appraisal of the fact that New York is the only State of the 14 States to which I have referred which anywhere near approaches population as the basis of apportionment.

Mr. LAUSCHE. The Senator referred to 13 States. The first State admitted to the Union was Vermont.

Mr. HRUSKA. The Senator is correct.

Mr. LAUSCHE. Based upon what the Senator from Nebraska has said, the conclusion must be drawn that in the original State, representation was assigned on the basis of geographical area and not on the basis of population.

Mr. HRUSKA. If any generalization could be made in that regard, that would have to be it.

Mr. President, I do not believe that the Senator from Maryland, himself, really believes that our Founding Fathers, having perfected a sort of holy writ, passed it down to later generations including this one, because he stated, in part:

> A fair examination of the facts shows that for the first hundred years of our Federal Republic our legislatures were almost without exception fairly apportioned substantially on the basis of population.

Mr. President, I submit that the key word here is "substantially." It is a qualifying word indicating awareness that factors other than population were taken into account in the early composition of our State legislatures, just as they have been in more recent times. Proponents of the Dirksen amendment fully support the idea that State legislatures should be constituted "substantially" on the basis of population. Under its terms, one house of each State legislature must be apportioned strictly on the basis of population. The factor of population certainly will be a substantial consideration in apportionment plans adopted under the terms of this amendment for the other house of State legislatures where those plans include other factors.

But, as Prof. Robert G. McCloskey, writing in the Harvard Law Review, volume 76, November 1962, stated:

> It is certainly untrue that "one-man, one-vote" was regarded by the framers [of the Constitution] as an imperative basic principle for carrying on the day-to-day, year-to-year process of government; and it is at least dubious that any such principle became embodied in our constitutional tradition in the years that followed.

Mr. McCloskey continues:

> But it is beyond doubt that the framers of the Constitution acknowledged popular consent as the indispensable basis for setting up that process of government in the first place. Though the Government might take various forms and possess various powers, those characteristics were derived from the consent of the governed. If this central principle, so created in the Declaration, was not expressed in the explicit language of the Constitution, it is because after 1776 it was taken for granted. Its claim to be a fundamental principle of the Constitution is about as solid as any claim could well be.

Mr. LAUSCHE. Mr. President, will the Senator from Nebraska yield?

The PRESIDING OFFICER (Mr. RUSSELL of South Carolina in the chair). Does the Senator from Nebraska yield to the Senator from Ohio?

Mr. HRUSKA. I am happy to yield to the Senator from Ohio.

Mr. LAUSCHE. It is rather interesting to observe what Prof. Robert G. McCloskey stated:

> It is certainly untrue.

He uses a rather emphatic word "untrue."

"That one man, one vote was regarded by the framers of the Constitution as an imperative basic principle for carrying on the day-to-day, year-to-year process of government."

Mr. President, I believe that the use of that word is quite significant, because the professor knew that that argument was being advanced, and he went on to point out that the argument was faulty.

I thank the Senator for yielding to me.

Mr. HRUSKA. I thank the Senator for his observation. He is correct in his appraisal of the meaning of that word "untrue." It is quite an unbending and inflexible word.

EXPAND THE PEOPLE'S VOICE

Mr. McCloskey's observations lead us to the third main remaining argument of

the Senator from Maryland [Mr. TYDINGS] and his supporters—the upside-down, intellectually bankrupt argument that the Dirksen amendment proposes to restrict the right of franchise rather than vice versa. The sheer audacity in advancing such an argument is wonderful to behold. It is an audacity born of desperation. As anyone with third grade intelligence should be able to understand, the Dirksen amendment extends the right of the franchise to allow the people of all States—not just the people of some of the States which have enjoyed this right in the past—to have a meaningful voice in the manner in which they wish their legislatures constituted.

It would be subject to the periodic review which would be required by the Dirksen amendment. Within 2 years after the census is completed, there must be a resubmittal in those States, where such departure from the rule of Reynolds against Simms prevails, so that a substitute plan will go to the voters of the States and they will have a new opportunity, once every 10 years, to decide whether they wish to continue or whether they wish to return to equal population as the sole source of apportionment.

Indeed, the chief point the Supreme Court made in its decision in Baker against Carr was that in Tennessee, a State with no provision for popular initiative, the State legislature had last been apportioned in 1901, and no opportunity ever had been given the people of Tennessee since that time to determine whether they wished a change.

The Dirksen amendment, in conformity with America's basic governmental principle of popular consent, provides that apportionment plans for one house of State legislatures at variance with strict population representation must be submitted to the people of that State, voting on a one-man-one-vote basis in a statewide election, for approval or rejection, and that no such manner of apportionment can continue in effect beyond 2 years after the following decennial census, at which time such a plan or a similar one proposed by the legislature, must again be submitted to the voters for their approval or rejection.

How this extension of the franchise can be viewed as a restriction of the franchise is beyond understanding, except perhaps in the sense that some words are defined differently by some people than by other people, as in the use of the word "democracy" by the Communist countries to describe a system of government totally different from democracy as we know it here.

We know, of course, in another field, totally unrelated to this field, how the use of the word "democracy" by Communist countries is used to describe a government totally different from the democracy that we know here. Certainly, in the case of Tennessee, where the amendment would bring to the people of Tennessee an opportunity to vote on their plan of apportionment once every 10 years, when they have had no such opportunity since 1901, would not be an abridgment of the right of franchise; it would be an enlargement of it.

WHY FEAR THE PEOPLE?

Opponents of the Dirksen amendment cannot avoid the uncomfortable position they have placed themselves in—the position that the people cannot be trusted to make the right decisions at the polls, that is, decisions not meeting the liking and approval of such opponents. That is what it means. But it should be noted well that those opponents are not those to whom reference is made in the first three words of our Constitution—namely, "We, the People." Not "we, the Senate"; not "we, the Congress"; not "we, the opponents of the Dirksen amendment"; but "We, the People." Those words refer to all the people, not just to those who by their opposition seek to prevent the people from an opportunity to make a choice.

CONSENT OF THE GOVERNED

In fact, there is painted a frightening picture of the alleged ease with which the mass of voters can be misled in election campaigns. If any Senator has so little faith in the ability of the people in his State to comprehend the issues in an election on legislative apportionment, how can he feel comfortable serving in the U.S. Senate to which those same people have elected him? How else can the "consent of the governed be determined?

The Legislature of the State of Maryland, and the legislatures of many other States—28 in all—have called for a constitutional convention to enact just such an amendment as the Senator from Maryland opposes. And it should be pointed out that not just the houses in those States that are elected on a basis other than population have acted, but the houses as well that are elected on a strict population basis.

THE MICHIGAN CASE

The example of the State of Michigan clearly refutes the argument that the people are too stupid or unreliable to be entrusted with the right to vote on legislative apportionment plans. In 1952 the voters of Michigan were presented with two proposed constitutional amendments on reapportionment, both appearing on the ballot as the result of initiatives. The first proposal provided for a senate of 33 members elected from single member districts. The ratio for districts was the State population divided by 33 and no district might contain a greater than 15 percent deviation from the ratio. The house was to be of 99 members with the ratio calculated in the same way. This was a pure equal population district plan.

The second proposal on the ballot called for a Federal plan, placing the senate on an area basis with fixed districts described in the constitution. The house was set at 110 members with the ratio computed by dividing the State population by 110. A county or group of counties received one representative if it had over 50 percent of the ratio and another for each full ratio thereafter. This, in other words, was a plan that combined population representation in one house with area representation recognizing community interests in the other.

The voters rejected the strict one-man-one-vote plan by 1,415,355 to 924,242, a margin of 491,113, almost half a million. They approved the Federal plan of apportionment by a vote of 1,269,807 to 975,518. Only two of the State's eight industrial counties favored the defeated proposal. Eighty-two percent of those voting for the Governor voted on the first proposal, 79 percent on the second.

As Dr. de Grazia has pointed out:

> The Michigan case is a spectacular demonstration of how idealogues of the egalitarian-majoritarian type can leap quickly from adoration to contempt of the will of the citizens as expressed at the polls. The initiators of the equal populations proposal defeated in the popular voting and the plaintiffs seeking to declare the subsequent decision of the voters null and void were explicitly and overtly one and the same—the leaders of the Michigan State AFL–CIO. They asked for an expression of the will of the people at the polls on the equal populations proposal; when the "will of the people" did not conform to their plan, even those supposed to benefit most opposing them, they turned to the courts in order to nullify the clear and unambiguous decision of the voters.

NO DOUBLE STANDARDS

I do not believe that we in this body can operate under a double standard. I do not believe that we can periodically appeal to the intelligence of the voters of our respective States to elect us to office and at the same time accuse the voters of gullibility and lack of intelligence as an argument to deny them the right granted by the Dirksen amendment to vote on the method of apportioning State legislatures.

The final objection in the remaining arguments is perhaps the most curious and offensive of all: The contention that this Congress has usurped the power of the States and the contention that this alleged usurpation has resulted from the failure of the State legislatures to conduct themselves properly—an alleged failure that would be instantly cured if both houses of all State legislatures were elected on an equal population district basis.

The odd argument is advanced that Congress is besieged with problems in the areas of housing, air and water pollution, mass transportation, and more, because legislatures which are alleged to be malapportioned have failed to act in this connection within their own States.

In the first instance, the argument is ridiculous on the face of it, but I would say to those who advance it, what of those States the legislatures of which already are comprised on the basis of population? Has a single such State suggested to this Congress that it no longer wishes Federal funds for the purposes cited? Of course not. Yet such action would be the logical conclusion if the premise advanced were correct.

I point out further that the States have led the Federal Government in a great variety of fields, not the least of which are fair employment practices and voting rights. Or, I would point out that long before the Federal Government involved itself with the issues cited of housing, air and water pollution, and mass transportation, many States were embarked on major State projects to cope with just these problems.

I, for one, do not wish to be a party to any childish name-calling battle between the Federal Government and the State governments. Each should respect the other, and in these modern times must function cooperatively with many programs of a partnership nature.

No legislature has a perfect record. This Congress itself is often criticized, and State legislatures certainly are proper subjects of criticism on occasion, but I think any fairminded observer must be willing to agree that State legislatures as a whole have done a remarkable job in many fields, including the fields of education and welfare.

There were pointed out instances where State senates have disapproved legislation approved in the lower State houses. This, of course, is the checks and balances system at work. Lower State houses also have turned down legislation approved by State senates. The U.S. Senate has refused to go along with legislation approved by the House of Representatives and vice versa on countless occasions. For every example of so-called good legislation passed by a population-oriented house and disapproved by an area-oriented senate, similar examples can be cited of similar legislation passed by an area-oriented senate and disapproved by a population-oriented house.

In his work, referred to above, Dr. de Grazia points to a pertinent study of the clash of metropolitan and nonmetropolitan interests in the State legislatures of Illinois and Missouri by Dr. David R. Derge, published in the American Political Science Review of December, 1958, page 1065. In it Professor Derge compares the voting behavior of metropolitan and nonmetropolitan legislators. He reports:

> The nonmetropolitan members seldom vote as a bloc against the metropolitan; nor do the metropolitan members usually vote together. When the city legislators do vote together they usually prevail.

Dr. de Grazia refers to another significant study dealing with the special session of the Missouri General Assembly in 1958 called to consider "emergency" legislation requested by the administrations of St. Louis and Kansas City. This study, reported in National Civic Review, observes:

> The difficulty in passing city legislation does not come from rural members, but from members of the city's own delegation. * * * It is almost invariably true that if the city's delegation is united upon a measure it will be accepted by the entire general assembly.

The legislation in question failed in passage. As Dr. de Grazia points out:

> This evidence is damaging enough to the nonempirical and simplistic theory of the country as the source of the city's woes. But, in addition, Missouri happens to be one of the States most closely apportioned on an equal populations basis. And in both houses.

FALLACIOUS ARGUMENT

To argue that the trend toward increased centralization of government in the United States is simply the result of failure of State governments to be responsive to the needs of the people is to ignore a welter of factors that have contributed to this trend—the revolution in speed of communications and travel; the decisive weakening of the "sovereignty of the States" concept as a result of the Civil War; the centralizing effects of U.S. participation in two major World Wars in this century; and the adoption in 1913 of the 16th amendment giving the Federal Government the power to raise revenues on a previously unimaginable scale.

To argue that State legislatures have been unresponsive to the electorate is to ignore the fact pointed out by Robert G. Dixon, Jr., professor of law at the George Washington University Law School, in his article, "Reapportionment Perspectives: What Is Fair Representation?" in the April 1965 issue of the American Bar Association Journal:

> There are three instruments of representation and legislative leadership in State governments, not two: the upper house of the legislature, the lower house of the legislature (traditionally elected on a one man, one vote basis in most States) and the Governor (invariably elected on a one man, one vote basis).

As Mr. Dixon points out:

> The Governor proposes and vetoes and normally has an even greater legislative role in State government than the President has in our National Government.

A final fallacy of this particular line of argument advanced by the Senator from Maryland and his supporters against the proposition that the people of any State should have the right to choose to select members of one house of their State legislatures on a basis other than population is clearly revealed in the fact that one House—the Senate—of the Federal Congress is selected on a basis other than population. If election of State senators on an area basis results, as opponents of the Dirksen amendment maintain, in unresponsiveness by State governments to public needs, how can the Federal Government with one legislative House elected on an area basis be responsive to those same needs?

The untenability of the argument of opponents of the Dirksen amendment on this point is illustrated by a question raised by the Senator from Wisconsin [Mr. PROXMIRE] during the speech on June 2, by the Senator from Maryland [Mr. TYDINGS]. The Senator asked:

> Is it not true that when one house has been based on elements other than population the State governments have been unable to act, unable, primarily, to act on urban affairs, as well as many other problems, because they have different constituencies and because there is a built-in conflict, assuring the States that their legislatures will clash, conflict, disagree, and frequently be unable to act?

If the Senator from Wisconsin [Mr. PROXMIRE] believes that the composition of two State legislative houses on different bases renders effective legislative action impossible, he must also believe that the composition of the U.S. Congress, where the two Houses are constituted on different bases, renders the U.S. Congress incapable of acting effectively. If this were true—which, of course, it is not—then how can opponents of the Dirksen amendment logically argue that the Congress has acted in various fields because of the ineffectiveness in these fields of the State legislatures?

The States rights argument of the Senator from Maryland [Mr. TYDINGS] and his supporters, who have traditionally denigrated States rights in other contexts, is hypocrisy at its most blatant point of view. The prospect of arresting the flow of political power in Washington depends on strong State governments, on viable State governments, on governments selected in a manner which balances urban and rural interests and which provides some measure of participation by minority interests, whether they are racial, sectional, or political minorities.

TREND TOWARD POWER

Certainly the trend toward greater political centralization can never be arrested if the people become imbued with a feeling of helplessness and disinterest in their State governments through denial of the right to choose the methods of electing their State governments appropriate to their State within constitutional ground rules. The trend can never be arrested if the people, as in California, Colorado, Michigan, Missouri, Nebraska, and many others are to be told that, having chosen on a Statewide one-man, one-vote basis to constitute one house of their legislatures on an area basis, their votes and their preferences are meaningless.

During the discourse of the Senator from Maryland [Mr. TYDINGS], the Senator from Wisconsin [Mr. PROXMIRE] raised the question:

> I ask if it is not true that questions that deal with urban problems that have been crowding the Congress of the United States this year as never before and will continue to crowd us in future years—such as housing problems, clean air and clean water, mass transportation and many other questions—would be handled more expeditiously and in a more satisfactory way on a local or State level if the States had a one-man, one-vote representation in both houses of their State legislatures, so they would not be divided against themselves as they are now and as they would be under the Dirksen amendment?

This question implies that if the Dirksen amendment is not adopted and one man, one vote is applied to both houses of all State legislatures, the Federal Government would leave these issues to the States. Are the Senators from Wisconsin and Maryland and their supporters willing to pledge that if the Dirksen amendment were rejected by the Senate they would oppose all proposals from here on out to involve the Federal Government in housing problems, clean air, clean water and mass transportation?

OPPONENTS FOR BOSS RULE

In the final analysis, opponents of the Dirksen amendment must be for boss rule of big city machines—the kind of boss rule discussed by Chief Justice Earl Warren—and for the extension of opportunities to gerrymander legislative districts for the benefit of those machines. They are opposed to the recognition of minority and community interests and they are opposed to the basic

principle that Government should be by the consent of the governed. They distrust the intelligence of the people to make their own decisions.

They are blinded by the simplistic appeal of the one-man, one-vote slogan, appropriate to the cause of civil rights but totally inappropriate to the issues of legislative apportionment.

I quote again from Professor de Grazia:

In the hypnotic glare of the equal protection idea blindly seeking a grotesquely simple equality, the argument against the existing apportionments continues to run: If the number electing an official in one constituency is less than in another when both officials have the same formal power in the same policy making group, then the people of the first constituency are denied something and the extent of the denial and inequality varies with the difference in number between the two constituencies. * * * No attention is paid to whether people are truly represented.

A mechanical view of man and human relations is held and a numbers obsession evolves.

This simple belief in the unrestrained power of majorities has, on the most cursory examination, no relation to equality. As Dr. de Grazia points out:

If X, Y, and Z are 3 constituencies and each has 1,000 people and 1 representative, then, according to this belief (in absolute numerical equality) each person living in X, Y, and Z has equal power over his representative, and representatives A, B, and C have equal power in relationship to each other in respect to whatever they do collectively and individually as legislators. * * * However, if the election of A, B, and C is by majority principle, then a number of people will not be equally powered—they will win or lose only.

Furthermore, if A, B, and C have to decide by majority vote as legislatures usually try to do, then it will occur that A and B, or B and C, or A and C can override the third man. The majority principle operates to make a great many people and representatives greatly unequal all the time. * * * The equal populations numerology * * * is a dangerous flirtation with mass neurosis. Man loses something as a citizen—without regard to slogans of one man, one vote—when he is reduced to naked abstract numbers. He is a faceless equality with other numbered citizens. They become equally devoid of group ties and human responses until they become the mass. The mass, in fact, cannot be said to exist until citizenship has been destroyed through individuals being torn loose from their social relationships and reduced to separate items helplessly confronting the central state.

Professor de Grazia has expressed with great vigor the case against strict reliance on equal population districts as the only permissible method of legislative apportionment. Perhaps he has overstated the case.

In any event, supporters of the Dirksen amendment wish only for the people in each State to have the right to choose within a rigidly restricted framework the method of legislative apportionment which they deem appropriate to their State, whether it be a strict population basis for both houses, or some variation of the Federal plan under which the Federal Government successfully operates.

It must be stressed that the Dirksen amendment is permissive in nature. That statement has been made on the floor of the Senate many times this afternoon, and it will be made many more times, because it is of the essence.

It does not require any State to apportion one house of a bicameral legislature on a basis other than population. Only if the majority of the voters in any State so approve such an apportionment plan can any variation from a strict population apportionment be adopted. Regardless of the existing composition of State legislatures, only the people voting at a statewide election can place into effect an apportionment plan providing for areas other than population representation in one legislative house.

In conclusion, I wish to read once more, as I did at the beginning of this discussion, the best argument for the Dirksen amendment, the language of the amendment itself as before the Senate Judiciary Committee which has been carefully evolved after many weeks of exhaustive study and deliberation by the Subcommittee on Constitutional Amendments:

SECTION 1. The people of a State may apportion one house of a bicameral legislature using population, geography or political subdivisions as factors, giving each factor such weight as they deem appropriate, or giving similar weight to the same factors in apportioning a unicameral legislature if, in either case, such plan of apportionment has been submitted to a vote of the people in accordance with law and with the provisions of this Constitution and has been approved by a majority of those voting on that issue. When the first plan of apportionment is submitted to a vote of the people under this section there shall also be submitted, at the same election, an alternative plan of apportionment based upon substantial equality of population.

SEC. 2. Any plan of apportionment which has been approved under this article shall be resubmitted to a vote of the people, or, another plan may be submitted under the provisions of section 1, at the November general election held two years following each year in which there is commenced any enumeration provided for in section 2 of Article I, and upon approval by a majority of those voting thereon, such plan of apportionment shall continue in effect until changed in accordance with law and with the provisions of this Constitution.

That with which we are confronted here is not a question of whether the interpretation of the Supreme Court is correct or incorrect.

During the hearings of our subcommittee that question received small attention one way or another. It was assumed that the decision in Reynolds against Simms was the law of the land—that is the way most law abiding people like to look at those things—and that the Constitution is what Reynolds against Simms says it is. The question is not whether that decision is right or wrong. The question is whether the changes now confronting our system of government are sound and wise, and whether the people consider them sound and wise.

The decision must be made by the people. This Nation does not belong to the U.S. Senate, nor to the House of Representatives, nor to any branch of Government.

It belongs to the people. Let us act to make the words "We, the people" mean what they say.

Let the people decide.

EXHIBIT 1

BOLLING ET AL. *v.* SHARPE ET AL., CERTIORARI TO THE U.S. COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

(No. 8—Argued December 10–11, 1952—Reargued December 8–9, 1953—Decided May 17, 1954)

Racial segregation in the public schools of the District of Columbia is a denial to Negro children of the due process of law guaranteed by the fifth amendment (pp. 498–500).

(a) Though the 5th amendment does not contain an equal protection clause, as does the 14th amendment which applies only to the States, the concepts of equal protection and due process are not mutually exclusive (p. 499).

(b) Discrimination may be so unjustifiable as to be violative of due process (p. 499).

(c) Segregation in public education is not reasonably related to any proper governmental objective, and thus it imposes on Negro children of the District of Columbia a burden that constitutes an arbitrary deprivation of their liberty in violation of the due-process clauses (pp. 499–500).

(d) In view of this court's decision in *Brown* v. *Board of Education*, *ante* (p. 483), that the Constitution prohibits the States from maintaining racially segregated public schools, it would be unthinkable that the same Constitution would impose a lesser duty on the Federal Government (p. 500).

(e) The case is restored to the docket for further argument on specified questions relating to the form of the decree (p. 500).

George E. C. Hayes and James M. Nabrit, Jr., argued the cause for petitioners on the original argument and on the reargument. With them on the briefs were George M. Johnson and Herbert O. Reid, Jr. Charles W. Quick was also on the brief on the reargument.

Milton D. Korman argued the cause for respondents on the original argument and on the reargument. With him on the briefs were Vernon E. West, Chester H. Gray, and Lyman J. Umstead.

By special leave of court, Assistant Attorney General Rankin argued the cause on the reargument for the United States, as amicus curiae, urging reversal. With him on the brief were Attorney General Brownell, Philip Elman, Leon Ulman, William J. Lamont, and M. Magdelena Schoch. James P. McGranery, then Attorney General, and Philip Elman filed a brief on the original argument for the United States, as amicus curiae, urging reversal.

Brief of amici curiae supporting petitioners were filed by S. Walter Shine, Sanford H. Bolz, and Samuel B. Groner for the American Council on Human Rights, and others; by John Ligtenberg and Selma M. Borchardt for the American Federation of Teachers; and by Phineas Indritz for the American Veterans Committee, Inc.

Mr. Chief Justice Warren delivered the opinion of the Court.

This case challenges the validity of segregation in the public schools of the District of Columbia. The petitioners, minors of the Negro race, allege that such segregation deprives them of due process of law under the fifth amendment. They were refused admission to a public school attended by white children solely because of their race. They sought the aid of the District Court for the District of Columbia in obtaining admission. That court dismissed their complaint. The Court granted a writ of certiorari before judgment in the court of appeals because of the importance of the constitutional question presented (344 U.S. 873).

We have this day held that the equal-protection clause of the 14th amendment prohibits the States from maintaining ra-

cially segregated public schools.[1] The legal problem in the District of Columbia is somewhat different, however.

The 5th amendment, which is applicable in the District of Columbia, does not contain an equal protection clause as does the 14th amendment which applies only to the States. But the concepts of equal protection and due process, both stemming from our American ideal of fairness, are not mutually exclusive. The "equal protection of the laws" is a more explicit safeguard of prohibited unfairness than "due process of law," and, therefore, we do not imply that the two are always interchangeable phrases. But, as this Court has recognized, discrimination may be so unjustifiable as to be violative of due process.[2]

Classifications based solely upon race must be scrutinized with particular care, since they are contrary to our traditions, and hence constitutionally suspect.[3] As long ago as 1896, this Court declared the principle "that the Constitution of the United States, in its present form, forbids, so far as civil and political rights are concerned, discrimination by the General Government, or by the States, against any citizen because of his race."[4] And in *Buchanan* v. *Warley*, 245 U.S. 60, the Court held that a statute which limited the right of a property owner to convey his property to a person of another race was, as an unreasonable discrimination, a denial of due process of law.

Although the Court has not assumed to define "liberty" with any great precision, that term is not confined to mere freedom from bodily restraint. Liberty under law extends to the full range of conduct which the individual is free to pursue, and it cannot be restricted except for a proper governmental objective. Segregation in public education is not reasonably related to any proper governmental objective, and thus it imposes on Negro children of the District of Columbia a burden that constitutes an arbitrary deprivation of their liberty in violation of the due-process clause.

In view of our decision that the Constitution prohibits the States from maintaining racially segregated public schools, it would be unthinkable that the same Constitution would impose a lesser duty on the Federal Government.[5] We hold that racial segregation in the public schools of the District of Columbia is a denial of the due process of law guaranteed by the fifth amendment to the Constitution.

For the reasons set out in *Brown* v. *Board of Education*, this case will be restored to the docket for reargument on questions 4 and 5 previously propounded by the Court (345 U.S. 972).

It is so ordered.

U.S. DISTRICT COURT, DISTRICT OF HAWAII, APRIL 23, 1965—CIV. NO. 2308

(*Henrietta Davidson Holt et al., plaintiffs* v. *William S. Richardson, Lieutenant Governor of Hawaii, defendant;* John J. Hulten et al., and John A. Burns, Governor of Hawaii, intervenors-plaintiffs; Nelson K. Doi et al., and Elmer F. Cravalho et al., intervenors-defendants)

Proceeding on Hawaii's Senate reapportionment plan. The three-judge district court held that bill providing for apportionment of senatorial and house districts in such manner that multimember 3rd and 4th Senatorial Districts in Honolulu were the same as 8th Representative District and that 6th Senatorial District was fashioned almost entirely from 15th Representative District was unconstitutional for lack of totality of consideration of factors of population, compactness and contiguity of territory, community interests, community of problems, socioeconomic status, and political and racial factors.

Stay order rescinded; final order automatically reinstated.

1. Constitutional law, see 225(1): Number of registered voters per senatorial district and apportionment of senators to the 4 basic areas, viz., 3 to county of Hawaii, 2 to county of Maui, 19 to city and county of Honolulu, and 1 to county of Kauai conformed to standards required under equal proportions method prescribed by Constitution (U.S.C.A. Const. amend. 14).

2. States, see 27: To be valid, makeup of senate must positively complement makeup of house to provide vital equality of voter representation (U.S.C.A. Const. amend 14).

3. States, see 27: Schemes of districting each house of legislature, when conjoined, must offer compensating advantages to the voters, not only those voters within each representative district but all voters throughout the State (U.S.C.A. Const. amend. 14).

4. States, see 27: Overlap of representation with several senate and house districts must not be such as to concentrate and intensify voting power of single senatorial-representative district to point that voters therein have built-in disproportionate representational advantage over other voters of the State (U.S.C.A. Const. amend. 14).

5. States, see 27: Population is fundamental factor but not the sole definitive measure for setting up representative or senatorial districts (U.S.C.A. Const. amend. 14).

6. States, see 27: Compactness and contiguity of territory are factors for setting up representative and senatorial districts, but community of interests, community of problems, socioeconomic status, and political and racial factors must also be considered (U.S.C.A. Const. amend. 14).

7. States, see 27: Electoral districts must be laid out with totality of factors of population, compactness and contiguity of territory, community of problems, socioeconomic status, and political and racial factors having been considered, and sum total of all districting must result in substantial equality of meaningful representation to each and all voters (U.S.C.A. Const. amend. 14).

8. Constitutional law, see 225(1); States, sec. 27: Bill providing for apportionment of senatorial and house districts in such a manner that multimember 3d and 4th senatorial districts in Honolulu were the same as 8th representative district and that 6th senatorial district was fashioned almost entirely from 15th representative district was unconstitutional for lack of totality of consideration of factors of population, compactness and contiquity of territory, community of interests, community of problems, socioeconomic status, and political and racial factors (U.S.C.A. Const. amend 14).

9. Statutes, see 29: Reapportionment bill which had passed senate by barest majority and which had not yet lain on desk of Governor for 10 days prior to final adoption had not procedurally been submitted to three-judge district court entertaining action involving reapportionment.

Charles M. Tonaki, Barry J. Rubin, Honolulu, Hawaii, Masaji Marumoto, associate counsel, Honolulu, Hawaii, for plaintiffs.

Heen, Kai & Dodge, Robert G. Dodge, Honolulu, Hawaii, for defendant.

Bert T. Kobayashi, attorney general, State of Hawaii; Bertram T. Kanbara, Nobuki Kamida, deputy attorneys general, Honolulu, Hawaii, for intervenors-plaintiffs.

James T. Funaki, Honolulu, Hawaii, Robert Kimura, Honolulu, Hawaii, for intervenors-defendants.

Before Jertberg, circuit judge, and Beeks and Pence, district judges.

Per curiam.

This court has now before it the Hawaii State Legislature's H.B. No. 987, S.D. 1, C.D. 1; H.B. No. 773, S.D. 1, C.D. 1; and H.B. No. 986, setting forth that body's response to this court's order of March 9, 1965, viz., presenting (a) a plan for the provisional reapportionment of the senate on the basis of the voters registered for the 1964 general election; (b) a proposed constitutional amendment encompassing the same plan; and (c) a submission to the electorate in 1966 of the question of calling a constitutional convention.

The road by which the above bills reached this court is tortuous. In August of 1964, when this court first heard this case, the Legislature of Hawaii was then sitting in special session called by the Governor of Hawaii for the specific purpose of attempting to devise a scheme of legislative reapportionment which would be constitutionally valid. The legislature at that session failed to agree on any reapportionment plan. After a hearing in January 1965, this court, on February 17, 1965, 238 F. Supp. 468, found that article III, section 2, of the Hawaii State constitution fixing the number of senators per senatorial district, as well as the proviso at the end of the sixth paragraph in section 2 of article XV of the constitution, were invalid, "determined that the senate at least must be reapportioned before the 1966 general election," and enjoined the third State legislature in its regular 1965 session from passing any but preliminary housekeeping acts until it had set up the machinery for the convening of a constitutional convention to amend the State's legislative scheme of apportionment before the 1966 election.

On March 1, 1965, the legislature, then convened in regular session, requested this court to alter its order of February 17 so as to permit the legislature itself during that session to pass legislation:

(a) Enacting a provisional plan for reapportioning the senate on the basis of the 1964 registered voters, to be effective for the 1966 election and until a constitutional amendment on reapportionment had been adopted by the people of Hawaii as provided in the constitution.

(b) Adopting a proposed constitutional amendment embodying pertinent provisions of the foregoing reapportionment plan to be presented to the electorate for ratification at the 1966 general election.

(c) Submitting to the electorate at that 1966 election the question, under article XV of the State constitution: Shall there be a convention to propose a revision of or amendments to the constitution?

Counsel for all parties to the suit were in accord with the objectives outlined in the motion, and this court was satisfied from the representations made that the constitutional convention route prescribed by its February 17 order would be very expensive and perforce would demand the devotion of great time and effort from the people of Hawaii. The court, then, also believed that the legislators, each and all, would recognize their obligations to the entire electorate of Hawaii, would rise above any possible self-interest, would heed the admonitions of the attorney general, and would certainly note the flashing red lights of the caveats set out in this court's order of February 17, viz, that a constitutional convention in addition to providing for reapportionment of the senate might also consider (1) whether the registered voter population should continue to be used as the basis for apportionment, or some other type of population basis should be

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[1] *Brown* v. *Board of Education*, *ante*, p. 483.

[2] *Detroit Bank* v. *United States*, 317 U.S. 329; *Currin* v. *Wallace*, 306 U.S. 1, 13–14; *Steward Machine Co.* v. *Davis*, 301 U.S. 548, 585.

[3] *Korematsu* v. *United States*, 323 U.S. 214, 216; *Hirabayashi* v. *United States*, 320 U.S. 81, 100.

[4] *Gibson* v. *Mississippi*, 162 U.S. 565, 591. Cf. *Steele* v. *Louisville & Nashville R. Co.*, 323 U.S. 192, 198–199.

[5] Cf. *Hurd* v. *Hodge*, 334 U.S. 24.

adopted; (2) "whether it is better to have one or both houses of the legislature composed of single member representative districts, or to have and justify one or both houses composed in whole or in part, multimember of floterial districts. *Butcher* v. *Bloom*, 415 Pa. 438, 203 A. 2d 556, 572–573"; (3) whether there should be a change in the date of decennial reapportionment; and (4) whether there should be redistricting of the representative district.

The court therefore, by order of March 9, 1965, altered its February 17 order to permit the legislature (a) to enact a provisional reapportionment and redistributing plan for the senate; (b) to adopt "a proposed constitutional amendment embodying pertinent provisions of the foregoing reapportionment and redistricting plan" for submission to the electorate at the 1966 general election; (c) to enact legislation to submit to the electorate the question: Shall there be a convention to propose a revision of or amendments to the constitution? This order, like the one of February 17, demanded that the plan be approved by this court; failing approval, the order of February 17 demanding legislation for implementing a constitutional convention would again become effective.

On March 18 this court was advised that a provisional plan, in substance approved by both houses, was then in conference committee and about ready to be presented to this court, whereby the senate was reapportioned by dividing the State into the same original six senatorial districts, changing only the number of senators allocated to each district, based upon the use of the method of equal proportion. By that March 18 plan, 2 senators were apportioned to the first senatorial district—east Hawaii; 1 to the second—west Hawaii; 2 to the third—Maui; 9 to the fourth—southern Oahu; 10 to the fifth—the remainder of Oahu; and 1 to the sixth—Kauai.

The legislature quickly thereafter was informally made to understand that such a grossly lumpy apportionment of senators, whereby 40 percent of the entire senate would come from one senatorial district and 36 percent from another alongside, could never be approved, and the plan was forthwith withdrawn from conference committee for reconsideration by the house of representatives. Shortly thereafter, this court flashed an even brighter red light on its caveat number (2) above by informally indicating that because Hawaii had a multimember district house, any other than single member senatorial districting would have to be justified to this court.

On April 14, 1965, the legislature passed and sent to this court the numbered bills, identified supra:

Answer. House bill 987, its proposed provisional senatorial reapportionment plan; house bill 773, its proposed constitutional amendment embodying that same plan; and house bill 986, submitting to the electorate in the 1966 general election the question of the calling of a constitutional convention. By house bill 987, the State was divided into eight senatorial districts, viz:

County	Senatorial district	Number of Senators	1964 registered voters per district
Hawaii	1st	3	28,130
Maui	2d	2	18,786
Honolulu	3d	3	27,073
Do	4th	4	35,780
Do	5th	4	39,361
Do	6th	4	40,629
Do	7th	4	37,336
Kauai	8th	1	12,266

B. Exhibits A and B, attached to the plan, the same being the reports of the conference committee on the proposed provisional plan (H.B. 987), as well as the proposed plan for the constitutional amendment (H.B. 773) embodying the same, setting forth the conference committee's "justification" for wholly abandoning any attempt to redistrict the senate on a single member district basis.

Senate exhibits Nos. 5 and 6 (maps also filed), outlined the geographical boundaries of the respective senatorial districts of Honolulu.

(1) The court would agree that the number of registered voters per senatorial district and apportioned to the 4 basic areas; viz, 3 to the county of Hawaii, 2 to the county of Maui, 19 to the city and county of Honolulu, and 1 to the county of Kauai, conforms to the standards required under the method of equal proportions prescribed by the constitution of the State of Hawaii and thus meets that 1 test of constitutionality, *Roman* v. *Sincock*, 377 U.S. 695, 84 S. Ct. 1449, 12 L. Ed. 2d 620 (1964); *Reynolds* v. *Sims*, 377 U.S. 533, 84 S. Ct. 1362, 12 L. Ed. 2d. 506 (1964).

In the attached committee reports, the reasons given i.e., "justification," for choosing multimember districts of three and four senators per district were substantially: (1) single-member districts would tend to cause the senators therefrom to be concerned with localized issues and ignore the broader issues facing the State, and therefore it might fragment the approach to statewide problems and programs to the detriment of the State; (2) historically the members of the house had represented smaller constituencies than members of the senate, and tradition and experience had proved that balance desirable; (3) multimember districts would increase the significance of an individual's vote by focusing his attention on the broad spectrum of major community problems as opposed to those of more limited and local concern; (4) to set up single-member districts would compound the more technical and more intricate problem of drawing the boundaries; (5) population shifts would more drastically affect the boundaries of many smaller single-member districts—to a greater degree than would be found in larger multimember districts, citing Oahu's population boom and subdivision development.

In drawing the district lines the legislature reported that it "relied very heavily" on the standards of compactness and contiguity—"geographical separation and long-established representative precinct lines."

Except for the slightly misleading conclusion that the third senatorial district was primarily a suburban area, and that the fourth senatorial district was composed of substantially plantation and suburban communities, from the report it appears that no other criteria, save number of registered voters, geographical boundaries and historical representative district lines were considered or used in forming the plan. Apparently, ethnic, political, industrial, economic, social, occupational factors, and community of interests and problems were given little if any consideration by the legislature.

The testimony of Senator Sakai Takahashi, chairman of the conference committee, at the April 15, 1965, hearing on the plan, summed up the legislature's underlying raison d'être with his statement: "We thought it fair."

Mr. Robert Schmitt, statistician, who had testified at length in the hearing of August 1964, again a witness, testified in favor of applying the law of large numbers; viz, that smaller areas with small numbers fluctuate in much greater proportion that do larger areas with larger numbers, to senatorial districts. He, however, had not been consulted on the problem of the multimember districts versus single member, or the problem of district lines.[1]

In analyzing the plan, all Mr. Schmitt could say for the Third Senatorial District was that it had excellent statistical boundaries.[2] It was logical to deduce from his testimony that the boundary between the Fourth and Fifth Senatorial Districts had accidentally resulted in an excellent line of division, in that it separated the military area; i.e., military housing, etc., from the city proper. The best that he could say, however, for the line between the Fifth and Sixth Senatorial Districts was that it neatly separated the central business district from residential areas alongside. The line between the Sixth and Seventh Senatorial Districts was historical.

Mr. Schmitt, in contradistinction to the conference committee, found it necessary to analyze the representative districts and criticized many of them as being far too small; e.g., the 1st—on Hawaii, the 13th—Kahili, on Oahu; or much too large; e.g., the 15th with its six representatives. Schmitt pointed out that within the 15th district, in the Moiliili area, there was a higher proportion of persons of Japanese ancestry than in any census tract of the island, yet Waikiki, primarily concerned with tourist service, was the second highest among census tracts in percentage of Caucasian residents. Also, high-level professional, technical, and managerial people tended to live in Waikiki or upper Manoa,[3] whereas operatives, laborers, clerical workers, middle and lower middle income people lived in the central (Moiliili, etc.) area.

Mr. Schmitt stated that the Fifth Senatorial District likewise encompassed a highly heterogeneous area containing a multitude of Caucasian widows in the uplands area, and an overabundance of Filipino males in the seaward portion of the district. The 12th Representative District, therein, had a very high proportion of persons of foreign birth or Asiatic ancestry, of the lower middle socioeconomic group.[4] Schmitt's only other comment regarding the 5th Senatorial District was that the boundary between the 12th and 13th Representative Districts; i.e., within the proposed 5th Senatorial District, had a very unfortunate location.

Schmitt also pointed out that within the seventh senatorial district were too clearly defined and geographically, economically and socially divided groups. In Palolo in the 16th Representative District area were found the lower socio-economic laborers, operatives, and clerical workers, and in the Waialae-Kahala and Aina Haina areas were the highly professional and managerial class. In the latter area the median annual family income

[1] In its (unsubmitted) plan of March 18, supra p. 726 two senators were to be elected from east Hawaii, and one senator from west Hawaii. The total registered voters in 1964 in east Hawaii was 20,770, and in west Hawaii was 7,360. In the present provisional plan, this division of the island of Hawaii was dropped and three senators were to be elected from the first senatorial district, which would now include the entire island. Of the seven senators presently elected from districts one and two, five live within a short distance of each other in Hilo, in east Hawaii.

[2] The location of the residences of two of Honolulu's present total of 10 senators is in this district.

[3] The residences of the three senators from the present Fourth Senatorial District showed that all lived only a very short distance apart in the upper Manoa area of the 15th Representative District.

[4] Similarly, three senators from the Fifth District likewise lived a short distance from each other in the 12th Representative District.

in 1959 was almost $16,000, whereas in Palolo it was $3,000.

From the committee reports and the testimony of Senator Takahashi, it is obvious that the legislature gave sparse, if any, consideration of any of the facts or factors pointed out by Mr. Schmitt, in devising its scheme of multimember senatorial districts for Oahu.

Although we initially determined that the house of representatives was not unconstitutionally apportioned, by that decision we did not say that those representative districts had been perfectly laid out. We agree with Mr. Schmitt that, compared to the makeup of all other representative districts in the State, the 15th is too large.

There can be no truly representative government without a system of apportionment which provides potentially equal representation to the divergent factors incorporated within the body politic. Our own representative form of government demands checks and balances, devices and procedures to channel the many and diverse interests of the people into the making of a stream of legislation that produces for each person in that State the maximum beneficence possible. Methods of securing this desired objective were pointed out in *Reynolds* v. *Sims, supra,* 377 U.S. at 576–577, 84 S. Ct. at 1389:

"Different constituencies can be represented in the two houses. One body could be composed of single-member districts while the other could have at least some multimember districts. The length of terms of the legislators in the separate bodies could differ. The numerical size of the two bodies could be made to differ, even significantly, and the geographical size of districts from which legislators are elected could also be made to differ. And apportionment in one house could be arranged so as to balance off minor inequities in the representation of certain areas in the other house. In summary, these and other factors could be, and are presently in many States, utilized to engender differing complexions and collective attitudes in the two bodies of a State legislature, although both are apportioned substantially on a population basis."

(2–4) In reapportioning and redistricting the senate, both houses overlooked the fact that, to be valid, the makeup of the senate must positively complement the makeup of the house, to provide the vital equality of voter representation. Both houses of the legislature seemingly forgot that the schemes of districting each house, when conjoined, must offer compensating advantages to the voters—not only to those voters within each representative district, be it senate or house, but to all voters throughout the State. While there perforce must be some overlap of representation with the several senate and house districts, that overlap must not be such as to concentrate and intensify the voting power of a single senatorial-representative district to the point that the voters therein have a built-in disproportionate representational advantage over any other voters of the State.

If the achievement of this goal is even to be approached, there should not be any monolithic political units of representation in that all-inclusive system of apportionment. Unless, within any single geographically defined political area or unit, there is a meaningful and substantial difference in the composition of that body of electors therein, whose combined votes elect a senator, from that body whose combined votes elect a member of the house, then the demanded differing complexions and collective attitudes are lost, the necessary cross checking and resulting balance is absent, and the majorities therein are given a disproportional monolithic command, not only within the narrow political unit, but also within the legislative bodies. Such artificially concentrated political power negates any notion of equality of representation for the minorities entrapped therein, as well as for all other electors of the State outside such a monolithic political unit.

"However complicated or sophisticated an apportionment scheme might be, it cannot, consistent with the equal protection clause, result in a significant undervaluation of the weight of the votes of certain of a State's citizens merely because of where they happen to reside." *WMCA, Inc.* v. *Lomenzo,* 377 U.S. 633, 653, 84 S. Ct. 1418, 1428, 12 L. Ed. 2d 568.

The Hawaiian Legislature, whether innocently or designedly, has, nevertheless, built just such monoliths into its reapportionment scheme.

In its efforts to achieve its objective of multimember (three and four) senatorial districts in Honolulu, the legislature made the boundaries of the third senatorial district and the eighth representative district one and the same. Thus from one political and geographical unit would be elected four representatives and three senators—seven members of the legislature all responsible to and representing exactly the same constituency. Similarly, the 6th senatorial district was fashioned almost entirely from the 15th representative district, with the result that from the 15th representative unit, i.e., from the dominant three-fourths of the voting population of that senatorial district, would come six representatives and four senators (31,302 of the senatorial district's total of 40,629 voters reside in the 15th representative district).

[5–7] While it is a fundamental factor under the decisions of the Court, population is not the sole definitive measure for setting up either representative or senatorial districts. Compactness and contiguity of the territory are admittedly also factors, but community of interests, community of problems, socioeconomic status, political and racial factors—each and all must be considered, and not only must the electoral districts be laid out with the totality of those factors having been taken into consideration, but even more, the sum total of all of the districting must result in substantial equality of meaningful representation to each and all of the voters of the State. "[A]ll who participate in the election are to have an equal vote—whatever their race, whatever their sex, whatever their occupation, whatever their income, and wherever their home may be in that geographical unit." *Gray* v. *Sanders,* 372 U.S. 368, 379, 83 S.Ct. 801, 808, 9 L.Ed. 2d 821. As indicated, not only was there no totality of consideration of the above factors in setting up the senatorial districts on Oahu, but there was even less totality of consideration of the factors of equal representation to all voters on Oahu and the rest of the State.

Here, the realistic political weight of the voters in both the third and sixth senatorial districts would far exceed the political weight of any voter in any other district, not only in Honolulu but in any other county of the State. It is patent to the court that both the house and the senate, in setting up the senatorial plan either failed or refused to recognize the effect that such a plan would have upon the basis for representation of the entire voting population. Both the Hawaiian senate and house ignored the admonition of the Supreme Court:

"(I)n reviewing a State legislative apportionment case, this Court must of necessity consider the challenged scheme as a whole in determining whether the particular State's apportionment plan, in its entirety, meets Federal constitutional requisites. It is simply impossible to decide upon the validity of the apportionment of one house of a bicameral legislature in the abstract, without also evaluating the actual scheme of representation employed with respect to the other house. Rather, the proper and, indeed, indispenable, subject for judicial focus in a legislative apportionment controversy is the overall representation accorded to the State's voters, in both houses of a bicameral State legislature." *Maryland Committee for Fair Representation* v. *Tawes,* 377 U.S. 656, 673, 84 S. Ct. 1429, 1438, 1439, 12 L. ed. 2d 595.

(8) This court heretofore said that the house was not unconstitutionally apportioned. This court indicated the means by which the senate could be apportioned to give to every voter the equal protection and equal representation that he is entitled to without disturbing the makeup of the house, but because both houses failed to look at the political scene in its totality and instead viewed the reapportionment scheme of the senate as if it were something that could be fashioned without consideration of its tight juxtaposition to the house of representatives, each house of the legislature jointly and separately took such a myopic view of the political problem involved, that they failed to see and anticipate the overall result of arbitrarily joining their independently constructed senatorial plan with the existing representative scheme.[5] As indicated, both houses failed to heed the words of the Supreme Court, as well as any of the red lights this court had flashed. Both houses failed to heed the advice of the attorney general of the State of Hawaii, and the end result, based as it is upon reasons which fall very, very short of justifying the resultant multimember districting of both houses, fails to give to each and every voter of the State of Hawaii the fundamental equality of representation to which each is entitled under the 14th amendment.

Even if the above, alone, were not enough to render the proposed scheme invalid, it is manifest to this court that the legislature's adamant insistence on three- and four-member senatorial districting was the conscious or unconscious—though not unnatural—reluctance of the affected senators to carve out single-member districts which thereafter would in all probability result in a political duel-to-the-death with a fellow and neighbor senator. To have crosscut any of Honolulu's 8th, 12th, or 15th representative districts in order to mark out single-member senatorial districts would, with practical certainty, have left 2 or 3 present incumbents to compete head on for a single senatorial seat.

Likewise, the shift on Hawaii from the double, 2–1, senator district scheme, tentatively adopted on March 18, to the single 3-senator district in the instant plan, was an unmistakable application to east Hawaii's incumbent senators of that same factor of political self-preservation implanted into the Honolulu districting scheme.[6]

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[5] As foretold in *Fortson* v. *Dorsey,* 379 U.S. 433, 85 S. Ct. 498, 13 L. ed. 2d 401 (1965), "[I]t might well be that, designedly or otherwise, a multimember constituency apportionment scheme, under the circumstances of a particular case, would operate to minimize or cancel out the voting strength of racial or political elements of the voting population."

[6] "(I)n the absence of any reasonable justification (historical or otherwise), such districting (creation of single-member and multimember districts) might be the result of gerrymandering for partisan advantage and, in that event, would be arbitrary and capricious. In the light of the constitutional pitfalls inherent in such a districting scheme, it would be more prudent to approach the matter of apportionment by setting up single-member districts unless valid and compelling reasons exist which require the creation of some multimember districts." *Butcher* v. *Bloom,* 415 Pa. 438, 203 A. 2d 556, 573.

This court finds that the present multi-member district scheme of senatorial reapportionment resulted, in a material part at least, from gerrymandering.

We find the proposed plan does not meet the test of equality of representation set down by our Supreme Court and is invalid. We therefore do not approve the plan.

Circuitous or expensive as it may be, the route set out by the constitution of this State, viz, by way of a constitutional convention, must now be followed. Inasmuch as the plan set forth in H.B. 987 cannot be and is not approved by this court, it is therefore ordered: (1) The stay order of this court dated April 19, 1965, is rescinded, effective forthwith; and (2) as indicated in our Final Order of March 19, 1965, item 4 on pages 19–20, and item 6 on pages 20–21 of the Decision and Order of this court dated February 17, 1965, be and they are hereby automatically reinstated and now remain and shall continue in full force and effect until further order of this court.

(9) As may be noted, this court has not herein discussed H.B. 773. We are advised that it was able to pass the senate by but the barest majority, 13 to 12, far short of the two-thirds demanded by the State constitution for the adoption of a proposed constitutional amendment. The same also has not yet lain on the desk of the Governor for the 10 days prior to final adoption, as provided by the constitution.[7] Therefore, procedurally, the same has not yet been submitted to us. *Wright* v. *Rockefeller*, 376 U.S. 52, 58, 84 S. Ct. 603, 11 L. ed. 2d 512. Even if it were, nevertheless, in view of our decision on the provisional plan, H.B. 987, we would not and now do not find it necessary to consider the validity of the proposed amendment, H.B. 773, or the question proposed by H.B. 986.

This court continues to retain jurisdiction of this action for all purposes.

This decision shall take effect forthwith.

EXHIBIT 2

MARYLAND—1776

THE CONSTITUTION, OR FORM OF GOVERNMENT, ET CETERA

1. That the legislature consist of two distinct branches, a senate and house of delegates, which shall be styled, the General Assembly of Maryland.

2. That the house of delegates shall be chosen in the following manner: All freemen, above 21 years of age, having a freehold of 50 acres of land, in the county in which they offer to vote, and residing therein—and all freemen, having property in this State above the value of 30 pounds current money, and having resided in the county, in which they offer to vote, one whole year next preceding the election, shall have a right of suffrage, in the election of delegates for such county: and all freemen, so qualified, shall, on the first Monday of October 1777 and on the same day in every year thereafter, assemble in the counties, in which they are respectively qualified to vote, at the courthouse, in the said counties; or at such other place as the legislature shall direct; and, when assembled, they shall proceed to elect, viva voce, four delegates, for their respective counties, of the most wise, sensible, and discreet of the people, residents in the county where they are to be chosen, one whole year next preceding the election, above 21 years of age, and having, in the State, real or personal property above the value of 500 pounds current money; and upon the final casting of the polls, the four persons who shall appear to have the greatest number of legal votes shall be declared and returned duly elected for their respective counties.

3. That the sheriff of each county, or, in case of sickness, his deputy (summoning two justices of the county, who are required to attend, for the preservation of the peace) shall be the judges of the election, and may adjourn from day to day, if necessary, till the same be finished, so that the whole election shall be concluded in 4 days; and shall make his return thereof, under his hand, to the chancellor of this State for the time being.

4. That all persons qualified, by the charter of the city of Annapolis, to vote for burgesses, shall, on the same first Monday of October 1777 and on the same day in every year forever thereafter, elect, viva voce, by a majority of votes, two delegates, qualified agreeable to the said charter; that the mayor, recorder, and aldermen of the said city, or any three of them, be judges of the election, appoint the place in the said city for holding the same, and may adjourn from day to day, as aforesaid, and shall make return thereof, as aforesaid; but the inhabitants of the said city shall not be entitled to vote for delegates for Anne Arundel County, unless they have a freehold of 50 acres of land in the county distinct from the city.

5. That all persons, inhabitants of Baltimore town, and having the same qualifications as electors in the county, shall, on the same first Monday in October 1777, and on the same day in every year forever thereafter, at such place in the said town as the judges shall appoint, elect, viva voce, by a majority of votes, two delegates, qualified as aforesaid: but if the said inhabitants of the town shall so decrease, as that a number of persons, having a right of suffrage therein, shall have been, for the space of 7 years successively, less than one-half the number of votes in some one county in this State, such town shall thenceforward cease to send two delegates or representatives to the house of delegates, until the said town shall have one-half of the number of voters in some one county in this State.

6. That the commissioners of the said town, or any three or more of them, for the time being, shall be judges of the said election, and may adjourn, as aforesaid, and shall make return thereof, as aforesaid; but the inhabitants of the said town shall not be entitled to vote for, or be elected, delegates for Baltimore County; neither shall the inhabitants of Baltimore County, out of the limits of Baltimore town, be entitled to vote for, or be elected, delegates for the said town.

7. That on refusal, death, disqualification, resignation, or removal out of this State of any delegate, or on his becoming Governor, or member of the council, a warrant of election shall issue by the speaker, for the election of another in his place; of which 10 days' notice, at least (excluding the day of notice, and the day of election), shall be given.

8. That not less than a majority of the delegates, with their speaker (to be chosen by them, by ballot) constitute a house, for the transaction of any business other than that of adjourning.

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14. That the senate be chosen in the following manner: All persons, qualified as aforesaid to vote for county delegates, shall, on the first day of September 1781, and on the same day in every fifth year forever thereafter, elect, viva voce, by a majority of votes, two persons for their respective counties (qualified as aforesaid to be elected county delegates) to be electors of the Senate; and the sheriff of each county, or, in case of sickness, his deputy (summoning two justices of the county, who are required to attend, for the preservation of the peace) shall hold and be judge of the said election, and make return thereof, as aforesaid. And all persons, qualified as aforesaid, to vote for delegates for the city of Annapolis and Baltimore town, shall, on the same first Monday of September 1781, and on the same day in every fifth year forever thereafter, elect, viva voce, by a majority of votes, one person for the said city and town respectively, qualified as aforesaid to be elected a delegate for the said city and town respectively; the said election to be held in the same manner, as the election of delegates for the said city and town; the right to elect the said elector, with respect to Baltimore town, to continue as long as the right to elect delegates for the said town.

15. That the said electors of the senate meet at the city of Annapolis, or such other place as shall be appointed for convening the legislature, on the third Monday in September 1781, and on the same day in every fifth year forever thereafter, and they, or any 24 of them so met, shall proceed to elect, by ballot, either out of their own body, or the people at large, 15 Senators (9 of whom to be residents on the western, and 6 to be residents on the Eastern Shore) men of the most wisdom, experience and virtue, above 25 years of age, residents of the State above 3 whole years next preceding the election, and having real and personal property above the value of 1,000 pounds current money.

16. That the senators shall be balloted for, at one and the same time, and out of the gentleman residents of the western shore, who shall be proposed as senators, the nine who shall, on striking the ballots, appear to have the greatest numbers in their favor, shall be accordingly declared and returned duly elected: and out of the gentlemen residents of the eastern shore, who shall be proposed as senators, the six who shall, on striking the ballots, appear to have the greatest number in their favor, shall be accordingly declared and returned duly elected: and if two or more on the same shore shall have an equal number of ballots in their favor, by which the choice shall not be determined on the first ballot, then the electors shall again ballot, before they separate; in which they shall be confined to the persons who on the first ballot shall have an equal number: and they who shall have the greatest number in their favor on the second ballot, shall be accordingly declared and returned duly elected: and if the whole number shall not thus be made up, because of an equal number, on the second ballot, still being in favor of two or more persons, then the election shall be determined by lot, between those who have equal numbers; which proceedings of the electors shall be certified under their hands, and returned to the chancellor for the time being.

17. That the electors of senators shall judge of the qualifications and elections of members of their body; and, on a contested election, shall admit to a seat, as an elector, such qualified person as shall appear to them to have the greatest number of legal votes in his favor.

18. That the electors, immediately on their meeting, and before they proceed to the election of senators, take such oath of support and fidelity to this State, as this convention, or the legislature, shall direct; and also an oath "to elect without favor, affection, partiality, or prejudice, such persons for senators, as they, in their judgment and conscience, believe best qualified for the office."

19. That in case of refusal, death, resignation, disqualification, or removal out of this State, of any senator, or on his becoming Governor, or a member of the council,

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[7] In order to move the reapportionment problem with the greatest celerity, this court, nevertheless, had advised all parties that a provisional plan of reapportionment could be submitted to this court and a hearing had thereon immediately after the same was passed by the legislature and before the 10-day period during which a proposed amendment must lie on the desk of the Governor before the same can be adopted and passed. The instant hearing therefore was solely upon the matter of the proposed provisional plan.

the senate shall, immediately thereupon, or at their next meeting, thereafter, elect by ballot (in the same manner as the electors are above directed to choose senators) another person in his place, for the residue of the said term of 5 years.

NEW JERSEY—1776

1. That the government of this Province shall be vested in a Governor, legislative council, and general assembly.

2. That the legislative council, and general assembly, shall be chosen, for the first time, on the second Tuesday in August next; the members whereof shall be the same in number and qualifications as are hereinafter mentioned; and shall be and remain vested with all the powers and authority to be held by any future legislative council and assembly of this Colony, until the second Tuesday in October, which shall be in the year of our Lord 1777.

3. That on the second Tuesday in October yearly, and every year forever (with the privilege of adjourning from day to day as occasion may require) the counties shall severally choose one person, to be a member of the legislative council of this Colony, who shall be, and have been, for 1 whole year next before the election, an inhabitant and freeholder in the county in which he is chosen and worth at least 1,000 pounds proclamation money, of real and personal estate, within the same county; that, at the same time, each county shall also choose three members of assembly: *Provided,* That no person shall be entitled to a seat in the said assembly unless he be, and have been, for 1 whole year next before the election, an inhabitant of the county he is to represent, and worth 500 pounds proclamation money, in real and personal estate, in the same county: that on the second Tuesday next after the day of election, the council and assembly shall separately meet; and that the consent of both houses shall be necessary to every law: *Provided,* That seven shall be a quorum of the council, for doing business, and that no law shall pass, unless there be a majority of all the representatives of each body personally present, and agreeing thereto: *Provided always,* That if a majority of the representatives of this Province, in council and general assembly convened, shall, at any time or times hereafter, judge it equitable and proper, to add to or diminish the number or proportion of the members of assembly for any county or counties in this Colony, then, and in such case, the same may, on the principles of more equal representation, be lawfully done; anything in this charter to the contrary notwithstanding: so that the whole number of representatives in assembly shall not, at any time, be less than 39.

4. That all inhabitants of this Colony, of full age, who are worth 50 pounds proclamation money, clear estate in the same, and have resided within the county in which they claim a vote for 12 months immediately preceding the election, shall be entitled to vote for representatives in council and assembly; and also for all other public officers, that shall be elected by the people of the county at large.

PENNSYLVANIA—1776

PLAN OR FRAME OF GOVERNMENT FOR THE COMMONWEALTH OR STATE OF PENNSLYVANIA

SEC. 1. The Commonwealth or State of Pennsylvania shall be governed hereafter by an assembly of the representatives of the freemen of the same, and a president and council, in manner and form following—

SEC. 2. The supreme legislative power shall be vested in a house of representatives of the freemen of the Commonwealth or State of Pennsylvania.

* * * * *

SEC. 6. Every freemen of the full age of 21 years, having resided in this State for the space of 1 whole year next before the day of election for representatives, and paid public taxes during that time, shall enjoy the right of an elector: *Provided always,* That sons of freeholders of the age of 21 years shall be entitled to vote although they have not paid taxes.

SEC. 7. The house of representatives of the freemen of this Commonwealth shall consist of persons most noted for wisdom and virtue, to be chosen by the freemen of every city and county of this Commonwealth respectively. And no person shall be elected unless he has resided in the city or county for which he shall be chosen 2 years immediately before the said election; nor shall any member, while he continues such, hold any other office, except in the militia.

SEC. 8. No person shall be capable of being elected a member to serve in the house of representatives of the freemen of this Commonwealth more than 4 years in 7.

SEC. 9. The members of the house of representatives shall be chosen annually by ballot, by the freemen of the Commonwealth, on the second Tuesday in October forever (except this present year), and shall meet on the fourth Monday of the same month, and shall be stiled, The general assembly of the representatives of the freemen of Pennsylvania, and shall have power to choose their speaker, the treasurer of the State, and their other officers; sit on their own adjournments; prepare bills and enact them into laws; judge of the elections and qualifications of their own members; they may expel a member, but not a second time for the same cause; they may administer oaths or affirmations on examination of witnesses; redress grievances; impeach State criminals; grant charters of incorporation; constitute towns, boroughs, cities, and counties; and shall have all other powers necessary for the legislature of a free State or Commonwealth: But they shall have no power to add to, alter, abolish, or infringe any part of this constitution.

* * * * *

SEC. 12. If any city or cities, county or counties shall neglect or refuse to elect and send representatives to the general assembly, two-thirds of the members from the cities or counties that do elect and send representatives, provided they be a majority of the cities and counties of the whole State, when met, shall have all the powers of the general assembly, as fully and amply as if the whole were present.

SEC. 13. The doors of the house in which the representatives of the freemen of this State shall sit in general assembly, shall be and remain open for the admission of all persons who behave decently, except only when the welfare of this State may require the doors to be shut.

* * * * *

SEC. 17. The city of Philadelphia and each county of this Commonwealth, respectively, shall, on the first Tuesday of November in this present year, and on the second Tuesday of October annually for the 2 next succeeding years, viz, the year 1777 and the year 1778, choose six persons to represent them in general assembly. But as representation in proportion to the number of taxable inhabitants is the only principle which can at all times secure liberty, and make the voice of a majority of the people the law of the land; therefore the general assembly shall cause complete lists of the taxable inhabitants in the city and each county in the Commonwealth, respectively, to be taken and returned to them, on or before the last meeting of the assembly elected in the year 1778, who shall appoint a representation to each, in proportion to the number of taxables in such returns; which representation shall continue for the next 7 years afterward at the end of which, a new return of the taxable inhabitants shall be made, and a representation agreeable thereto appointed by the said assembly, and so on, septennially forever. The wages of the representatives in general assembly, and all other State charges shall be paid out of the State treasury.

SEC. 18. In order that the freemen of this Commonwealth may enjoy the benefit of election as equally as may be until the representation shall commence, as directed in the foregoing section; each county at its own choice may be divided into districts, hold elections therein, and elect their representatives in the county, and their other elective officers, as shall be hereafter regulated by the general assembly of this State. And no inhabitant of this State shall have more than one annual vote at the general election for representatives in assembly.

SEC. 19. For the present the supreme executive council of this State shall consist of 12 persons chosen in the following manner: The freemen of the city of Philadelphia, and of the counties of Philadelphia, Chester, and Bucks, respectively, shall choose by ballot one person for the city, and one for each county aforesaid, to serve for 3 years and no longer, at the time and place for electing representatives in general assembly. The freemen of the counties of Lancaster, York, Cumberland, and Berks, shall, in like manner elect one person for each county respectively, to serve as counselors for 2 years and no longer. And the counties of Northampton, Bedford, Northumberland, and Westmoreland, respectively, shall, in like manner, elect one person for each county, to serve as counselors for 1 year, and no longer. And at the expiration of the time for which each counselor was chosen to serve, the freemen of the city of Philadelphia, and of the several counties in this State, respectively, shall elect one person to serve as counselor for 3 years and no longer; and so on every third year forever. By this mode of election and continued rotation, more men will be trained to public business, there will in every subsequent year be found in the council a number of persons acquainted with the proceedings of the foregoing years, whereby the business will be more consistently conducted, and moreover the danger of establishing an inconvenient aristocracy will be effectually prevented. All vacancies in the council that may happen by death, resignation, or otherwise, shall be filled at the next general election for representatives in general assembly, unless a particular election for that purpose shall be sooner appointed by the president and council. No member of the general assembly or delegate in congress, shall be chosen a member of the council. The president and vice president shall be chosen annually by the joint ballot of the general assembly and council, of the members of the council. Any person having served as a counselor for 3 successive years, shall be incapable of holding that office for 4 years afterward. Every member of the council shall be a justice of the peace for the whole commonwealth, by virtue of his office.

In case new additional counties shall hereafter be erected in this State, such county or counties shall elect a counselor, and such county or counties shall be annexed to the next neighboring counties, and shall take rotation with such counties.

The council shall meet annually, at the same time and place with the general assembly.

The treasurer of the State, trustees of the loan office, naval officers, collectors of customs or excise, judge of the admiralty, attorneys general, sheriffs, and prothonotaries, shall not be capable of a seat in the general assembly, executive council, or Continental Congress.

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

Mr. HRUSKA. I yield.

Mr. LAUSCHE. At the beginning of my remarks, I commend the Senator from Nebraska for an informative, excellently composed speech presenting the issues as they will come before the Senate. I am delighted that I remained in the Chamber to hear what the Senator had to say on the subject. I ask this question to summarize:

Is it a proper conclusion to state that the Dirksen amendment contemplates giving to the people of the several States the right, if they so choose, to adopt a system of legislative apportionment for the States similar to that which now prevails in the Federal Government?

Mr. HRUSKA. The Senator is correct, with the added condition, of course, contained in the text of the amendment, that it shall apply to one house in which the variation from the population factor would be limited to political subdivisions or geographical areas.

The final condition is that the arrangement must be submitted to the people and approved by a vote of the people, and that the people will have an opportunity, if they adopt such a plan, to have it resubmitted to them at least once every 10 years, under the terms of the amendment, for another popular vote as to whether the system shall be continued or discontinued.

Mr. LAUSCHE. If the present and eternal composition of Congress, as drafted in 1787, requiring representation in the Senate to be geographical, on the basis of two Senators for each State, and the representation in the House to be on a basis of population, is good for the Federal Government, is it not likewise good to give the people of the States an opportunity to choose the same type of legislative representation?

Mr. HRUSKA. I believe that to be true. If we mean what we say, when we say, "We the people," or "the consent of the governed," it is the people who should make the decision as to whether the Federal type of organization for their legislative bodies should be adopted, or some other system should prevail. That is all the resolution provides.

Mr. LAUSCHE. Is it not also fair to infer that when the opponents of the Dirksen amendment state that the people of the several States should not be given the opportunity to choose a legislative system similar to that in the U.S. Congress, they are in effect saying that the system of congressional representation that now exists in the Federal Government should be abolished?

Mr. HRUSKA. That has been a part of the argument in my principal remarks. I should say that the Senator from Ohio has put his finger on a highly sensitive spot.

Mr. LAUSCHE. How does the Senator from Nebraska answer the argument that is made: "We do not believe it is good for the States to be given the right to constitute a legislature in which one house must be chosen on the basis of population and the other permissively on the basis of geographical representation, but that it is right to do so in the U.S. Congress?" How can that position be defended by those who advocate it?

Mr. HRUSKA. In my opinion, it cannot be defended. The argument of those who seek to disown the Federal analogy is that the Federal system was made necessary in 1787 as a compromise to make the formation of the Republic possible. The only way in which the Thirteen Colonies could come to any agreement whatever was to provide that the States should be represented in the House on a population basis and in the Senate on a geographical basis.

But I say to the Senator from Ohio that is not what is at issue here. The question is not whether the Federal system has a historic beginning of one kind or another. That is not at issue. What is at issue is the experience of the Federal system since 1789.

Mr. LAUSCHE. What does the Senator from Nebraska say that experience is?

Mr. HRUSKA. I say that the experience is such that it is not capable of replacement by any other system bearing any semblance to the productivity, stability, and brilliant record of self-government that has been compiled by the Federal Congress.

Mr. LAUSCHE. It seems to me that it logically follows that when the opponents of the Dirksen amendment claim that that which is good for the Federal Government is not good for the States, they must eventually propose that a change be made in the composition of the U.S. Congress.

Mr. HRUSKA. Yes; pushed to its logical extreme, that is exactly what they would have to come to.

At the end of my principal remarks, I placed in the RECORD the opinion of the Supreme Court in the case of Bolling against Sharpe, in which the Chief Justice rendered the opinion. In that case racial segregation in the public schools of the District of Columbia was held to be unconstitutional under the fifth amendment. The 5th amendment does not have an equal protection clause; the 14th amendment does. But the 14th amendment applies in all States. So the Supreme Court went to the fifth amendment and said that even though it does not contain an equal-protection clause, the Federal Government cannot discriminate on a racial basis and by way of segregation. What is alarming is that Chief Justice Warren said:

> In view of our decision that the Constitution prohibits the States from maintaining racially segregated public schools, it would be unthinkable that the same Constitution would impose a lesser duty on the Federal Government.

May that not be paraphrased to read:

> In view of our decision that the Constitution prohibits the States from maintaining legislatures unless they are apportioned solely on a basis of population, it would be unthinkable that the same Constitution would impose a lesser duty upon the Federal Government.

They lie hand in hand. The analogy and parallel are perfect. That is what concerns many persons.

Mr. LAUSCHE. I thank the Senator from Nebraska for yielding. It is regrettable that more Senators were not in the Chamber to listen to what the Senator from Nebraska said. Whether one supports the Senator from Nebraska or opposes him, I express the opinion that his speech will enrich each Senator's intelligence and approach to this problem, if he will read what the Senator from Nebraska has said on the subject.

Mr. HRUSKA. The Senator from Ohio is very kind. I greatly appreciate his remarks.

Mr. President, the Senator from Colorado has been very patient. I now yield to him for such questions as he may wish to propound, provided I do not lose the floor.

Mr. ALLOTT. Mr. President, I shall first comment on the remarks of the distinguished Senator from Nebraska in their entirety.

The Senator was kind enough to provide me with a copy of his remarks. As the Senator knows, I had to leave the floor in the middle of his speech, and was able to hear only the first and last portions thereof.

I would have a somewhat different approach to the problem. The approach of the Senator is very good, to the effect that the real point is that the people should be permitted to decide. I believe that in order to do that we must, of necessity, almost take the position—and I do take the position—that the Supreme Court was wrong.

Does the Senator conceive that our forefathers ever had any idea of apportioning the two Houses of the U.S. Congress or the houses of the State legislatures on any basis other than the system which has been in effect from 1789 until the recent decision of the Supreme Court?

Mr. HRUSKA. I covered that subject in detail in my principal remarks. I pointed out, under the authority of the Legislative Reference Service of the Library of Congress, that, of the Thirteen Original Colonies and the first State to come into the Union after the formation of the Republic, there was only one that had any semblance of a really substantial basis for apportionment on the basis of population alone.

In the other 13 instances, by an actual count, the overwhelming predominance of the applicability of apportionment on the basis of either political subdivision or geography was the case.

With that history, it would be very odd to presume that the Founding Fathers had in mind that there would be a one-man, one-vote rule. A reading of the dissenting opinion of Justice Harlan in the case of Reynolds against Sims would make the same principle apply in the case of the 14th amendment. If this ruling had been construed to apply at that time, the State legislatures would not have approved the Senate, of which we are part, nor would the amendment have been ratified by the State legislatures had it been approved by Congress.

Mr. ALLOTT. The Senator is entirely correct.

I have always been rather influenced in my study of this matter by his reference, which I have used on previous occasions myself, to the "Federalist Papers" by James Madison, and the quota-

tion from John Adams, and particularly James Madison when he said:

> In republican government, the legislative authority necessarily predominates. The remedy for this is to divide the legislature into different branches and to render them, by different modes of election and different principles of action, as little connected with each other as the nature of their common functions and their common dependence on society would permit.

This is what we have done with Congress.

Taking the general theme of the remarks of the Senator this afternoon, with which I am wholly in accord, I would place a little more accent on the Supreme Court decision itself. I am sure that the Senator is aware that in 1962, the Colorado people had two amendments presented to them on the ballot that fall which may have had the initiative of a constitutional amendment.

The first one was amendment No. 7, the so-called Federal system, under which the State would be able to select its representatives and Senators in any manner it saw fit. The second one was the so-called one-man, one-vote rule, which is a slogan that seems to appeal to some people. That proposal was known as amendment No. 8.

The people of Colorado spoke out with a clear and loud voice, as loudly as anyone could speak, as to their preference.

Amendment No. 7, which would permit an election on other than a population basis, was passed by a vote of more than 2 to 1 in the State of Colorado. Amendment No. 8 was defeated by a vote of more than 2 to 1.

It is significant, I believe, when we talk about reposing confidence in the people and their ordinary commonsense, that in every one of the 63 counties, the majority of the people voting voted for amendment No. 7, which would provide for the Federal system, such as we are trying to espouse in the Dirksen amendment.

The five or six counties immediately surrounding Denver—the counties of Arapahoe, Adams, Boulder, and Jefferson—represent a large proportion of the vote of the State of Colorado—I should say over 50 percent. It is significant that every county, including the counties which people say would be abused if we were to adopt the Federal system, voted by a substantial majority to adopt the Federal system.

All that the Senator is saying is that the people are being deprived of our vote. We in the State of Colorado feel that we have been deprived of our vote because our people voted overwhelmingly, by a 2-to-1 vote, to adopt the Federal system. We rejected the other proposal with just as strong a vote. This occurred in every one of the 63 counties.

Amendment No. 7 was passed in every county. Therefore, we could say that, under the present system which has been placed upon us by the decision of the Supreme Court, we in Colorado have been deprived of our vote. We have been deprived of the right to determine the answer for ourselves.

I believe that when the States came into the Union, and when the U.S. Government and Congress ratified their coming into the Union—and ratified Colorado and Nebraska coming into the Union—it was clearly set up as to how we would choose our legislature. The Court is in a completely untenable position in overturning these decisions.

It seems to me that it is by way of a contract. We have that question raised in other areas when we deal with the water problem. However, we have a situation which existed when we came into the Union with regard to the selection of our legislature. Congress said: "Come on in. We are glad to have you with the constitution that you have. Your constitution does not abrogate the Federal Constitution." We now come along, 100 and some odd years later, and are told, "Your constitution abrogates the Federal Constitution." To me, that is completely inconsistent.

Mr. HRUSKA. Let the Senator from Nebraska say first of all that the Senator from Colorado will find not only this Senator in full sympathy with him on that vote in 1962, but also the citizens of the State to the east of his State; namely, my native State of Nebraska.

In that same year, we had a constitutional amendment that was approved by a popular vote of the people. We have a unicameral legislature. The amendment was approved by a substantial majority in an election in which some 83 percent of the people who voted for Governor voted on that initiative petition.

The people voted to depart from the apportionment by population to the extent of giving a 20-percent weight factor to area and 80-percent weight factor to population.

That was stricken down by the Federal court.

We did not like it any better than the people in Colorado liked having their popularly approved plan upset by the Federal Government.

Mr. ALLOTT. And it was passed in the State of Nebraska, was it not?

Mr. HRUSKA. It was, indeed. It is still a part of our Constitution, but the Supreme Court will not let us use it. We are engaged today in an effort to have the issue become available for the people to vote on it. If their mind is the same, we want to proceed with it. If they have changed their minds, we will go back to the population-only rule.

Mr. ALLOTT. I thank the distinguished Senator for yielding to me, and also for making concise answers to my questions.

Mr. HRUSKA. When I reported that in our hearings there was a virtual disregard of the rightness or wrongness of the Supreme Court decision, it was not because witnesses disagreed as to whether it was right, but, being practical and law abiding, it was decided not to take the time of the witnesses or of the committee to labor the point, but to take the Constitution, consisting of the document as we have it, and as interpreted in Reynolds against Sims as being the Constitution, and saying we want to amend the Constitution as it is now constituted and composed in a way that will in part modify the impact of Reynolds against Sims. That was the reasoning behind the effort.

Mr. ALLOTT. I appreciate that.

One further thought occurred to me. The argument has been made that the adoption of this amendment would be inimical to racial minorities. I think I am qualified to speak in this area, because, as the Senator from Nebraska well knows, even before I came to Congress 11 years ago, I had been a stout and stanch advocate of civil rights, and I will not surrender my support of civil rights or my advocacy of it to anybody in this Congress, no matter where he may be from. I believe I have been consistent. I know I have been consistent. No one has a better or more consistent record of supporting civil rights than I have. I can, therefore, ask questions like this without being in fear of someone's saying, "He is against racial minorities." To me it seems impossible that anyone could drag any question like that into the debate and do it with a straight face.

Can the Senator explain to me how this proposal could possibly be inimical to racial minorities?

Mr. HRUSKA. That again is a point which this Senator has labored somewhat. Of course, the rest of the Constitution is not suspended. It is not impaired. That part of the Constitution bearing on discrimination on account of race or color, that part which forbids anything but equal treatment, except for the apportionment pursuant to the formula set out in the proposed amendment, will remain just as effective as they are now.

I previously called attention to the case of Holt against Richardson, a case in Hawaii. The three-judge Federal court assigned various reasons for the decision considering the reapportionment plan as unconstitutional. One of the reasons was that one proposed district "encompassed a highly heterogeneous area containing a multitude of Caucasian widows in the uplands area, and an overabundance of Filipino males in the seaward portion of the district."

The best interests of Caucasians and Filipinos and all other groups are best served when the people of the States can carry out their aspirations, so that all the racial minorities to which reference was made in the hearings can be equally served.

Mr. ALLOTT. The Supreme Court decision and the adherence to the one-man, one-vote doctrine does far more to raise racial issues and racial problems than any question in the history of the United States. When one argues this question with regard to racial matters, the setting up of election districts is not a racial question; it is a human question, whether they be Caucasian women, Filipino men, Chinese, Slovaks, Italians, or Spanish-Americans. We have all those groups in my State. I cannot see how our amendment No. 7 in Colorado was inimical to the interest of any one of those groups.

Mr. HRUSKA. There is a further argument. Even if there were validity and soundness to the argument, namely,

that the adoption of the Dirksen amendment would make possible discrimination against racial minorities, would not the position of the opponents of the amendment be, "Let us defeat the amendment so the racial minorities do not gain control or advantage, but the other minorities—in this case the rural minorities—will lose their position of advantage?" It would be pitting one group against another on a racial basis rather than on the basis of geography or political subdivisions, which is what the amendment provides.

Mr. ALLOTT. Plus the fact that each one is a human being.

Mr. HRUSKA. That is correct; and he has a vote in voting on the question to be submitted.

Mr. MURPHY and Mr. TYDINGS addressed the Chair.

Mr. HRUSKA. I had promised to yield to the Senator from California first. I should like to have the Senator from Maryland remain, for I shall be glad to hear what he has to say.

Mr. MURPHY. I thank the Senator for being so patient. I am sorry I missed the main body of the Senator's presentation. I aline myself with the outline he has provided. I shall read it carefully. As of this moment a committee from my own State of California is considering this question. They called on me yesterday. The Senator may be pleased to know that the committee is made up of the majority leader of the senate and the minority leader of the senate and representatives of both the Democratic majority and the Republican minority in California. They are in complete agreement in supporting what the Senator from Nebraska has said, and have spent a great deal of time, and intend to spend more time, to do what they can to bring to the realization of the U.S. Senate that our purpose is to reflect the judgment of the people of the State of California. The people of California, on both sides of the political spectrum, are in complete agreement. They believe, as the Senator from Nebraska believes and as I believe, that there is great faith to be placed in the judgment of the people and that this Government, please God, still believes in the people. In the final analysis, the people should be allowed to make a judgment in this particular matter.

I thank the Senator for yielding to me, and I thank the Senator for his patience.

Mr. HRUSKA. I thank the Senator from California. I may state that there was presented in the hearings a statement for the Honorable Edmund G. Brown, of California, by Hale Champion, California State Director of Finance. There also appeared Hon. Virgil O'Sullivan and Hon. Joseph A. Rattigan, members of the State of California Legislature.

Mr. MURPHY. The two members who appeared in my office yesterday were Hon. Hugh Burns, Democrat, majority leader of the State senate, and the minority leader, Senator Jack McCarthy, so their names could be added to that list.

Mr. HRUSKA. I thank the Senator. I now yield to the Senator from Maryland [Mr. TYDINGS].

Mr. TYDINGS. Mr. President, I thank my distinguished colleague from Nebraska. I may preface my remarks with the comment that it has been a real pleasure for me to serve with the Senator from Nebraska on a number of subcommittees, particularly on the Constitutional Amendments Subcommittee of the Committee on the Judiciary.

I make only a few remarks because I intend to comment more at length later on, when the hour perhaps is not so late.

I must say, however, that it is flattering to have so many of the Senator's 43-page speech devoted to refuting arguments which I propounded on the Senate floor early last month. I am delighted by the inference in the Senator's speech that at least as to three of the points which I had previously raised; namely, the lack of judicial review, the absence of periodic review and failure of the amendment to protect the rights of racial minorities, that a new and revised version of the Dirksen rotten borough amendment has been put forward which contains language that its proponents contend will take care of the objections which I did raise.

The Senator devoted a good deal of time in his remarks to the question of whether our State legislatures were historically apportioned on the basis of population. I shall not debate that interesting question at this time. But I should like to ask unanimous consent to have printed in the RECORD chapter 2 of the report of the Advisory Commission on Intergovernmental Relations, dated December 1962, concerning the apportionment of State legislatures. The chapter is entitled "Evolution of Representation and Structure of State Legislatures." I ask that this chapter be included at the end of my remarks, and that the statement of Mr. William Coleman before the Subcommittee on Constitutional Amendments, on which the distinguished Senator from Nebraska and I both serve, also be included in the RECORD. Mr. Coleman's testimony contains the names of the members of the Advisory Commission on Intergovernmental Relations. It contains such distinguished names as the Senator from North Carolina [Mr. ERVIN] and the Senator from South Dakota [Mr. MUNDT] and other Senators, Governors, Cabinet officers, and mayors.

I particularly invite attention to one paragraph in the testimony of Mr. Coleman, who was the executive director of this outstanding blue-ribbon Commission, where he says:

> First, population as the sole basis of representation in both houses of State legislatures is not a new or revolutionary doctrine.
>
> To the contrary, in the earlier days of our Republic, this tended to be the rule with other bases constituting the exception. At one time or another, 36 of our 50 States have provided in their constitutions that population would be the primary basis for representation of both houses in the legislature. Twenty-seven of these States provided that it should be the sole basis. This has been an extremely uncomfortable fact for those who contend that the very foundations of the Republic were swept away by the Supreme Court decisions of 1964.

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

(See exhibit 1.)

Mr. HRUSKA. Mr. President, I have no objection to that material being printed in the RECORD. I am familiar with the statement. I also know that there are dissenting views in that report, and I ask unanimous consent that those dissenting views be placed in the RECORD immediately following those of the Senator from Maryland.

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

Mr. TYDINGS. In that event, I ask unanimous consent that all of chapter 5 of the Commission's report, including both majority recommendations and dissenting views be included in the RECORD.

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

(See exhibit 2.)

Mr. TYDINGS. Mr. President, I gave assurance to the present occupant of the chair, the Senator from South Carolina [Mr. RUSSELL], that I would not be long winded in my remarks this evening. I should like to make two other brief points.

On page 26 of the speech of the Senator from Nebraska, he states that the key word is "substantially." He goes on to say that the proponents of the Dirksen amendment fully support the idea that State legislatures should be constituted "substantially" on the basis of population.

I gather from the remarks of the Senator from Nebraska that he has no quarrel with the word "substantially." If that is true, I believe that we should definitely hear from the Senator from Illinois [Mr. DIRKSEN] as to whether he would be willing to put the word "substantially" in his amendment, because it would make the difference between night and day.

Finally, I should like to propound some rhetorical questions, to which I do not seek answers this evening, but which I believe must be answered for the RECORD, and for the American public, if the rotten borough amendment should ever reach the floor of the Senate.

Under the latest, third version, of the revised rotten borough amendment, one house of a bicameral legislature or a unicameral legislature may be apportioned on factors other than population, provided those factors are geography or a political subdivision.

My question is: What is geography as a factor in apportioning a State legislature? By that I mean can a State give more weight to an area with mountaineers than it can to a seashore town with fishermen, more seats or more weight to a desert area than to, say, an open area along rivers or along the seacoast where there are little fishing villages?

Can it give more weight to one suburban area than it can to another suburban area, or must it be consistent in applying the geographical factor?

To make the point even more explicitly, the colloquy here yesterday brought up the fact that Hawaii was one State which might be affected, because in Hawaii

there are plans to go ahead and annex Samoa and Guam, an area extending over thousands of miles.

Could the distance from Hawaii to Samoa or Guam, under the geographic system, be considered in determining the number of representatives in the Hawaii Legislature which Guam or Samoa might have; or could it not?

Mr. MURPHY. Mr. President, will the Senator from Maryland yield?

Mr. TYDINGS. If the Senator please, I would like to continue to propound my rhetorical questions because I am not seeking debate, I am merely seeking to place these questions in the RECORD. These are questions which should and must be answered in order to know what the constitutional amendment would do. These are questions which were not answered in our hearings.

Mr. MURPHY. If the Senator will yield for just a moment, I merely rise for clarification. Is the Senator's proposal that, if there were annexation of Samoa and Guam to Hawaii, that the intervening waters be considered as part of the geography?

Mr. TYDINGS. Not the intervening waters, but would the distance between Guam and Samoa be considered? We have heard a great deal of talk about distance being a geographic factor. I was referring to the distance a legislator would have to travel—the distance, not the water. I would hope that geography would not include the water area itself.

Mr. MURPHY. But would distance be a geographical factor?

Mr. TYDINGS. I am just asking the question. I am not proposing anything. However, I must say that these are areas in which we have not heard testimony, and on which we do not know the answers. If the Senator from California has the answers and can speak for the Senator from Illinois I believe that we should have them in the RECORD; but I do not know the answer, and I am merely propounding the question for the RECORD.

Mr. President, second, what are political subdivisions? Would an unincorporated town or a sanitary district, or a school district, come within the term "political subdivision." Would a subdivision be limited to counties or towns and cities which have been created by the act of a State legislature, or would a political subdivision extend to bodies which could be created within a county or a township? Where are the lines? What are the extents or the limits to what constitutes a political subdivision? Can new subdivisions be created at will in order to effectuate a malapportionment plan?

Mr. President, these are questions on which I do not seek answers tonight, but which I believe in fairness to all should be answered by the chief proponents of the amendment. There was no specific testimony on these points. These are new areas. I merely bring them up at this time and perhaps later on the Senator from Nebraska may wish to answer them.

Finally, Mr. President, I appreciate the courtesy of the Senator from Nebraska for permitting me this opportunity to make a few comments by yielding to me. I have enjoyed and will continue to enjoy my association with him.

EXHIBIT 1

CHAPTER II.—EVOLUTION OF REPRESENTATION AND THE STRUCTURE OF STATE LEGISLATURES

HISTORY OF REPRESENTATIVE GOVERNMENT AS APPLIED TO STATE LEGISLATURES

In order to understand the present structure of State legislatures—as expressed both in constitutional provisions and in the often avoidance or ineffective implementation of those provisions—it is necessary to understand the theory of representative government, and to view its application at different times in history. As with any theory of government, the theory of representative government has been subject to constant change and modification in order to meet changing times and circumstances. Since this report is concerned solely with the basis of representation in State legislatures, the review of the general theory will be limited.

The path of representative government has followed the changing interests of the community. Its history, for purposes of application to State legislatures, began with the struggle between the European kings and their subjects. The kings, in order to raise revenues and armies, had to have the assistance of the feudal lords. To obtain this assistance, various councils to the king were created—in England the council soon became the Parliament. Once established, the council or Parliament, began to appreciate its power with respect to the king. Slowly, the leverage gained by these lords developed into representative government. As Charles A. Beard has said:

"Representative government began its career as an instrument of political power, in a given complex of social and economic circumstances, to serve the purposes of the ruling monarchs; and it has played a bewildering role, in form, spirit and authority for more than five hundred years. Flexibility has been its prime characteristic.[2]

During the American colonial period profound changes were taking place in the governmental structure of England.

The American colonies were founded in a century in which England developed highly significant ideas of representation. At the beginning of the 17th century, the power of the Throne in England was great. By the middle of the century, the Crown had been temporarily banished, and by the end of the century, Parliament had become supreme and modern "representative government" had begun.[3]

These developments had a strong impact on colonial America. The English development during the 17th century was concerned largely with the respective roles of the King and Parliament. It was not until this issue was resolved, or its conclusion clear, that attention was turned to the constitution and operation of the representative body.

Representative government in England was conceived at a time when nearly all wealth was measured by land. It was natural, therefore, for the first representatives to the King's Council or Parliament to be selected on the basis of land holdings, since it was from such land that the king hoped to obtain royal revenues. As commerce grew, the king found it expedient to grant charters to cities and towns. Such charters, in addition to dealing with taxing powers of the king, usually granted the town representation in the Parliament. Representation at this time was not based on population or any other criterion that might be related to population—it was based on town or feudal units.

As the power of Parliament grew and as it turned its attention to matters other than revenue and taxes, stirrings began to be heard. Were land and political subdivisions the appropriate criteria for determining representation in Parliament? It was not until the Reform Act of 1832 that England finally resolved the question of Parliamentary representation in favor of population. The struggle had lasted for nearly two centuries, and it was during this struggle that colonial America was settled.

American colonial legislatures were greatly affected by the matters at issue in England, but the heirs of English history were quicker to accept population as a basis of representation than was the mother country. As early as 1635 Massachusetts gave recognition to population in towns by establishing the following formula:[4]

No. of freeholders:	*Representatives*
0–10	0
10–20	1
20–40	2
Over 40	3

Rhode Island gave similar recognition to population, but Connecticut provided for equal representation for each town.[5] In view of this checkerboard pattern, Luce was able to say "Nowhere did representation bear any uniform relation to the number of electors. Here and there the factor of size had been crudely recognized." [6]

During the period from 1776 to 1790, the States of the emerging nation grappled with the problem of organizing their respective governments. The problem of legislative representation based on population (or one of its equivalents—qualified electors, taxable inhabitants, taxes paid, etc.) or political subdivision was one of many dealt with at great length. The question of the basis of representation at the State level was intertwined with numerous other issues (particularly qualifications for voting and qualifications for holding office), but we are not here concerned with these matters.

Mr. Luce gives to the Commonwealth of Pennsylvania, under its constitution of 1776, the distinction of being the first to adopt population—in this case taxable inhabitants—as the basis for legislative representation. The Pennsylvania constitution of 1776 also provided for a unicameral legislature. When a new constitution, adopted in 1790, established a bicameral legislature, Pennsylvania retained population as the basis of representation in both houses of its legislature. Following the lead of Pennsylvania, the States of Georgia (unicameral), New York, and South Carolina adopted population as the basis of representation. Massachusetts and New Hampshire modified population somewhat as the basis of representation in one of the houses of their bicameral legislature. The tradition of representation from the town was to be retained, but both States required a minimum number of "rateable polls" (qualified voters) for representation and provided for additional representation for the larger towns. In Massachusetts the ratios were: 150–175, one representative; 175–600, two representatives; 600,

[1] The brief historical review which follows necessarily oversimplifies the issues and conflicts in the development of representative government. For a comprehensive review of the history of representative government see Robert Luce, "Legislative Principles" (Houghton Mifflin Co., 1930) and Alfred de Grazia, "Public and Republic" (Alfred A. Knoph, Inc., 1951).

[2] Charles A. Beard and John D. Lewis, "Representative Government in Evolution," American Political Science Review, 26: 223 (1932).

[3] De Grazia, op. cit., p. 13.

[4] Luce, op. cit., p. 337.

[5] Ibid., p. 340.

[6] Ibid., p. 342.

three representatives; and an additional representative for each 250 "rateable polls." New Hampshire adopted a similar formula.

Representation based on political subdivisions—counties—of the State developed in the middle Atlantic States. Delaware and New Jersey based representation in both houses of their legislatures on the county. Maryland, North Carolina and Virginia did the same but provided additional representation for certain specified cities. If the 1790 population figures of these five States are considered, it appears that representation based on counties did not differ greatly from the distribution of the State's population (table I).

TABLE I.—*Distribution of counties by population in States using the county as the basis of representation in 1790* [1]

County population	Delaware	New Jersey	Maryland [2]	North Carolina	Virginia
Over 20,000	1	1	5	0	1
15,000 to 20,000	2	6	6	1	6
10,000 to 15,000	0	4	6	9	24
5,000 to 10,000	0	1	2	36	37
Under 5,000	0	1	1	8	41

[1] Source: "First Census of the United States: Return of the Whole Number of Persons," 1790.
[2] Baltimore City with a population of 13,503 is included as a separate county.

Closer analysis reveals that the disparity between population and representation was even less than that which appears in Table I for some of the five States. In Delaware the population of the most populous county was 20,488 while that of the least populous was 18,920. In New Jersey, with the exception of one county with a population of 2,571, the population range for 12 counties was between 8,248 and 20,153. The population distribution by counties in Maryland and North Carolina, while not as uniform as that of Delaware and New Jersey, was sufficiently uniform so that representation based on the county permitted all interests to be reasonably represented in the State legislature. In Maryland county population ranged from 4,809 to 30,791; between these extremes were 15 counties with populations between 11,640 and 22,598. In North Carolina the range was between a high of 15,828 and a low of 3,071. Virginia had the greatest extreme—a low 951 and a high of 22,105. This variation of representation in the Virginia legislature caused Thomas Jefferson to criticize the Virginia constitution because "among those who share the representation, the shares are unequal." [7]

Connecticut and Rhode Island used the town for the basis of representation in one house of their bicameral legislatures; though in both States, size of towns was crudely recognized. Unfortunately, the 1790 census did not list town populations for Connecticut. The 30 towns of Rhode Island contained populations ranging from a low of 507 to a high of 6,716 and 24 of them had populations between 1,100 and 4,200. As with the States using the county as the basis of representation, the population differences between towns were relatively small in Rhode Island.

The next significant event was the passage of the Northwest Ordinance by the Congress under the Articles of Confederation on July 13, 1787. This ordinance provided the guide to the development of the American West. It is perhaps significant that this ordinance was enacted in the same year that the Constitutional Convention completed the final draft of the new Constitution of the United States for submission to the States for ratification, and it should be recalled that the Northwest Ordinance was adopted with each State having only one vote. With respect to representation in territorial legislatures the ordinance said in section 9:

So soon as there shall be 5,000 free male inhabitants, of full age, in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect representatives from their counties or townships, to represent them in the general assembly. Provided, that for every 500 free male inhabitants there shall be one representative, and so on, progressively with the number of free male inhabitants, shall the right of representation increase, until the number of representatives shall amount to 25; after which the number and proportion of representatives shall be regulated by the legislature.

While the basis of representation specified in the Northwest Ordinance may not be absolutely clear from a reading of its provisions, the subsequent actions of the States formed out of the Northwest Territory leaves little doubt as to their understanding of the basis for legislative representation. Table II indicates that the newly formed States clearly considered population to be the basis of legislative representation for both houses of their legislatures. Of the 20 States joining the union after ratification of the constitution and prior to the Civil War only two, Vermont and Florida, provided otherwise.

TABLE II.—*Basis for representation in State legislatures as contained in original State constitutions*

Year of admission	Number of States	Both houses population	Both houses population with slight modification in 1 house	1 house population; 1 house subdivision	Both houses subdivision	
					With modification	Without modification
Colonies	13	[1] 4	2	2	3	2
To 1800	3	2			[1] 1	
1801–20	7	5	2			
1821–40	3	1	2			
1841–60	7	6		[2] 1		
1861–80	5	[3] 3	1	1		
1881–1900	7	[4] 4	1	[5] 1		1
1901–20	3	[6] 2			1	
1921 to date	2		1	[7] 1		
Total	50	27	9	6	5	3

[1] Georgia, Pennsylvania, and Vermont adopted a unicameral legislature in their original constitutions and are included on the basis of the particular apportionment formula.
[2] The Florida Senate, while based on counties, required newly organized counties to have the equivalent of the statewide ratio before being entitled to a senator.
[3] The Colorado constitution provided for representation in both houses of its legislature to be according to "ratios" fixed by law.
[4] The Utah constitution was similar to that of Colorado.
[5] While the Idaho constitution gave 1 senator to each county, the original constitutional apportionment combined several counties to form senate districts.
[6] The New Mexico constitution contained no provision for apportionment, but in allocating legislative seats, it combined counties as well as giving more than 1 senator and/or representative to certain named counties.
[7] The Hawaiian Senate is apportioned according to constitutionally specified districts which give some recognition to population and the house is apportioned according to population.

In summary, the original constitutions of 36 States required that representation be based completely, or almost so, on population. Subsequently, through constitutional amendment, often according legal status to institutionalized practices, this pattern was to change because of the growth of big cities.

THE STRUCTURE OF STATE LEGISLATURES

Present constitutional apportionment formulas

A summary of State constitutional provisions governing apportionment as of November, 1, 1961, is included in appendix A. Table III summarizes the data from appendix A in a manner designed for comparison with the information contained in table II.

TABLE III.—*Constitutional provisions for representation in State legislatures as of November 1961* [1]

	Col. 1 Both houses population	Both houses population		Col. 4 1 house population; 1 house subdivision	Col. 5 Both houses subdivision	
		Col. 2 With slight modification in 1 house	Col. 3 With significant modification in 1 house		With modification	Without modification
50 States	15	9	12	7	7	

[1] Where population is qualified by permitting a county with ½ (for example, Oregon) or ⅔ (for example, Tennessee) of the State population ratio to send a representative to a particular legislative body, that qualification is not considered as modifying the population basis of representation. Thus, Oregon which provides a ½ ratio provision for representation in both houses of its legislature is placed in col. 1. Nebraska, with a unicameral legislature, based on population is also placed in col. 1. The placing of certain States in col. 2 or col. 3 presented certain difficulties which were resolved somewhat arbitrarily: For example, both Alabama and Iowa provide that its house of representatives shall be based on population, but each county is guaranteed 1 representative. Despite identical constitutional provisions, Alabama was included in col. 2, and Iowa is included in col. 3. The reason for this distinction is the relation between the size of the particular house and the number of representatives authorized in that body. The Alabama House has 106 members, and the State has 67 counties, while the Iowa House has 108 members and the State has 99 counties. In Iowa, only 9 seats may be distributed on the basis of population, but in Alabama, 39 seats may be so distributed. In Alabama, if 2 counties contained 50 percent of the State's population, they might elect 38.7 percent of the membership of the body, but 2 similar counties in Iowa would elect at most 10.2 percent of the membership of the legislative body.

NOTE.—Certain factors relating to the classification set forth in table III must be made before a comparison is undertaken.

Pennsylvania limits house representation from any one city or county to one-sixth of the membership. The constitutions of New York and Rhode Island contain similar limitations on representation from single political subdivisions. These limitations at one time operated to limit the representation, if based only on population, of the cities of Philadelphia, New York, and Providence. Now, shifts in population have

[7] Ibid., p. 352.

neutralized the effects of such restrictions upon the relationship between population and representation, and they are unlikely to affect apportionment in these States in the future. In some States, such as Colorado and Hawaii, such restrictions would seriously affect the distribution of legislative seats.

States such as California, Illinois, and Michigan combine area and population as the basis for apportionment of senate seats. California provides that its senate, consisting of 40 members, shall be apportioned according to population, except that no single county shall have more than one senator (over a third of the State's population resides in one county), and no more than three of the State's 58 counties may be combined to form a senatorial district. The Illinois constitution divides the State into three districts—Chicago, the rest of Cook County, and the rest of the State—and apportions a specified number of senate seats to the respective districts. Area is a prime consideration in apportioning seats within the three districts. The assignment of seats to the three districts recognizes the population factor to some extent. The constitutionally specified senatorial districts in Michigan represent an apportionment somewhat similar to the combination of constitutional provision and actual practice in Illinois.

The extent to which the population factor is limited in apportionment of both houses varies greatly among the States. The Arkansas senate is apportioned permanently into districts based on the State's population in the 1950 census; its house, 100 members, is apportioned according to population, with each of 75 counties guaranteed one seat.[8] The distinction between the Arkansas provisions and those of Pennsylvania and Rhode Island, discussed above are obvious. The effect of the Mississippi constitutional provisions is similar to that of the Arkansas provisions in that apportionment under the present constitutional formula could provide for representation substantially in accord with the State's population distribution; a future change in that distribution could result in significant differences between population and representation.[9] Florida and Georgia, both having small senates and houses of representatives relative to the number of counties, limit the representation from single counties to one member in the senate, and guarantee each county one representative while at the same time limiting representation from the larger counties in the house. The combination of these requirements permits a small percentage of the State's population to elect a majority of representatives to both legislative bodies in these two States.

Certain significant differences appear between original and present State constitutional apportionment provisions. The original constitutional provisions of 36 States contained apportionment provisions based completely or substantially on population. At present only 24 constitutions contain such apportionment provisions. The original constitutions of three States based representation in both houses on political subdivisions, with no recognition of population differences—no State constitution contains such provisions today. A concept not found in original State constitutions—one house based on population and the second based on population with significant modification—now appears in the constitutions of 12 States.

Composition of State legislatures

A characteristic feature of most State legislatures is that a relatively small percentage of population elects a majority of the members. This characteristic has given rise to most of the litigation that has followed in the wake of *Baker* v. *Carr*.

The facts noted in numerous studies of representation in State legislatures are generally known, and it is unnecessary to repeat many of them here. To summarize, as of June 1, 1961, in only 11 States did 35 percent or more of the population elect a majority of the members to both houses of the State legislature; in only five of these States did the figure exceed 40 percent. On the other hand, there were at least seven States where less than 30 percent of the population elected a majority of the representatives to both houses of the legislature. Appendix B details data on the percentages necessary to elect a controlling majority in State legislative bodies and the population of the smallest and largest legislative districts in each State. In most instances where significantly less than a majority of a State's population can elect 50 percent or more of the legislators, it is the suburban or entire metropolitan areas which are underrepresented rather than the central city.[10]

The size of a legislature has an important bearing on the legislative process, and has particular implications for legislative apportionment. The membership of State senates ranges from 17 to 67, while the size of State houses of representatives ranges from 35 to 400. Without exception, State senates are the smaller bodies in the legislative branch of the State government. Size of the legislative body is particularly significant where representation is based on political subdivisions of the State. (The size and political control of State legislatures and the political affiliation of the Governor as of November 1, 1961, is contained in appendix C.)

With the exception of three New England States—Connecticut, Rhode Island, and Vermont—all States which require recognition of political subdivisions in apportioning legislative seats utilize the county as the unit for this purpose.[11] This requirement, when applied to the number of applicable subdivisions in a particular State usually limits representation on a population basis, especially in a small legislative body or in a State with a large number of political subdivisions.

The constitutions of 28 States guarantee at least one representative to each county or town in the State. However, in only eight of these States is the county or town the only factor in apportionment. The other 22 States give some recognition to population while insisting that each designated political subdivision receive at least one seat.

Of the latter 22 States, 17 have over 75 counties. While these States give some recognition to population in apportioning additional seats in the house, given such a requirement, it is difficult to avoid great disparities between representation and population without having an unduly large legislative body. For example, if Georgia, with 159 counties, were to apportion seats in its house of representatives on the basis of population and still provide at least one representative from each county, its house would consist of over 2,600 members. On the other hand, although Alabama gives each county one representative in its house of representatives, this apportionment does not result in as serious a deviation from population representation as does a similar requirement in Iowa. (See footnote to table III.) Yet, to give full effect to population would require over 300 members in the Alabama house instead of 106.

Party affiliation is of fundamental importance in the apportionment process. Of 74 legislative bodies, in 37 States,[12] the Democratic Party has a majority in 38 bodies, the Republican Party has a majority in 35 bodies, and in one body representation is equal (appendix C). In only five of these States is party control limited to only one house. In 31 States one party controls both houses of the State legislature.

The apportionment process in the States

While numerous State constitutional provisions place severe or minor limitations on the degree to which apportionment of legislative seats may be based on population, considerable latitude remains for the apportioning agencies to give greater weight to population than they have chosen to do. Of the total of 99 State legislative bodies, there are 16 which because of constitutional provisions may not be reapportioned periodically. Such limiting provisions either allocate a specified number of representatives to each political subdivision or establish permanent legislative districts. For eight additional legislative bodies, the constitutional requirements are so restrictive that the apportioning agency has very little discretion in apportioning seats in the legislature. The apportioning agencies of the remaining 75 legislative bodies possess considerable authority in the apportionment process within the limits of State constitutions. Many of these limits are explicit as to the standards the apportioning agency must follow.

The State legislature has sole responsibility for the periodic apportionment of legislative seats in 60 of the 83 legislative bodies for which permanent legislative districts are not established. As will be seen below, it is primarily because of the way this power has been exercised or ignored that much of the apportionment litigation has been initiated. Although there are some exceptions, State legislatures simply have not complied with their constitutional duties regarding apportionment.

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[8] Based on the 1960 census figures, the apportionment provisions of the Arkansas constitution would not justify classifying Arkansas with the group of States whose constitutional provisions require apportionment of both houses of the State legislature in such a manner as to provide gross disparities between population and representation. However, despite the immediate situation Arkansas has been so classified because of the likely effect of future population growth.

[9] The constitutional provisions for apportionment of the Mississippi Legislature provide a unique example of a basic problem in legislative apportionment. The State is divided in three large districts representing historical differences of interests and power. With the exception of the fact that each of 82 counties is guaranteed 1 representative in a 140-member house, seats in both houses are to be apportioned almost equally among the three districts and on the basis of population within the districts. At the present time, the population of, and number of counties within, the three districts are relatively equal, and within each district, the population distribution is such that apportionment of 58 house seats on the basis of population would permit representation substantially in accord with population. While this population distribution has been present through most of the history of the State of Mississippi there is no certainty that it will continue.

[10] Paul T. David and Ralph Eisenberg, "Devaluation of the Urban and Suburban Vote" (University of Virginia, 1961), pp. 12–13.

[11] As used here, recognition means granting at least one representative to each political subdivision of a given type within the State. In Louisiana the parish is used for this purpose.

[12] For purposes of this analysis each house of the State legislature is considered a separate legislative body. In addition, the 11 Southern States and the 2 States with nonpartisan elections are omitted. Information is as of Nov. 1, 1961, as contained in Book of the States 1962–63, Council of State Governments (Chicago, 1962), p. 41.

To secure apportionment of legislative seats at constitutionally prescribed intervals in the 60 legislative bodies mentioned above would require action on the part of 34 State legislatures. Of these, 15 can be said to have apportioned legislative seats at regular intervals (every 10 years or less since 1940), while 7 have not taken any apportionment action since 1930. The remaining 12 legislatures have acted on apportionment at regular intervals since 1930.[13]

Of the 15 legislatures that have apportioned regularly, five—Idaho, Montana, Nevada, New Mexico and South Carolina—are limited by constitutional provisions to apportionment of seats in only one house of the legislature. In most instances these five legislatures have performed their limited responsibility. In two States—Georgia and Kansas—legislative authority is broad with respect to apportioning one house of the legislature on the basis of population, but narrow with respect to the second house. In these States the legislatures acted creditably in exercising their limited responsibility, but very conservatively in exercising their broad responsibility. The Florida legislature is permitted only narrow authority in apportioning both houses. The final group of seven States—Maine, Massachusetts, New Hampshire, New York, Oklahoma, Virginia, and West Virginia—present significant variations. The New York and Oklahoma constitutions contain what many call severe limitations on apportionment according to population. Despite these limitations, the New York legislature has apportioned legislative seats according to its constitution while Oklahoma has not. Apportionment is based strictly on population in three (Massachusetts, New Hampshire, and Virginia) of the remaining five States (Maine and West Virginia are the exceptions) and the three State legislatures have done reasonably well in meeting their apportionment duties, though the three apportionments are being challenged in court. The limitations contained in the Maine and West Virginia constitutions are not particularly significant in view of the States' population distribution, and the Maine legislature has complied with its constitutional provisions while West Virginia has not.

Obviously and understandably State legislatures generally have had an extremely difficult time when confronted with apportionment legislation. It is essential to look briefly at some of the reasons for the difficulty. If we can understand the difficulties, it may then be possible to develop procedures that will eliminate or at least minimize them.

The major problem facing legislators in this matter, is that apportionment of legislative seats is a function of political power—political power in the most personal sense. Certainly apportionment is of major concern to political parties, the many interest groups in our society, the political subdivisions of the State, and the people generally, but to the State legislator, apportionment often represents a challenge to the interests of his constituents, to his tenure in office, and to his power to influence the policy decisions of the State. In a study of the problem in Illinois it was said that:

"Redistricting legislation is of basic concern to legislators because it is a kind of job specification which can be drawn to the special advantage or disadvantage of any member. Redistricting can insure continuity in office or can insure retirement, depending on the terms of the bill. No other legislation has quite the same direct effect on a legislative career, and with no other legislation do the demands, the proposals, the maneuvering, and the compromises emanate within the legislative body to the same extent." [14]

Steiner and Gove observed that "Redistricting proposals that dislodge a minimum number of sitting members, irrespective of party, will be favored over proposals that do not take into account sitting members."[15] This conclusion is supported by numerous other studies.

While personal factors may play a primary or the primary role in legislative apportionment when the legislature itself is called upon to act, numerous other factors are involved. Second only to the personal factor is the problem of the so-called "urban-rural" conflict. In this context the issue is not one of determining the basis of representation, but of which "group" shall control the legislature of a State. (The history of apportionment has shown that the States considered population to be the basic factor in the apportionment of legislative seats when their first constitutions were adopted. Around the turn of the present century, it became evident that significant shifts in legislative districts would be required in most States if population continued to be the primary or sole basis of representation. The possibility of shift coincided with the beginning of the real growth of big cities and urban areas. Up until that time most of the legislatures had been apportioned in accordance with constitutional mandates. For example, the last apportionment in Illinois, before its 1955 constitutional amendment, occurred in 1901. In 1901 Cook County contained 38.1 percent of the State's population and the county received 37 percent of the seats in each house of the legislature. That the start of the 20th century marked a turning point in apportionment, is attested to by numerous studies. [16])

The pattern on which to challenge population as the basis of apportionment was developed in the States during the 19th century and followed in some respects the pattern used in England prior to 1832. While State constitutions called for apportionment according to population, in most instances they required that counties not be split when forming a legislative district. During this period it becomes the common practice to give each county one representative in at least one house of the State legislature. At that time there were few States with large centers of population in relation to the State's total population. In addition, many counties were unorganized. Since the State had the basic responsibility for elections, it was only logical to select the county as the basic unit through which to administer elections. The institutionalized practice of giving each county one representative in one house of a State legislature was given legal status in some State constitutions, such as Kansas and Iowa, and became the standard practice of legislatures in other States, including West Virginia.

While apportionment has produced serious inter-party conflict in some States, most observers have been unable to find clearly partisan political positions taken in this field. The following observations were made of two States—Michigan and New York—where apportionment certainly has been considered a partisan issue:

"Moreover, not all Democrats or Republicans share their own party's view on this issue—Democrats in the Upper Peninsula of the State would be likely to lose seats in a reapportionment, for example, and heavily populated and Republican Oakland County would probably gain some legislative seats. Thus, while party politics are clearly involved, this is not entirely a political party issue.[17]

"The position of Tammany legislators is illustrative of the politics of reapportionment in several States today where politicians of the city proper team up with rural county legislators to oppose redistricting along population lines because both are likely to lose some seats to the growing metropolitan area." [18]

This matter of intra- as opposed to interparty rivalry in apportionment is even more apparent in States where one party has commanded the allegiance of a large majority of the voters for a long period of time. The problem is perhaps best summed up by Hobbs:

"In most States, legislative reapportionments are blocked by representatives whose counties are overrepresented. This is at least understandable, but in some States representatives from greatly underrepresented counties also secretly work in collusion with representatives from greatly overrepresented counties to block increased representation. The reasoning being that so long as a small number of representatives are elected in their districts the more important they become. It is a truism that power sharing is not often eagerly sought by politicians.[19]

Further, in regard to the frequency of apportionment, the constitutions of some States require apportionment more often than every 10 years. Such provisions were more common in constitutions of the 19th century. Hobbs, noting that Mississippi reapportioned its legislature on the average of every four and a half years during the 19th century, says: "The regular periodicity of reapportionment made them quite easy to effect since population changes were not given an opportunity to create vested interests in the status quo to the point where reassigning legislators became next to impossible." [20]

In 14 States the responsibility for periodically apportioning the seats of 23 legislative bodies has been partially or completely removed from the jurisdiction of the legislature.[21] Ohio, in its constitution of 1851,

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[13] See appendix A.

[14] Gilbert Y. Steiner and Samuel K. Gove, "The Legislature Redistricts Illinois" (the Institute of Government and Public Affairs, University of Illinois, 1956), p. 5.

[15] Ibid., p. 31.

[16] See Gordon E. Baker, "Rural Versus Urban Political Power" (Doubleday & Co., Inc., 1955); Thomas Page, "Legislative Apportionment in Kansas" (Bureau of Government Research, University of Kansas, 1952); Edward H. Hobbs, "Legislative Apportionment," Yesterday's Constitution Today, edited by Hobbs (Bureau of Public Administration, University of Mississippi, 1960).

[17] Herbert Garfinkel and L. J. Fein, "Fair Representation: A Citizen's Guide to Legislative Apportionment in Michigan" (Michigan State University, 1960), p. 1.

[18] Hugh A. Bone, "States Attempting To Comply With Reapportionment Requirements," Law and Contemporary Problems, 17:401 (Spring 1952). New York did not reapportion its legislature between 1917 and 1941. The Democratic Party obtained control of both houses of the State legislature and the governorship in the late 1930's. Despite the concerted efforts of the statewide party leaders, the Manhattan Democrats, joining with Republican legislators, were able to defeat any apportionment legislation. Manhattan opposition was based on the fact that it would lose representatives while other portions of Democratic New York City would gain representatives.

[19] Hobbs, op. cit. (footnote 19), p. 127.

[20] Ibid., p. 126.

[21] On Nov. 6, 1962, voters in three States approved proposals affecting apportionment procedures. In Colorado, members of a legislature that fails to apportion house seats according to the population formula in the constitution can be denied their salary or the opportunity to seek reelection. In North Carolina, the speaker of the house was assigned responsibility to apportion house seats, and in Oklahoma an apportionment commission was given the responsibility to apportion seats in the legislature.

was first to adopt this approach. Most of the other States having such a procedure adopted it quite recently. Perhaps the most significant result of this development is that in most of the States having such procedures, the apportioning agency has complied with State constitutional apportionment requirements. The development and growth of nonlegislative apportionment procedures have occurred because of dissatisfaction with the manner in which many State legislatures had dealt with their responsibilities.

The 14 States divide into two basic groups. The first, including California, Oregon, Illinois, South Dakota, Texas, Michigan, and North Dakota, provide for nonlegislative action in the event that the legislature fails to act within a designated time. The other seven States—Alaska, Missouri, Ohio, Hawaii, New Jersey (statutory only), Arkansas, and Arizona—have removed the legislature completely from the apportionment process.

At least seven State constitutions—Alaska, Arkansas, Hawaii, New York, Oklahoma, Oregon, and Texas—specifically provide for court review of apportionment legislation or plans. In addition, a number of State courts have held that they may review apportionment proposals to insure that the provisions of the State constitution have been compiled with. Most of these State court decisions were rendered long before *Baker* v. *Carr*. Among the States in which courts have reached this decision are Massachusetts, New Jersey, Virginia, Michigan, Illinois, Ohio, Washington, Clorado, Indiana, Kansas, and Kentucky. While these and other State courts have exercised the authority to review the constitutionality of State apportionment proposals, they have, except where a local government districting or a nonlegislative body is involved, generally refused to direct the legislature to apportion according to the constitutional provisions of the State. The first exception to this practice was made not by the U.S. Supreme Court, but by the Supreme Court of New Jersey in *Asbury Park Press, Inc.* v. *Woolley*.[22]

EFFECTS OF THE PRESENT STRUCTURE

The urban-rural conflict

In determining the effects of "malapportionment" of State legislatures, it is necessary to define what constitutes malapportionment. In most simple terms, it is the granting of greater representation to rural or sparsely populated areas than they are either entitled to under the provisions of the State constitution or they would be entitled to if apportionment were based solely on population. Conversely, if population alone is considered, urban areas are underrepresented in State legislatures on either basis. If persons residing in rural and urban areas, assuming they can be divided into two separate groups, sought the same legislative goals there might be no issue raised by the fact that legislative seats are not apportioned according to population. While no absolute dichotomy of interests exists between urban and rural residents, there are apparently enough differences affecting enough interests to say that some type of a conflict exists. Whether this conflict can be analyzed in concrete terms when applied to specific issues is another question. There is no doubt that the conflict exists in the actual apportionment process. Even in the apportionment process, however, many instances have been noted where urban leaders have been less than forthright in their demands for more equal representation. Against this immediate qualification, it is obviously difficult to trace with any degree of precision the effects of the present systems of apportionment.

To quantify the extent of the underrepresentation of population in State legislatures (as show in Appendix B) is one matter, but to determine what particular segment of the population actually is underrepresented in a particular State requires much more careful analysis. The 1960 Census revealed that 112.9 million individuals or 63.0 percent of the Nation's population reside in the Standard Metropolitan Statistical Areas.[23] While the residents of SMSA's are usually the people who are most underrepresented in State legislatures, they do not form a single homogenous group. On a national scale approximately half of these people reside outside the central cities. Appendix D shows the central city-suburban population distribution by States. In the present distribution of seats in many State legislatures it is the suburban area and not the city that is most underrepresented. In Maryland, for instance, the city of Baltimore has 30 percent of the State's population and it elects 20 percent of the members of the State senate, while the three largest counties, all within SMSA's have 35 percent of the State's population but elect only 10 percent of the Senate senators. The potential impact of this population distribution will be explored below.

Effects on intergovernmental relations

The most often quoted statement concerning the effect of underrepresentation of urban areas in State legislatures was made by the earlier Kestnbaum Commission:

"Reapportionment should not be thought of solely in terms of a conflict of interests between urban and rural areas. In the long run, the interests of all in an equitable system of representation that will strengthen State government is far more important than any temporary advantage to an area enjoying overrepresentation.

"The problem of reapportionment is important * * * because legislative neglect of urban communities has led more and more people to look to Washington for more and more of the services and controls they desire. * * *

"One result of State neglect of the reapportionment problem is that urban governments have bypassed the States and made direct cooperative agreements with the National Government * * * the multiplication of the National-local relationships tends to weaken the State's proper control over its own policies and its authority over its own political subdivisions." [24]

While there can be little doubt that the past 30 years have seen an increasing national interest in matters that were once considered the basic responsibility of State and local governments, it is sometimes difficult to place all responsibility for this trend at the feet of State legislatures not apportioned according to population. As Harvey Walker has said:

"History has shown that despite the transfer of many State activities to Federal control, the tasks to be performed by the States have not declined, but have increased, new ones being added frequently in response to public demand." [25]

Although the above statements may be contradictory, the available facts certainly support both. The Federal Government is now involved in housing, sewerage treatment, airports, and numerous other programs directly affecting both State and local government. At the same time, the States have assumed larger roles in programs involving water resources, recreation, mental health, and education, among others. The extent of State government activities is attested to by the continuing increase in State taxation and expenditures during the past 20 years.[26] To what extent the trend of Federal participation is due to the growing complexity of our society is certainly an unanswered question at the present time. Ruth C. Silva has provided one answer:

"The multiplication of national-local relations does, of course, weaken the State's proper control over its own policies and its authority over its own political subdivisions. The (Kestnbaum) Commission correctly pointed out that the National Government is often more responsive to urban needs, because urban interests are frequently more effectively represented in Congress than in their own State legislatures. The same shift in population which has made our State legislatures less representative has made the Congress more representative of urban areas. For, unlike most State legislatures, the national House of Representatives has been reapportioned after almost every decennial census. Moreover, since United States Senators are elected at large, they have become increasingly dependent on urban voters for their election to the Senate." [27]

The impact of the present apportionment of State legislatures on State-local and interlocal relations is also difficult to assess. During the latter half of the 19th century the city home rule movement began. Today many States have granted full or partial recognition to municipal home rule. But this solution to a problem of the 19th century and early 20th century may be inadequate today. Home rule was developed in order to permit cities to resolve their own problems without having to go to the State for assistance. At the time most of the residents and industry of urban areas were congregated within the territorial limits of the city itself; this is no longer true. This shift in population distribution within many metropolitan areas has meant that the central city no longer possesses the authority to resolve areawide problems, and since the views of the central city and its suburban area often are in conflict, they cannot reach agreement on a particular approach to the problem. This disagreement or conflict often is transferred to the State legislature. The 1955 apportionment of the Illinois house according to population shows this clearly:

"It is interesting that in the 1957 House, after reapportionment had placed all Cook County districts either completely inside or completely outside the city of Chicago, there were only 4 of the 332 contested roll calls displaying a cohesion of more than 67 percent for the combined Chicago-Cook County group which had a numerical majority in the House." [28]

Derge also notes that disagreement within the delegation from the Chicago metropolitan area occurred more frequently than any other disagreement in the State legislature. Many have said that in most instances where the

[22] 161 Atl. 2d 705 (1960).

[23] A standard metropolitan statistical area includes a central city or cities with a population in excess of 50,000 and the surrounding counties which form an integrated community with such city or cities. See U.S. Bureau of the Census "U.S. Census of Population 1960, U.S. Summary," number of inhabitants, PC (1), 1A (U.S. Government Printing Office, 1961), p. XXIV, for detailed definition.

[24] Commission on Intergovernmental Relations, "A Report to the President for Transmittal to the Congress" (U.S. Government Printing Office, 1955), pp. 39–40.

[25] Harvey Walker, "Myth and Reality in State Constitutional Development," State Constitutional Revision, ed. W. Brooke Graves (Public Administration Service, 1960), p. 9.

[26] See annual series, U.S. Bureau of the Census, "Compendium of State Government Finances in 19—" (U.S. Government Printing Office).

[27] Ruth C. Silva, "Legislative Representation With Special Reference to New York," Law and Contemporary Problems, 27: 409 (summer 1962).

[28] David R. Derge, "Urban-Rural Conflict: The Case in Illinois," Legislative Behavior, A Reader in Theory and Research, ed. John C. Wahlke and Heinz Eulau (The Free Press, 1959), p. 227.

representatives of the urban area could agree among themselves as to what they want, the State legislature would be more than happy to give it to them.

Obviously this reflects only part of the picture. After indicating that 239 of 1,102 laws dealing with city government enacted by the Kansas legislature between 1911 and 1947 related only to Wichita, Topeka, and Kansas City, Page said:

"The legislature actually abdicates the general legislative function by yielding to any local government's request for a new or amended power as long as that power is narrow in scope and is made special for that unit alone." [29]

This statement leads to several observations. The fact that the power granted is usually narrow in scope means that it often may not be sufficient to resolve the problem that precipitated the appeal to the State legislature. Perhaps more important, it reveals a general disassociation on the part of some State legislators with the problems that may confront the city. A power, narrow in scope, frequently is granted without a full evaluation of its effect. The legislature in effect says: "It's your problem. You want this power. Okay—but don't bother us about it." This point is spelled out in detail by both Page and Derge.

One further point should be mentioned. In discussing the provisions of the Mississippi constitution guaranteeing each county one seat in the house, Hobbs says:

"Under present constitutional provisions county consolidation is made virtually impossible, since to consolidate may be to lose representation." [30]

County governments, established by the State legislature, were for the most part created during the 19th century, and structured to meet the problems of that century. Guaranteeing county representation in a legislature impedes county consolidation where such action might be necessary to resolve new problems or to provide more effective local government. This adverse effect on local government structure probably would occur most frequently in rural areas.

Effects on functional programs

The 1960 and 1962 reports of the National Municipal League [31] reveal that its observers find the greatest effect of present apportionment of State legislatures involves State grants-in-aid or the allocation of funds to local government, and labor and welfare matters. These observations are in accord with other studies [32] as well as numerous comments made to the Commission staff during the preparation of this report. In some States none of these effects were noted; in others only some were noted. Perhaps the most significant factor about the functions listed as most affected by the present apportionment of State legislatures is that they involve problems closely tied to urban areas.

Effects on political parties

Available studies indicate that the present distribution of legislative seats does affect the political makeup of legislatures in some States. In order to assess this impact, it is necessary to determine whether the main strength of a political party is located in an area that is underrepresented in the State legislature, and to determine to what extent issues coming before the legislature are framed as party issues.

Taking the States as a whole, it is difficult to determine the overall effect of the present structure on the political composition of State legislatures. It is assumed by many that underrepresented cities outside the southern and border States are basically strongholds of the Democratic Party, but that the underrepresented suburbs in these States tend to support the Republican Party. In the southern and border States the Republican Party has tended to be strongest in the urban areas. In view of the fact that the urban area population of the Nation is divided almost equally between the central city and the suburbs, it is difficult to arrive at any overall national consensus as to the party gaining or suffering most from present apportionment practices.

Detailed studies in two highly urban States, New York [33] and Michigan,[34] would seem to indicate that people who vote for Democratic Party candidates are underrepresented in the State legislature. But other States with large urban populations, Massachusetts, Maryland, and Texas, present another situation. While detailed studies in the latter three States have not been made, there is a great disparity between votes received by Republican Party candidates for statewide office and the number of State legislative seats held by that party.

Two extensive studies on party voting in State legislatures conclude with the observation that party issues do not take up a significant portion of the business of State legislatures.[35] This does not mean that important issues are not the subject of party conflict. The Jewell study also notes that the larger the State's population and the more urbanized the State is, the more issues coming before the legislature are likely to become issues of party conflict.

STATEMENT OF WM. G. COLMAN, EXECUTIVE DIRECTOR, ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Mr. Chairman and members of the committee, my name is William G. Colman, and I am Executive Director of the Advisory Commission on Intergovernmental Relations; accompanying me is Mr. Stuart Urbach, a senior analyst on the staff of the Commission.

Our purpose in appearing before this subcommittee is not to present testimony in behalf of or in opposition to any proposed constitutional amendments or congressional enactments dealing with State legislative apportionment. Rather, our purpose is to present to the committee some factual, technical, and procedural aspects of this problem. Our remarks stem from a comprehensive research project on this subject which the Advisory Commission undertook in 1962 and upon which our report "Apportionment of State Legislatures," is based. This report has been used as a sort of factbook throughout the country by both plaintiff and defense attorneys in reapportionment cases and by Federal and State judges in rendering decisions thereon. Copies of the report have already been made available to the members of this committee and its staff.

Before summarizing the significant findings in this report, it would be well to describe very briefly the origin and current activities of the Advisory Commission on Intergovernmental Relations.

The Commission was created by act of Congress in 1959 (Public Law 86-380) following 2 years of hearings and study by the Committees on Government Operations of the two Houses. The Commission is a permanent, bipartisan body charged with examining and making recommendations with regard to problems of relations among Federal, State, and local governments with a view to strengthening our overall Federal system of government under the Constitution.

The Commission has been in actual operation a little more than 5 years and it has addressed itself to a number of specific friction points in our Federal system, of which State legislative apportionment has certainly been one. The Commission is comprised of 26 members, coming from all levels of government. Three members come from the general public; of the remaining 23, 14 come from State and local government, and only 9 from the National Government. Of these 9, 6 come from the Congress and 3 from the executive branch, so only in a technical sense can the Commission be considered a Federal agency. In a practical sense, it is a national body responsive and responsible to the various levels of government. The membership of the Commission on the date of the adoption of the report on "Apportionment of State Legislatures" was:

Frank Bane, Chairman; Don Hummel, Vice Chairman; John Anderson, Jr., Governor of Kansas; Richard Y. Batterton, mayor, Denver, Colo.; Neal S. Blaisdell, mayor, Honolulu, Hawaii; Howard R. Rowen, citizen member, Grinnell, Iowa; Anthony J. Celebrezze, Secretary of Health, Education, and Welfare; Edward Connor, supervisor, Wayne County, Mich.; C. Douglas Dillon, Secretary of the Treasury; Michael V. DiSalle, Governor of Ohio; Clair Donnenwirth, supervisor, Plumas County, Calif.; Robert B. Duncan, speaker, house of representatives, Salem, Oreg.; Mrs. FLORENCE P. DWYER, Member of the House of Representatives; SAM J. ERVIN, JR., Member of the Senate; L. H. FOUNTAIN, Member of the House of Representatives; Ernest F. Hollings, Governor of South Carolina, EUGENE J. KEOGH, Member of the House of Representatives; KARL E. MUNDT, Member of the Senate; EDMUND S. MUSKIE, Member of the Senate; Arthur Naftalin, mayor, Minneapolis, Minn.; Graham S. Newell, member of the State senate, Montpelier, Vt.; John E. Powers, president, State senate, Boston, Mass.; Robert E. Smylie, Governor of Idaho; Raymond R. Tucker, mayor, St. Louis, Mo.; Robert C. Weaver, Administrator, Federal Housing and Home Finance Agency; and Mrs. Barbara A. Wilcox, commissioner, Washington County, Oreg.

The Commission operates with a small professional staff of 10 people and an annual appropriation of approximately $400,000.

In the light of the widely varying backgrounds and positions of the members of the Commission, you may find it surprising that it acted unanimously upon all but one of the recommendations contained in its report on State legislative apportionment. It would be well to summarize these recommendations because all but one deal with the philosophy and procedure of apportionment rather than the specific quantitative basis thereof. The Commission's recommendations in this area were as follows:

First, apportionment of seats in State legislative bodies is a basic factor of representative government and provisions relating thereto should be clearly specified in State constitutions.

Second, the apportionment formula for each body of the State legislature should be spelled out in clear and sufficient detail so that there can be no question as to the meaning of the formula. The Commission recommended that, where a legislative body is to be apportioned according to population only, the State constitution specify the extent to which legislative districts may represent dif-

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[29] Page, op. cit. (footnote 19), p. 136.

[30] Hobbs, op. cit. (footnote 19), p. 122.

[31] National Municipal League, "Compendium on Legislative Apportionment" (New York, 1960 and 1962).

[32] Robert S. Friedman, "The Urban-Rural Conflict Revisited," Western Political Quarterly, 16:481 (1961); and Charles W. Shull, "Political and Partisan Implications of State Legislative Apportionment," Law and Contemporary Problems, 17:417 (Spring 1952).

[33] David I. Wells, "Legislative Reapportionment in New York State" (International Ladies Garment Workers Union, 1962).

[34] Garfinkel and Fein, op. cit. (footnote 20).

[35] Malcolm E. Jewell, "Party Voting in American State Legislatures," American Political Science Review, 49:773 (1955); and William J. Keefe, "Parties, Partnerships, and Public Policy in the Pennsylvania Legislature," American Political Science Review, 48:450 (1954).

ferent numbers of people in terms of a percent deviation, not to exceed 10 percent, from the number obtained by dividing the total population of the State by the number of representatives in the legislative body. Some States might wish to substitute a requirement that a given percentage of the State's population, e.g., 45 percent, must be in a position to elect a majority of the legislative body.

Third, the State constiution should specify the frequency of State reapportionment. (In this connection, it is interesting to note that today Arizona is the only State that reapportions legislative seats more frequently than once every 10 years. The original constitutions of many States required reapportionments more frequently than every 10 years. Arizona reapportions its house every 4 years, and their apportionment formula is based on actual votes cast at the preceding gubernatorial election. Using the number of votes cast at a particular election permits frequent reapportionments.)

Fourth, the State constitution should specify the body or officer having a responsibility for apportioning seats in the State legislature. The Commission recommended that this responsibility be vested in the State legislature itself. It further recommended that a bipartisan or nonpartisan board or commission or other administrative officer or body be given responsibility to apportion legislative seats if the legislature fails to act within the time specified by the constitution, or when the legislature acts in a manner which is subsequently declared unconstitutional by a court of competent jurisdiction.

As of the date of the Commission's report, 14 States had adopted provisions partly or completely removing the legislature from the apportionment process and had placed this responsibility with different individuals or boards. Additional States have acted along these lines subsequent to 1962.

Fifth, the Commission recommended that State courts be constitutionally provided with appropriate jurisdiction and remedies to insure that State officials comply with their apportionment responsibilities.

The Commission felt that it is incumbent upon States to act promptly in this matter. The role of the State in the federal system depends largely on the confidence the people have in State legislatures. Where both State legislatures and State courts fail to insure that State constitutional provisions are complied with, State government suffers. As of mid-1962, for example, the constitutions of 15 States provided that apportionment of seats in both houses of their legislature should be based on population, but in only 1 or 2 States had the legislature complied substantially with the State constitution. Consequently, State courts must have necessary power to insure that apportionment provisions are complied with by the apportioning body of the State.

Finally, the actual apportionment of a State legislature, including as it must, many elements of negotiation and accommodation that do not lend themselves to adversary proceedings, should be accomplished by the legislative or other specified nonjudicial body or officer. The Commission believes that State and Federal courts should confine their role to insuring that such nonjudicial body or officer promptly produces a reasonable apportionment meeting constitutional requirements, and urges both State and Federal courts to avoid, except in the most extreme circumstances, the prescription by judicial decree of specific apportionment formulas or the geographic composition of legislative districts.

Let me emphasize that the foregoing recommendations, while dealing with very controversial subject matter, were adopted without dissent by any member of the Commission. We believe that regardless of the basis of apportionment, the adoption of the foregoing procedures by States not now having them would greatly improve the responsiveness and responsibility of State government in this very important field.

The research conducted by the Commission on the subject of State legislative apportionment tended to dispel quite a bit of folklore on both sides of the reapportionment argument. Five major points might be emphasized in this regard.

First, population as the sole basis of representation in both houses of State legislatures is not a new or revolutionary doctrine.

To the contrary, in the earlier days of our Republic, this tended to be the rule with other bases constituting the exception. At one time or another, 36 of our 50 States have provided in their constitutions that population would be the primary basis for representation of both houses in the legislature. Twenty-seven of these States provided that it should be the sole basis. This has been an extremely uncomfortable fact for those who contend that the very foundations of the Republic were swept away by the Supreme Court decisions of 1964.

Second, neither historically, nor intrinsically does bicameralism necessitate a different base of apportionment in each house.

Of the 36 States mentioned above, only three provide for unicameral legislatures. (Georgia, Pennsylvania, and Vermont adopted a unicameral legislature in their original constitutions and later changed to bicameral. Today, only Nebraska now operates under a unicameral legislature and it is of fairly recent vintage—1934.) A two-house legislature with a small senate and a large house of representatives—both based on population—could be expected to consider issues from different vantage points. For example, members of the smaller body would be representing a more diversified constituency than would members of the larger body. The term of office in one body could be longer than the term in the second body and legislative terms themselves could expire at different times. These factors were all inherent in the decisions of the States in early period of our history to base both houses on population.

Third, the argument that "rural dominated" legislatures cannot and will not give proper attention to urban problems does not stand up under analysis.

It is certainly true that States have tended to neglect their responsibilities with respect to urban affairs, and this is illustrated by the fact that only a handful of States have seen fit to create departments or offices of urban affairs, while sentiment in the Congress to create a Federal Department of Urban Affairs continues to mount.

However, in many States, failure to act on urban problems and to pass enabling legislation authorizing local governments in urban areas to cope with their problems has been due not to apathy or antagonism on the part of rural representatives but rather to "squabbling" between central city and suburban delegations to the legislature which quite frequently represent different political parties. One researcher pointed out a few years ago with respect to Illinois:

"It is interesting that in the 1957 house, after reapportionment had placed all Cook County districts either completely inside or completely outside the city of Chicago, there were only 4 of the 332 contested rollcalls displaying a cohesion of more than 67 percent for the combined Chicago-Cook County group which had a numerical majority in the house."

Fourth, the residents in urban areas are not always desirous for equal representation in the State legislature.

In Michigan, Colorado, and California, to cite three States, the people of the State have gone to the polls in statewide elections, with "each man having one vote" and have voted solidly against basing both houses of the legislature on population, although the urban residents in two of these three States far outweigh the number of rural residents.

Fifth, in no State is it likely or even possible for legislative reapportionment based on population to result in control of a majority of the votes in the legislature by the "political machine" of a single city.

Among the arguments advanced against apportionment of State legislative bodies on the basis of population has been the allegation that to so apportion would turn over political control of the State to the party organization in the big city of the State. This was a realistic argument in some States from the late 1800's until a couple of decades ago. However, in recent years and today, the population increase is occurring principally in the suburbs. (Statistics bearing on this question are presented in the Commission's report on pp. 44–48.)

In terms of 1960 census data, in only two States—Arizona and New York—would residents of the central cities of the standard metropolitan statistical areas in those States be able to elect a majority of representatives to the legislature. In the case of Arizona it would require an alliance between dominant political organizations of the same party in both Tucson and Phoenix in order to accomplish this objective. In the case of New York, it would require the alliance of political leadership of two upstate cities with that of New York City in order to accomplish the objective. It might be observed at this point that recent events have demonstrated that the relationships between political leaders of New York City and the upstate cities are not exactly harmonious.

On the other hand, in 36 States the combined populations of each State's 3 largest cities constituted less than 30 percent of the total population of the State in 1960. Undoubtedly, with continued population growth in the suburbs, future censuses will render the concept of single city political domination over the State legislature much more fictional than today.

The role of the people in being able to modify a "population requirement" was the major point of difference among members of the Advisory Commission when the Commission voted on the key question of whether or not apportionment of both houses of a legislature should be based on population. The majority of the Commission expressed themselves as follows:

" 'Equal protection of the laws' would seem to presume, and considerations of political equity demand, that the apportionment of both houses in the State legislature, be based strictly on population."

In other words, the majority of the Commission took the same position in 1962 that the majority U.S. Supreme Court took in its apportionment decisions of 1964.

However, a sizable minority of the Commission (Governor Smylie, Governor Anderson, Supervisor Donnenwirth, Governor Hollings, Mr. Don Hummel, and Senator Newell) stated:

"We would have preferred that the Commission adopt the following statement of principle: 'Equal protection of the laws' would seem to presmume, and considerations of political equity demand, that the apportionment of both houses in the State legislature be based strictly on population, unless the people directly determine otherwise."

Four members of the Commission (Senators ERVIN, MUNDT, and MUSKIE, and Congressman FOUNTAIN) expressed individual views and these are contained on pages 74–76 of the Commission's report.

Most of the recommendations and guidelines contained in the Commission's report were concerned with procedures for apportioning seats in a State legislature. Consistent with these, a draft State constitutional amendment has been developed, and widely distributed to State and local officials, designed to establish a procedure for insuring that State legisltures are periodically reapportioned in accord with formulas meeting both State and Federal constitutional standards. State legislative committees and organizations of municipal and county officials have been making considerable use of the draft amendment. Copies of this draft material can be provided to the committee staff if you desire.

That concludes our prepared statement, Mr. Chairman, and we will be glad to try to answer any questions.

MEMBERSHIP OF ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS, WASHINGTON, D.C., OCTOBER 10, 1962

Frank Bane, Chairman.
Don Hummel, Vice Chairman.
John Anderson, Jr., Governor of Kansas.
Richard Y. Batterton, mayor, Denver, Colo.
Neal S. Blaisdell, mayor, Honolulu, Hawaii.
Howard R. Bowen, citizen member, Grinnell, Iowa.
Anthony J. Celebrezze, Secretary of Health, Education, and Welfare.
Edward Connor, supervisor, Wayne County, Mich.
C. Douglas Dillon, Secretary of the Treasury.
Michael V. DiSalle, Governor of Ohio.
Clair Donnenwirth, supervisor, Plumas County, Calif.
Robert B. Duncan, speaker, house of representatives, Salem, Oreg.
MRS. FLORENCE P. DWYER, Member of the House of Representatives.
SAM J. ERVIN, Jr., Member of the Senate.
L. H. FOUNTAIN, Member of the House of Representatives.
Ernest F. Hollings, Governor of South Carolina.
EUGENE J. KEOGH, Member of the House of Representatives.
KARL E. MUNDT, Member of the Senate.
EDMUND S. MUSKIE, Member of the Senate.
Arthur Naftalin, mayor, Minneapolis, Minn.
Graham S. Newell, member of the State senate, Montpelier, Vt.
John E. Powers, president, State senate, Boston, Mass.
Robert E. Smylie, Governor of Idaho.
Raymond R. Tucker, mayor, St. Louis, Mo.
Robert C. Weaver, Administrator, Housing and Home Finance Agency.
Mrs. Barbara A. Wilcox, commissioner, Washington County, Oreg.
Wm. G. Colman, Executive Director.

EXHIBIT 2

CHAPTER V

PRINCIPLES FOR CONSIDERATION AND USE OF GOVERNORS, LEGISLATORS, AND STATE AND FEDERAL COURTS

The preceding presentation of the operation and consequences of existing and possible future State apportionment formulas and practices will be of little consolation to any particular group. The very uncertainties concerning possible consequences of change undoubtedly have contributed materially to the maintenance of the status quo. *Baker* v. *Carr* has provided the stimulant for an extensive review of apportionment formulas and procedures by all those interested in the Federal system of Government in this country.

While the pattern revealed by this study is in some respects ambiguous, the Commission finds that certain conclusions must inevitably be reached; these conclusions, if followed, might require some States to change their apportioning procedures and require some States to change their apportioning formula. The Commission's conclusions and recommendations, in the form of guiding principles to appropriate officials, can be broken down into three categories. The principles outlined in A through C relate to various procedures designed to facilitate periodic apportionment of seats in State legislatures. The principle contained in D is directed toward setting forth a firm boundary between judicial and political responsibilities. The permissible limits of a formula for the apportionment of State legislatures are contained in principle E.

A. Apportionment of seats in State legislative bodies is a basic factor of representative government in the United States and hence provisions relating thereto should be clearly specified in State constitutions

The legislature represents the foundation of democratic government in the State. It is responsible for developing or approving the general policy of State government. It is responsible for finding common principles within which competing interests must operate. The legislature derives its authority to perform these functions from the people of the State. In order that State legislative bodies adequately reflect the needs and interests of the people of each individual State, each State should develop an apportionment formula that gives adequate representation to the diverse needs and interests of its people and at the same time satisfies the requirements imposed by the 14th amendment to the Constitution of the United States.

1. The apportionment formula for each body of the State legislature should be spelled out in clear and sufficient detail so that there can be no question as to the meaning of the formula. The Commission recommends that, where a legislative body is to be apportioned according to population only, the State constitution specify the extent to which legislative districts may represent different numbers of people in terms of a percent deviation, not to exceed 10 percent, from the number obtained by dividing the total population of the State by the number of representatives in the legislative body.[1]

The history of State legislative apportionment reveals that use of ambiguous or ill-defined words and phrases had caused extensive conflict and unnecessary delays in attempts to achieve periodic apportionment of legislative seats. "As nearly equal as possible" has been a particularly troublesome phrase. For this reason the Commission recommends that where population is the only factor in apportionment of legislative seats, the extent to which districts may deviate from each other be expressed in terms of a percentage, not to exceed 10 percent, of the total population divided by the number of seats in the legislative body. If the State's population is 2 million and the number of seats in the legislative body is 40, each legislator would represent exactly 50,000 people if seats could be apportioned exactly according to population—this often is a practical impossibility. In this instance, if the constitutionally permitted percentage of deviation were 10 percent, as suggested by the Commission, all legislative districts would have to have a population between 45,000 and 55,000 people; if the percentage were 25, the population range of districts would be between 37,500 and 62,500 people. The Commission believes that one significant virtue of this recommendation is that it is simple to determine when the apportioning body has complied with the constitutional formula.

[1] Some States may wish to substitute a requirement that a given percentage of the State's population, e.g., 45 percent must be in a position to elect a majority of the legislative body.

The Commission has singled out the phrase "as nearly equal as possible" for special consideration as it is the one that has caused the most difficulty in the most States, but it is not the only problem caused by constitutional language. Most other constitutional provisions of apportionment formulas relate to where and how district lines are to be formed. These provisions prohibit the splitting of local units of government to form legislative districts and require that only contiguous units of local government may be joined together to form a legislative district. Such provisions are designed to reduce the role of political considerations in the drawing of boundaries of legislative districts. Only one procedure has been developed that can eliminate the problem of drawing district lines. This procedure would base representation permanently on political subdivisions or on geographic areas which may or may not take population into consideration. Population may be a factor by permitting those units with larger populations to elect more than one legislator but by requiring all such legislators to be elected at large. Thus, the need to draw district lines after each apportionment is eliminated.

Constitutional requirements relating to district lines must be drafted with care to insure that they do not conflict with the provision relating to maximum population deviation. Conflicts may arise between a provision requiring that counties not be divided in making districts composed of more than one county and the maximum population deviation provision. The constitution should resolve this potential conflict before it actually arises. Possible solutions to the problem would be use of: (1) flotorial districts as in Texas and Tennessee; (2) additional representation in some, but not all, of the legislative sessions between apportionments as in Ohio or New Hampshire; or (3) political subdivisions smaller than the county for the determination of legislative districts. As noted earlier, a number of State constitutions do not require that county boundaries be followed in drawing legislative district lines, but the State apportioning body generally uses such boundaries for convenience. This conflict is most likely to arise in suburban counties (almost always within standard metropolitan statistical areas) where the population exceeds the requirements for one representative, but is not sufficient for two representatives. In such situations, joining portions of the suburban county with an adjoining county might be desirable. The suburban county could be divided along the lines of smaller political subdivisions of the county or along the lines of the census tracts within the county.

Regardless of what provisions are incorporated into the apportionment formulas of State constitutions, they should be clear enough that the apportioning body will have little difficulty in determining their application. Clarity is also necessary in order that the people may be in a position to evaluate the extent to which the apportioning body has met its responsibility and so that a court may easily decide if the State constitutional requirements have been complied with. To the extent that an apportionment formula attempts to balance certain conflicting interests within the State, it may not be possible to spell out its provisions with mathematical exactness. Despite this, States should make every effort to embody their apportionment formula in constitutional language that is clear and unambiguous.

2. The State constitution should specify the frequency of reapportionment.

Some State constitutions contain no provision relating to frequency of reapportionment, others specify frequencies ranging from 2 to 10 years, and still others permit the legislature to determine when reapportionment shall be undertaken. When a

State has determined that reapportionment should be made periodically, the constitution should state the frequency at which such reapportionments are to be made and that frequency should be related to the availability of the official statistics required by the apportionment formula of the State. Some State constitutions with apportionment formulas based on population require reapportionments to be made every 5 or 6 years. When these provisions were originally included in State constitutions, the States were directed to make the necessary censuses that would provide the information to carry out the apportionment requirements.

Arizona is the only State that apportions legislative seats more frequently than once every 10 years. The frequency of Arizona apportionments is based on the frequency of gubernatorial elections—at the moment every 2 years—and the apportionment formula is based on actual votes cast at each election. Using the number of votes cast at a particular election permits frequent apportionments with a minimum of administrative delay.

3. The State constitution should specify the body or officer having a responsibility for apportioning seats in the State legislature. The Commission recommends that this responsibility be vested in the State legislature itself. It further recommends that a bipartisan or nonpartisan board or commission or other administrative officer or body be given responsibility to apportion legislative seats if the legislature fails to act within the time specified by the constitution, or when the legislature acts in a manner which is subsequently declared unconstitutional by a court of competent jurisdiction.

State legislative bodies have found it extremely difficult to meet constitutional requirements calling for periodic apportionment of legislative seats. Periodic apportionment of legislative seats is based on the premise that population shifts or changes in other factors in apportionment formulas require a reallocation of legislative seats to reflect more accurately the changing needs and interests of the State as a whole. Yet an individual legislator has a responsibility to his constituency—he must protect its interests. In addition, supporting a proposal that would reduce the representation of his constituency might well eliminate him from the legislative body. While this may be a reasonable position for an individual State legislator, the cumulative effect of such action is to nullify, in whole or in part, a constitutional requirement for periodic apportionment of legislative seats.

In order to eliminate this type of avoidance of State constitutional provisions, the Commission urges all States to provide for a bipartisan or nonpartisan board or commission or other administrative officer or body to apportion seats in the State legislature in the event that the legislature itself fails to make the apportionment at the time stated in the constitution or if a court of competent jurisdiction has declared that a particular apportionment does not comply with the provisions of the State constitution. In making this recommendation, the Commission fully recognizes that the primary responsibility for apportioning seats in the legislature is a responsibility of the legislature itself. The experience of States which have completely or partially removed the responsibility for apportionment from the hands of the legislature shows that it is possible to have periodic apportionments which comply with the terms of State constitutions. The biggest difficulty with procedures providing for a nonlegislative body to act if the legislature fails to do so, has been the authority of that body when the legislature provides only a token apportionment or otherwise does not completely comply with the constitutional apportionment formula. To eliminate this difficulty the apportioning body should be given authority to apportion legislative seats if the State supreme court (or a court of higher authority) declares that the legislative apportionment does not comply with the provisions of the State constitution.

The 14 States that have adopted provisions partly or completely removing the legislature from the apportionment process have placed this responsibility with different individuals or boards. While the Commission has no preference as to who, as an individual or as members of a board, should have this responsibility, it would like to offer one suggestion. The Commission feels that designation of members of a nonlegislative apportioning body is a matter that must be considered in the light of tradition of the individual State. But it suggests that in no case should a member of the highest court of the State be a member of such a body as that court may have to rule on the constitutionality of the apportionment plan developed by it.

B. The people should have an opportunity at any time to react at the polls to the continuance or change of the formula apportioning seats in the State legislature

Constitutions are intended to provide a certain degree of stability to the institutions of the State. The provisions of State constitutions are designed to last for many years, but the constitutions are not intended to shackle future generations.

These conflicting goals have been recognized in all State constitutions through the various provisions for amending the constitutions.

Except in States permitting constitutional initiative, prevailing provisions for amending State constitutions do not provide a reasonable opportunity to amend the provisions of the constitution relating to legislative apportionment because such amendments must be initiated by the legislature itself. Thus the legislature is in a position to block any proposed amendment if it so desires. The action of State legislators on such a constitutional amendment probably would be the same as their action, or inaction, regarding the periodic application of existing constitutional apportionment formulas. Several States, through use of the constitutional initiative, have been able to successfully meet this problem. However, there is no need for all States to adopt the constitutional initiative. The State constitution might provide that at specific intervals the question of the apportionment formula be placed on the ballot. Several State constitutions contain similar provisions for the calling of a constitutional convention. In addition, the legislature itself might be authorized to place apportionment proposals before the people under appropriate procedural safeguards.

The States that permit constitutional initiative or referendum do not in any way limit the constitutional provisions that may be amended by this procedure. The general issue of such direct action by the people was discussed at length many years ago. The Commission has no desire to raise the issue again. But the Commission feels that such a procedure can be an important factor in determining whether the rights of the citizens of the State have been protected when the State has a unique formula for apportioning seats in the State legislature.

C. The Commission recommends that State courts be constitutionally provided with appropriate jurisdiction and remedies to insure that State officials comply with their apportionment responsibilities

Several State constitutions specifically authorize the State supreme court to review any challenged application of the apportionment provisions of the State constitution. Other State supreme courts have exercised this right without its being contained in the constitution both prior to and following the U.S. Supreme Court decision in *Baker* v. *Carr*. Regardless of the basis on which State courts have exercised the right to review the constitutionality of a particular apportionment, they have generally held that their powers are limited to declaring a particular apportionment constitutional or unconstitutional. Until recently they have generally refused to provide any remedy in those instances where the apportionment has been declared unconstitutional. The Commission urges all States to provide its highest court with appropriate jurisdiction to review apportionments made by the apportioning body or officer, whether legislative or nonlegislative, to insure that they comply with the apportionment provisions of the State constitution. In addition, the Commission recommends that such courts be provided with appropriate remedies to insure that if the apportioning body or officer refuses to act in accordance with the provisions of the constitution, the interests of the people will not suffer. In view of the limited experience courts have with the use of suggested remedies, the Commission does not feel it is in a position itself to make specific recommendations as to what remedial devices should be adopted. Such possible devices include: (a) requiring election at large; (b) issuance of writ of mandamus to the apportioning body or official; (c) enjoining the holding of elections for filling legislative seats; (d) nullification of acts of an unconstitutionally apportioned legislature; (e) enjoining of the payment of legislative salaries; and (f) declaring members of a legislature that fails to apportion properly to be ineligible for reelection.

The Commission feels that it is incumbent upon States to act promptly in this matter. The role of the State in the Federal system depends largely on the confidence the people have in State legislatures. Where both State legislatures and State courts fail to insure that State constitutional provisions are complied with, State government suffers. The legislature must confer upon the State courts the necessary power to permit such courts to insure that apportionment provisions are complied with by the apportioning body of the State.

D. The actual apportionment of a State legislature, including as it must, many elements of negotiation and accommodation that do not lend themselves to adversary proceedings, should be accomplished by the legislative or other specified nonjudicial body or officer. The Commission believes that State and Federal courts should confine their role to insuring that such nonjudicial body or officer promptly produce a reasonable apportionment meeting constitutional requirements, and urges both State and Federal courts to avoid, except in the most extreme circumstances, the prescription by judicial decree of specific apportionment formulas or the geographic composition of legislative districts

The application of constitutional formulas for the apportionment of seats in a State legislature is no easy matter. There are many areas in which the apportioning body or officer must weigh factors which cannot be measured with any degree of mathematical certainty. There are factors in the apportionment formula which can be statistically verified, but these present little difficulty to any apportioning body, officer, or court.

Court procedures are adequate to permit the proper determination of any challenge to the application of the apportionment formula on the grounds that such application is not in accord with the provisions of the State constitution. Courts have already performed this function, even where the constitutional apportionment provisions were ambiguous and uncertain. Some recent developments in the apportionment field point the way toward reducing or eliminating

much of this ambiguity and uncertainty. Use of the proposal limiting the degree of population disparity among legislative districts would eliminate a great many problems. Similarly, chapter IV contains a discussion of approaches which would eliminate or reduce many other difficulties to court review. While the Commission does not specifically support any of the proposals relating to the drawing of district lines, States should continue to experiment in this area and eventually develop different approaches which will prove satisfactory.

Despite recent proposals, which if adopted by a State, would facilitate the determination of whether or not the apportioning body or officer has complied with the constitutional provisions relating to apportionment, a court is still not the proper body to do the actual apportioning. Except in those instances where apportionment of legislative seats has become automatic or semiautomatic—for example, the House of Representatives of Ohio and New Jersey—the application of the constitutional provisions still permits a great deal of discretion to the apportioning body or officer. This discretion can best be exercised through the political processes of accommodation, negotiation and compromise. The adversary proceedings of a court of law are not conducive to the operation of such processes.

The Commission recognizes that there may be occasions where court action declaring the application of an apportionment formula unconstitutional, or declaring the formula itself unconstitutional, may not be sufficient to insure that the apportioning body or officer will perform its duties properly. The record of recent years, particularly in those States where the responsibility for apportionment has been completely or partially removed from the hands of the State legislature, indicates that the role of the courts in the apportionment process can be kept at a minimal level. It is incumbent upon the States themselves to adopt procedures which insure that actual apportionment is carried out by a constitutionally designated body or officer, and not the courts.

E. Basis of apportionment

The preceding recommendations are directed toward improving the apportioning procedure. In the recommendation that follows, the Commission endeavors to resolve the question of the extent to which, if any, factors other than population may be used as the basis of apportionment. The Commission approaches this question not from the standpoint of constitutional law, as such, but from the standpoint of legal, political, and philosophic needs of the Nation.

"Equal protection of the laws" would seem to presume, and considerations of political equity demand, that the apportionment of both houses in the State legislature be based strictly on population.[2]

[2] Governor Smylie, joined by Governor Anderson, Supervisor Donnenwirth, Governor Hollings, Mr. Don Hummel, and Senator Newell, states: We would have preferred that the Commission adopt the following statement of principle:

"Equal protection of the laws" would seem to presume, and considerations of political equity demand, that the apportionment of both houses in the State legislature be based strictly on population, unless the people directly determine otherwise.

Our reasons follow:

As emphasized throughout this report, we are impressed with two facts: (1) the reappraisal of State legislative apportionment mandated by the courts, is one of the most significant developments in many years in the evolution of the Federal form of government under the Constitution and will have profound effect upon the structure, policies, and operations of State government; and (2) all States (49 of them explicitly) provide in their constitutions that all power of the State resides in or is derived from the people. Consequently, we believe that since legislative apportionment is such a basic question of State government, the people, in the exercise of their constitutional power should have a major and direct voice in determining the future course of legislative apportionment and that the results of the exercise of this power by the people should be persuasive upon the courts, State and Federal alike.

We believe that considerations of equity, faith in the democratic process, and political discretion of a high order should lead Governors, legislators, and the judiciary to rely upon the people for determining the general lines along which apportionment will proceed in the individual States. Some will say that this question is too important to be left to the people and that it would be better decided by legislators—or judges. The choice here often depends upon the point of view of the particular protagonist. We do not agree. The principles of democratic government are many, but at the fountainhead of our form of government is the fact that all power is derived from, and all power rests with, the people. The people have the right to make mistakes in a democracy. Depending upon one's views, this is an asset or a liability of the democratic form of government. If one believes in democracy, one must accept the possibility that the people may make mistakes. However, the saving grace in a democracy is that the people have the means available to correct their own mistakes or the mistakes of their duly elected representatives. Of course, this country enjoys a system of representative government rather than a pure democracy. But it necessarily follows that the form and degree of "representativeness" must be determined by the people if the theory of representative government is to be practiced as well as preached.

We are inclined to believe that in a number of States, the people if faced squarely with the pertinent issues involved in legislative apportionment, would decide in favor of an apportionment system based solely or predominantly upon population. We also are inclined to believe that in a number of other States, the people, for reasons of geography, or because of economic, partisan, or social differences, would decide that their legislatures should be based upon factors in addition to population. For example, the voters of Michigan and California in recent years, in statewide elections with one man having one vote decided unequivocally that they did not want their State senates based solely on population. Who can argue, when the majority of people of these States (including a large number of voters in the urban areas) have said that they prefer factors in addition to population to be taken into account in the apportionment of one house of their State legislatures, that these same people have been deprived of equal protection of the laws? On the other hand, we would question seriously whether equal protection of the laws has been afforded if the people of the State have prescribed for them without their affirmative consent, an apportionment system including factors other than population no matter how rational or traditional such a system may appear to be.

The policy enunciated here may be objected to on the ground that decisions by the electorate on a statewide basis may trample the rights of a minority and that under the 14th amendment, the people of the State have no more right to decide how their State legislature shall be apportioned than they have to decide that their public school systems shall be segregated according to race. We firmly reject this line of reasoning. We would agree, of course, that if in the process of deciding the question of State legislative apportionment, the people of the State adopted a plan that was patently discriminatory and with obvious oppression directed against particular segments of the State's population, the oppressed should be able to seek and should be given judicial relief. In essence, what we are saying is that a decision on State legislative apportionment arrived at by the electorate should be honored by the courts in the absence of compelling considerations to the contrary.

Finally, the policy proposed here preserves one of the essential advantages of a Federal system—namely, the role of the States as the "testing laboratories" of the governmental process, whereby innovation and experiment may be undertaken and later retained or rejected as the results dictate. Despite our 300 years experience, most would agree that there is still much to be learned and many improvements possible in the application of the theory of representative Government. The policy proposed here would allow the people of any State, if they so decided, to experiment and innovate in the highly difficult field of legislative apportionment.

We recognize that the position taken here will not be popular with either the urban population school or the rural area school. The position taken here holds to the population point of view unless the people decide to the contrary. It does not permit the foisting upon the people without their consent of anything substantially short of a population base for their legislatures. On the other hand, it does permit, if the people so determine, the adoption of a Federal plan, one house on population—one house on area, or any other combination that does not do evident violence to minority population groups.

The views of Senator MUSKIE: "To the extent that the majority view reflects a political judgment that population should be the dominant and primary factor for determining the electoral districting of State legislative bodies, I can support the majority view. For it is my personal opinion that political experience argues strongly for legislative apportionment on a strict population basis. If, however, compelling evidence can be presented that such a formula will in a given set of circumstances breed inequity, then the use of factors other than population may be justified, but should be limited to the apportionment of only one House of a bicameral legislature. And even then the use of such other factors should be approved by the people in a statewide election. The use of such other factors would, of course, be subject to appropriate review by the courts.

"To the extent that the majority statement implies, indeed asserts, a legal judgment that the equal protection clause of the 14th amendment dictates that legislative apportionment in the States must be based solely and undeviatingly on population, I cannot support it. There are simply no decisions of the U.S. Supreme Court to support such a view. While it is true the opinion of the Court in *Baker* v. *Carr* sheds no light on the substantive requirements of "equal protection" in legislative apportionment cases, it is, nevertheless, of compelling sig-

of seats in the State legislature, only one interpretation is possible. That interpretation requires that each man's vote must count the same as every other man's vote. The State has no authority to classify people according to where they live—urban or rural areas—the type of work they do—laborer or banker—the type of education they have had—high school or college graduate—and authorize such classes to elect representatives to the State legislature in such a manner as to permit the vote of the members of any such class to have more weight in the election of State legislators than the members of any other class. Therefore, the Commission believes that population is the only fair and acceptable method of apportioning seats in the State legislature.

Assuming for the sake of discussion that the 14th amendment does not require the States to apportion solely on the basis of population, the history of representation in State legislatures and the theory of democratic government seem to demand that seats in State legislatures be apportioned according to population. The original constitutions of 36 States gave implicit recognition to this principle.

The government of the individual States is based on the theory of representative democracy. This means that legislative bodies must mirror the views of the citizens within the jurisdiction. This does not justify policymaking bodies being set up in such a way that minority interests of any type are represented in any way other than as justified by their relative numbers. They remain a minority interest until such time as they convince a majority of the people that their view is the one that should prevail. The fact that this permits a majority to impose its will on the minority is of no consequence. Our form of government is based on the assumption that a majority of the people elect a majority of the legislators to enact laws and develop policies that the voters have supported.

Except to the extent that they are represented according to their numbers and that they have an opportunity to present their views to that body, minorities are not entitled to protection in the State legislature. Protection of minority interests or views does not mean the minority should be in a position to veto the desires of the majority. The protection given minority views and interests should not be a veto power in the legislative process, since other adequate protections are offered by both Federal and State constitutions. If minority interests are permitted to control the legislative branch of State government so as to defeat the wishes of the majority, the Nation is faced with one of three alternatives: (1) the eclipse of State government because the people will turn to a more broadly responsive National Government to obtain their needs; (2) the perpetuation of tyranny of a minority over the affairs of State government; or (3) the resort to precipitous or illegal means by the majority of the people whose desires have been frustrated.

The founders of this Nation fully recognized that the Nation and the States must be governed by the views of the majority of the voters. In enacting the Northwest Ordinance, the Congress affirmed the principle that representation in State and territorial legislatures was to be based on population. The new Western States that entered the Union between 1790 and 1860 all apportioned seats in both houses of the State legislature according to population with but minor qualifications.

Some argue that the theory of checks and balances requires that if there are to be two houses of a legislature they must rest on different bases of apportionment. Obviously legislative bodies apportioned according to different formulas would be expected to consider issues in a different light. But this difference of viewpoint can be achieved even though both houses of legislature are apportioned according to population. Members of the smaller legislative body would be responsible to a more diversified constituency. In addition, the term of members of one body could be longer than the term of the other and expire at different times.

Based on law—based on theory of democratic government—based on the history of representation in State government—the Commission reaches the inescapable conclusion that both houses of a State legislature should be apportioned strictly according to population.

Mr. HRUSKA. The Senator is most gracious.

I am not going to spend too much time now on these rhetorical questions, but I should like to comment on them.

If we do not know what geography is, I should like to ask the Senator from Maryland a rhetorical question on what population is. What does population mean? The Supreme Court of the United States did not say what population was. It said in its opinion:

Mathematical exactness or precision is hardly a workable constitutional requirement.

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nificance that the five other opinions written in that case (three concurring and two dissenting) all express the view that the equal protection clause has never been construed so as to guarantee either mathematical identity or universal equality.

"As stated by Mr. Justice Douglas in his concurring opinion in *Baker* v. *Carr*, the traditional test in these cases has been whether a State has made 'an individious discrimination.' The closest the Court has ever come to a requirement of absolute equality is to say that 'equal protection of the laws' means the uniform treatment of persons standing in an identical relation to whatever governmental action is challenged, but a determination of whether the treatment is equal necessarily presupposes a determination concerning the nature of the relationship. With respect to legislative apportionment, this determination of relationship becomes exceedingly complex and so filled with subleties that it seems to me impossible to state a priori that the relationship will in all cases be elucidated by the single standard of population distribution.

"It is, indeed, unfortunate that the majority has been so phrased as to be an admixture of expressions of political aspiration and legal interpretation. For having chosen to support their political judgments, appealing as they may be, with an assertion of alleged constitutional mandate, the majority is then bound to abide by the precepts of constitutional construction. However, the majority's statement by its very language ignores a cardinal principle of constitutional construction, that of avoiding absolute rigidity. Implicit in this principle is an acknowledgment of the lessons of history demonstrating that no individual or body of individuals is endowed with the all-encompassing genius to perceive in the present all of the conditions, circumstances, and problems which may confront the institutions of representative government in the future. This fact of history argues strongly for the enunciation of fundamental governing standards in terms sufficiently broad to assure that the esssence of any given standard will be preserved when applied in a climate of circumstances not anticipated at the moment of authorship.

"Had the majority followed either of two alternative courses, it could have avoided any serious challenge to the factual correctness of its assertion. On the other hand, the argument for apportionment based strictly on population could have been so phrased as to make it unmistakably clear that it was nothing more than the statement of a generally desirable political objective. Or, as the majority now does, the statement could have sought to delineate the substantive legal requirements dictated by the equal protection clause, but employed less rigid terms that do not attempt to prejudge in the present all the circumstances which may affect legislative apportionment in the future. The majority followed neither of these alternatives, either of which I would have supported."

The views of Senator MUNDT: "On the matter of apportioning seats in the legislatures of the several States, I desire to associate myself with the views expressed by my colleague, Senator EDMUND S. MUSKIE. Additionally, I wish to take this opportunity to call attention to the most serious example of electoral malapportionment in our entire structure of representative government; namely, the continued use of the so-called 'general ticket system' for the election of the President and Vice President of the United States. Under this system the disparity in voter power reaches the extreme ratio of 15 to 1 when comparing the voting power of an elector in the State of New York with the voting power of an elector in a small State such as Delaware. The 'general ticket system' gives rise to invidious discrimination against literally millions of voters in every presidential election, and I earnestly hope that prompt and appropriate steps will be taken to remedy this rank injustice."

The views of Congressman FOUNTAIN: "I do not believe that the 14th amendment requires the apportionment of both houses of a State legislature on a strict population basis. Moreover, a rigid interpretation of this kind would be undesirable in practice.

"It is my view that equal protection of the laws presumes and political equity requires that population be treated as the basic and principal determinant for apportioning seats in a State legislature. However, it should be recognized that special conditions in some States may justify reasonable deviation from a strict population basis in the apportionment of one House of a bicameral legislature. Each State has an interest in insuring that its legislative body is constituted in such a way as to assure the various segments of the State's population an adequate voice in the legislative process.

"I cannot subscribe to a principle which would deny to the people of any State the right, if a majority of the electorate so decides in a statewide election, to take into account relevant factors other than population in apportioning one House of their legislature.

"It is important in a representative democracy such as ours that the States have the opportunity to experiment with reasonable proposals for insuring the adequate representation of all segments of the population. A rigid interpretation of the 14th amendment setting up one, and only one, standard of representation would surely inhibit the future development of the democratic process, since there is no guarantee that what some may say is an appropriate apportionment formula today will be appropriate tomorrow. There is still much to be learned in the application of the theory of representative democracy, and our legal framework should be sufficiently flexible to permit the necessary experimentation for achieving representative democracy in practice."

The views of Senator ERVIN: "I am strongly opposed to the proposal that both houses of State legislatures should be apportioned strictly on the basis of population."

For the present, we deem it expedient not to attempt to spell out any precise constitutional tests. What is marginally permissible in one State may be unsatisfactory in another, depending on the particular circumstances of the case. Developing a body of doctrine on a case by case basis appears to us to provide the most satisfactory means of arriving at detailed constitutional requirements in the area of State legislative apportionment.

What does population mean under that circumstance?

It means that population is used but only insofar as other factors are also considered. What body determines other factors, and to what extent? A nonelected judicial body of the U.S. Government.

I say, Mr. President, that the proper people to legislate are the elected representatives of the people. They are required to submit their recommendations to the people. We have a practical application of the Federal court's recommendation in Holt against Richardson. The syllabus reads as follows:

Electorial districts must be laid out with totality of factors of population, compactness and contiguity of territory community of problems, socioeconomic status, and political and racial factors having been considered, and sum total of all districting must result in substantial equality of meaningful representation to each and all voters.

Mr. President, this leaves us in nothing but confusion. We are left in nothing but an area of legislation in which the judicial branch is participating.

Let us separate those two. Let the legislature provide the guidelines.

What is geography? The courts know what geography is. The courts know what political subdivisions are. So do we.

Therefore I say that there is no necessity for any hearings on matters of this kind, because they are sufficiently precise as guidelines for the courts as well as the legislatures.

It is now my pleasure to yield to the Senator from Iowa.

Mr. MILLER. Mr. President, I commend the distinguished Senator from Nebraska for his usually able and incisive analysis of a most important problem, and also for his in-depth answers to some questions that have been propounded to him.

First I should like to comment on the question of, What is population? I ask the Senator's reaction.

It seems to me that most of the arguments about the population factor being the important factor revolve around the vote power of the individual citizen.

Yet when one looks at the Supreme Court's decision and the way the decision is being implemented, it appears that population means more than vote; it means total number of people. Has the Senator any thought on the question of whether or not population ought to mean persons over 21 years of age, or does he feel that population ought to mean the total population, including those who are infants and up to those of voting age?

Mr. HRUSKA. That is left open under the decision in Reynolds against Sims. What is population? Is it the people who are voters, or people who are eligible to vote but do not vote? That question is left open. There is nothing sacroscanct about that. They will work that out on a case-by-case basis and establish a body of doctrine. The Senator from Iowa knows, fully as well as does the Senator from Nebraska, and perhaps even better, that that constitutes legislation. It should be conducted and should be executed by the elected representatives of the people. We have been chosen for the purpose of legislating. That task should not be left to the hands of those who are appointed to office. And may be out of touch with the surrounding circumstances and niceties, and all the other things that are involved in the matter of apportioning of legislative districts.

Mr. MILLER. And by members of a court only one of whom, as I recall, has ever had the privilege of serving in a State legislature.

Mr. HRUSKA. On that score the Senator from Nebraska is not informed, but he will accept the accurate recollection of the Senator from Iowa.

Mr. MILLER. One always hears two arguments against this proposal on which the Senator from Nebraska has been speaking, and which I also favor. The first is that this proposal should not be ratified except by reapportioned legislatures, both houses of which are apportioned on a population basis.

This may be the answer to that argument. It is a superficial argument, but it has been given undue weight by the attention given to it by some writers who apparently have not done too much of their homework.

Let us assume that there is a State legislature, both houses of which are on a nonpopulation basis. Let us say 25 percent of the people control both houses of the legislature. If the proposed amendment to the Constitution goes out to the State legislature for ratification, the legislators will be faced with one of two choices. If they choose to sit and do nothing, they know that the law will remain as it is, and that both houses must be apportioned on a population basis. Therefore, automatically, they will be out of business.

If they vote for ratification, they know that one house must be apportioned on a strict population basis, and the people of the State in a general referendum will decide the question with respect to the second house. It seems to me that the argument, if the proposal is allowed to be ratified by malapportioned legislatures, that the legislators will lock themselves in for evermore, falls flat, because of the choices I have outlined. Does the Senator agree?

Mr. HRUSKA. The Senator has analyzed the point very well. I would make an additional observation. If the requirement be made that the legislatures which ratify the amendment must be legislatures which have complied with the one-man, one-vote rule, that will open the door to confusion for years on end.

As soon as the effort is made by any legislature to act on the ratification of the amendment, there will be those who will challenge the validity and legality of a State legislature to act upon it. We shall have nothing but delay and confusion, and the will of the people will be thwarted.

A second observation which, in my judgment, is appropriate at this point. I hope that the courts will not reach the point at which they will say there will be a blackout of all legislative effort until the legislature is purged and purified. The legislative bodies, whatever they are, may continue to function by sufferance of the Federal judiciary.

Mr. MILLER. The Senator's point is very well taken. If I could see any real justification behind the proposal, I would be more than happy to support it. But, as I see it—and I have not had anyone refute this view—if the constitutional amendment proposal goes out to a malapportioned State legislature for ratification, there are only two choices: One is to do nothing, in which event the law of the land will be that both houses must be apportioned on a strictly population basis, so the malapportioned legislatures would be out of business.

The other choice would be to ratify the proposed amendment, which means that one house would be out of business, because the amendment would provide that one house would be on a strict population basis. With respect to the second house, the legislatures in the present malapportioned houses cannot lock themselves in because it would then be left up to the people to decide the question. So I cannot see any substantial value in the proposal to require that ratification be by a reapportioned State legislature.

Another point is that the amendment is not a good amendment. The Supreme Court's decision should stand, because both houses should in fact be on a population basis.

I do not question the sincerity of many people who hold to that view. But I do question the logic of their argument against that proposal. It seems to me that what we are doing is saying, "We want to put our faith and confidence in the State legislature which is controlled by the people. We know that under the proposed amendment one house would have to be controlled by the people; the other house they want to be controlled by the people, too. But then we would say to them, "If you want to place your trust and confidence in the second house which will be controlled by the people, why are you unwilling to place your trust and confidence in the people in a general referendum?"

I have not yet heard any answer to that question.

Mr. HRUSKA. There is none.

Mr. MILLER. I do not believe that there can be.

I should like to bring up another point. The Senator from Nebraska might recall that the Senator from Iowa filed a proposed amendment to the bill which would provide that in a State legislature in which there is a political subdivision, such as a county, having more than one legislator, that there be a requirement under the Federal Constitution that that county or political subdivision be subdivided into equal population units, so that each legislator will represent his

own particular subdivision, instead of allowing the election at large of legislators from multilegislative counties.

In my testimony before the committee, I pointed out the ludicrous situation now existing in Polk County, Iowa. Polk County is the largest county in the State of Iowa. It has 11 State representatives. Representatives run at large in Polk County. Under the present state of the law, all 11 of those legislators could be elected from one ward or precinct in the city of Des Moines, Iowa. There is no provision in the present law to protect racial, religious, or political minorities in Polk County.

On the other hand, if there were a separate district for each of those 11 State representatives, those racial minorities, of whom we have some in certain areas of Polk County, would be guaranteed a voice in the State legislature.

I do not know as to religious minorities, but certainly as to political minorities it is well known that some areas of Des Moines in Polk County are heavily Democratic and others are heavily Republican. Those districts would be guaranteed a voice in the State legislatures. But under the present state of the law, with all 11 State representatives running at large, most of the people of Polk County do not have enough information on the basis of which to evaluate all 11, and they all can come from 1 small part of the county, leaving racial, religious, and political minorities without representation.

Mr. HRUSKA. It seems to me that the Senator's State has enough troubles now without wading into the problems and infinite troubles that would result from the retention of the one-man, one-vote rule. In view of the guidelines which are so vague, which are manufactured, which are fabricated, and which are developed within the judicial branch, there would be no assurance that the situation to which the Senator refers as existing in Polk County could ever be corrected unless the people themselves are allowed to vote a plan as would be possible under the Dirksen amendment.

Mr. MILLER. That is so. I bring up the point because I hope that the Senator from Nebraska [Mr. HRUSKA] would, before the question comes before the Senate for a vote, consider the possibility of a modification of his proposal along the lines of the amendment which I have offered. If we are going to do a job on reapportionment, it seems to me that we ought to go all the way. One way we can fill a presently needed gap is to require that under the Federal Constitution there be separate districts for each legislator in a State legislature, so that we do not have the potential discrimination against racial, religious, and political minorities which we have under the present law.

Mr. HRUSKA. I thank the Senator from Iowa.

Mr. President, I yield the floor.

Mr. MILLER and Mr. BIBLE addressed the Chair.

Mr. MILLER. Mr. President, I shall be glad to yield to the Senator from Nevada, if I may have unanimous consent that I be permitted to retain the floor.

Mr. BIBLE. I thank the Senator, but I was about to make a motion to adjourn.

Mr. MILLER. I expect, in order to retain the rights that I would secure under my request, the resulting agreement would not operate under those conditions. But I shall not be long.

THE OTEPKA CASE—WILLIAM WIELAND DISPATCHED TO AUSTRALIA

Mr. MILLER. Mr. President, the State Department, according to press reports, is dispatching William Wieland to Australia as supervisory consul general in Canberra.

This assignment makes Wieland the top consular officer in Australia.

Such an announcement normally is treated with a bare mention in the press and seldom is noted on the floor of the U.S. Senate.

This assignment merits more than the usual treatment because the official in question is one of the central figures in the controversy over security policies and practices in the State Department itself.

In the New York Times of Monday, July 19, this paragraph appears:

> According to a State Department spokesman today, Mr. Wieland is now considered "completely cleared and his case closed."

While the State Department has closed the case, I, for one, do not intend to dismiss so lightly what has occurred previously in this matter.

Perhaps there should be a review of what has gone on before in this case and to question whether the surface reason for closing the case by the State Department is good enough.

Wieland was chief of the Office of Caribbean Affairs of the State Department when Castro grabbed power in Cuba.

Based on testimony of the Department's chief security evaluator, Otto Otepka—now being persecuted by the Department for daring to testify before a Senate committee—Wieland had lied about his contacts with Castro.

Otepka stated that there is a transcript of the Wieland testimony which shows that Wieland said he had only one meeting with Castro. Otepka says he has evidence that Wieland met with Castro on at least six occasions.

Wieland failed to list his former name of William Arthur Montenegro on his Government forms. The Senate Internal Security Committee questioned Wieland on this omission and the transcript was subsequently sent to the Justice Department for study for possible perjury prosecution.

The Justice Department reported, according to documents, that there was insufficient evidence for a perjury prosecution. And this report apparently is the basis for restoration of Wieland to active duty assignments abroad, even though he held down a $24,000 annual job in the office of the Deputy Under Secretary of State for Administration during the interval.

But is this report by the Justice Department sufficient grounds for giving Wieland a clear bill of health? I think not.

What about the misrepresentations involving meetings with Castro? There appears to be ample evidence that Wieland, as chief of the Caribbean desk, "sat on" reports which showed that Castro was a Communist, while the entire world was led to believe that he was otherwise; that he was a "patriot" of the first order. What was Wieland's excuse for not listing his former name on the Government forms?

Why has Otepka been beset with continued harassment for his testimony before the Senate committee?

What was in the report from the Federal Bureau of Investigation to force a stay of assignment of Wieland to a sensitive post in West Germany?

These are questions that must be answered; if they are not, the security measures of the State Department will remain suspect.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "U.S. Expert on Cuba Restored to Full Duty Following Inquiry," written by Richerd Eder, and published in the New York Times of July 19, 1965; an article entitled "Board Clears Wieland, Security Case Closed," written by Endre Marton, and published in the Washington Post of July 19, 1965; and the lead editorial entitled "The State Department Security Scandal," published in the Chicago Tribune of July 19, 1965.

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

[From the New York Times, July 19, 1965]

U.S. EXPERT ON CUBA RESTORED TO FULL DUTY FOLLOWING INQUIRY—STATE DEPARTMENT ADVISORY PANEL UPHOLDS WIELAND'S JUDGMENTS ON CASTRO

(By Richard Eder)

WASHINGTON, July 18.—William A. Wieland, a State Department officer who came under congressional attack for his role in shaping United States policy on Cuba in the early days of the Castro regime, has been cleared and restored to full active duty, according to a Department announcement.

Mr. Wieland, a high-ranking 57-year-old career officer, will go to Sanberra as supervisory consul general for Australia.

The Department's announcement, made to coincide with the publication of hearings by the Senate Subcommittee on Internal Security on Mr. Wieland, disclosed by implication that he had been placed on what amounted to limited duty during an interagency review of his record.

A three-man advisory panel was appointed by the State Department in 1965 to consider Mr. Wieland's case. After reviewing the Department's own records and information supplied by other agencies, including the Federal Bureau of Investigation, the panel, two of whose members were from outside the Department, recommended that "the subject be restored to full status as an active senior Foreign Service officer."

JUDGMENT IS UPHELD

Mr. Wieland, the board reported, "has honestly exercised his judgment over the years, including the period of the difficult and highly complex Cuban situation."

State Department officials said that at no time had Mr. Wieland been suspended during the investgation. A spokesman was unable to define what lesser degree of status was involved in the panel's recommendation that he be "restored" to full status.

One official source pointed out, however, that Mr. Wieland's most recent assignment—as an administrative specialist in the office of the Deputy Under Secretary for Administration—was considered an unobstructive job for someone of his experience.

The Senate subcommittee, in a report made in 1962, said that Mr. Wieland, who held posts concerned with Caribbean policy before and during the first years of Premier Fidel Castro's government was in part responsible for Mr. Castro's emergence.

In testimony, three former U.S. Ambassadors in Latin America—Robert C. Hill, Earl E. T. Smith, and William D. Pawley—criticized Mr. Wieland for recommending the withdrawal of American support from President Fulgencio Batista, who exercised dictatorial powers in Cuba in the late 1950's.

Mr. Wieland testified that he had begun to distrust Mr. Castro even before the latter took power, but that he was not convinced of the Premier's direct Communist connections until some months afterwards.

Early in 1962, Mr. Wieland was one of two State Department officers whom President Kennedy defended when they were called security risks.

In 1961, Mr. Wieland was assigned to a consular post in Germany but his security clearance was delayed and the assignment was finally withdrawn.

According to a State Department spokesman today, Mr. Wieland is now considered "completely cleared and his case closed." This action was taken, although not announced, in January, when the State Department's review panel approved the findings of the three-man advisory panel.

The members of the panel were William J. Sebald, former Ambassador to Burma; Samuel Waugh, President of the Export-Import Bank of Washington, and Brig. Gen. Milton F. Summerselt, retired.

[From the Washington Post, July 19, 1965]

BOARD CLEARS WIELAND, SECURITY CASE CLOSED

(By Endre Marton)

William A. Wieland, the American diplomat blamed by some critics for initial U.S. good will toward Fidel Castro, has been cleared fully and his security case closed, a Senate publication revealed last night.

The publication, containing transcripts of secret testimony before the Senate Internal Security Subcommittee between 1963 and 1965, bears the title "The Wieland Case Updated." It is the first of a reported 30 volumes on hearings held in these years on State Department security.

The volume, however, contains little added detail on the Wieland case, which was extensively discussed in an earlier volume released in 1962 when Wieland was first cleared.

There is much more in the present publication on the role played in the Wieland investigation by Otto F. Otepka, the State Department's chief security evaluator who, though fired in 1963 on charges of insubordination, still is on the State Department's payroll.

SECRET TESTIMONY

The fact that Wieland, head of the State Department's Office of Caribbean Affairs when Castro grabbed power in Cuba, had been cleared again was revealed by William J. Crockett, Deputy Under Secretary of State for Administration, in secret testimony befor the subcommittee May 4, 1965.

The decision by a three-man board to close finally the once-reopened security case against the 57-year-old Wieland was made in concurrence with the Justice Department, the Federal Bureau of Investigation, a special personnel advisory board, and the then Attorney General, ROBERT F. KENNEDY, Crockett testified.

The Deputy Under Secretary told the subcommittee the first favorable determination in the Wieland case, in January 1962, was signed by Otepka, even though he told the subcommittee 18 months later, in August 1963, that he questioned Wieland's "judgment and integrity."

Otepka was suspended in September 1963, and charged with conduct "unbecoming an officer of the Department of State" for allegedly having made classified documents available to the Senate subcommittee without authorization. He was dismissed from the Service November 5, 1963.

Otepka has appealed the dismissal. His counsel, Roger Robb, has asked on five occasions for postponements of the hearing which have been granted. The reason Robb gave was that he wanted to study the transcript of the subcommittee hearings, the first of which is the volume on Wieland.

INQUIRY ORDERED

Most of the witnesses were questioned by subcommittee counsel, J. G. Sourwine, to find out why Otepka took no part in the second phase of the Wieland investigation in 1963. This investigation was ordered after the subcommittee accused Wieland of being "an active apologist for Fidel Castro," and a man who, in Sourwine's words, "lied to this committee."

"An evaluation of all the new material was made * * *. No reason was found to remove Mr. Wieland's clearance," Crockett told the subcommittee in his May 4 testimony.

There were two conflicting versions of why Otepka did not participate in the reevaluation of Wieland.

According to John F. Reilly's testimony—he was then head of the Office of Security and as such Otepka's superior—Otepka disqualified himself voluntarily from handling the reevaluation on the ground that he had testified before the subcommittee.

Otepka, on the other hand, said his superiors first wanted him to handle the Wieland case, then abolished his job as Deputy Director of his office on the grounds that Otepka was devoting too much time to personnel security cases.

DENIES PREJUDICES

Therefore, Otepka said, "and not because of presumed prejudices against Wieland," he did not wish to become again the principal evaluator of the Wieland case.

The board that reviewed the case of Wieland was unanimous in its recommendation for Wieland's restoration to full status as an active senior Foreign Service officer.

The board, in its finding, said its members were puzzled, individually and collectively, as to why Wieland was singled out as a scapegoat for the Castro takeover.

Wieland is currently an administrative specialist at the State Department. Now that his case is closed, he is being assigned as supervisory consul general in Canberra, Australia—a position making him the top consular officer in Australia.

[From the Chicago Tribune, July 20, 1965]

THE STATE DEPARTMENT SECURITY SCANDAL

After 3 years of hearings and a million and a half words of testimony and documentation, the Senate Internal Security Subcommittee has released the first installment of its account of how Otto F. Otepka was fired as Chief of the Evaluations Division of the State Department's Office of Security.

It is almost unbelievable that so much time and effort had to be devoted to what is essentially a simple case. But the facts as they emerge will, we are certain, have a profound impact on the American public. For this is a story of high-level intrigue, of deceit and evasion by the people's servants in high places, and of shameful retaliation against an honorable man simply because he told the truth to a committee of Congress, as by law he was required to do.

As Chief of Evaluations, Otepka's job was to separate the wrong guys from the right ones seeking employment and assignment to the Department. He was charged with informing his superiors whether an applicant or an existing employee was a loyalty or security risk. He did so conscientiously, but his findings were ignored. The wrong guys were posted to handle the sensitive diplomacy of the United States, while the right guy—Mr. Opteka—found himself out of a job.

He had the right to appeal his dismissal, and did, but for close to 2 years the State Department has refused to give him a hearing. So he remains on the payroll, collects his salary, but is confined to a cubbyhole, in effect cutting up paper dolls. For his patriotism and his adherence to truth, he is ostracized by the brass and rankers of the Department, who operate on the code that loyalty to the Department comes before loyalty to the country.

Secretary of State Rusk and his bureaucracy can't afford to give Mr. Otepka his hearing, for to do so would expose the curious values that prevail in the Department, where men of dubious reliability are to be protected, as "members of the club," at all costs.

Otepka fell into disfavor after he was summoned by the subcommittee to assist in a study it had undertaken of security practices in the Department. He testified about "quickie" clearances designed to bypass security rules. One of the Department officials attracting the notice of the Senators was William A. Wieland, a Foreign Service officer of the first class, who has been paid $20,000 a year but has just been appointed chief American consular officer in Australia, at a salary advance of another $4,000.

It developed that Wieland had once lived in Cuba under the name of Montenegro, but concealed the fact in his job application, which exposed him to prosecution for perjury. In his testimony before the subcommittee, he admitted having seen Fidel Castro only once, but Otepka testified to six meetings. Wieland was a consistent apologist for Castro while presiding over the State Department's Caribbean desk.

His appointment to that post shocked William D. Pawley, former Ambassador to Brazil, under whom Weiland had served. By cutting off the supply of arms to Cuba, Wieland helped bring about the downfall of the Fulgencio Batista government and assisted the rise of Castro. Every intelligence report demonstrating that Castro was, and always had been, a Communist was disregarded, denounced, or sidetracked by Wieland. Robert C. Hill, a former Ambassador, told the Senators that Wieland was either "a damn fool or a Communist."

The subcommittee's first report deals with the Wieland case. Yet this man enjoys favor in the State Department and has been publicly defended by no less august a person than the late President Kennedy, while Otepka and his security staff have been rendered impotent and have been disgracefully hounded out of their protective office. It is an all but incredible story, but it is true. How long will the people tolerate these betrayals?

Mr. MURPHY. Mr. President, will the Senator from Iowa yield?

Mr. MILLER. I yield.

Mr. MURPHY. Yesterday the report of the Subcommittee on Internal Security was made available. I took the time last night to read the report from start to finish. I recommend to all Senators a reading of the report. If Senators will read the report of the actual hearings and findings, as I did, and place them side by side with the report of the statement issued by the Department of State,

they will find that they do not appear to be referring to the same situation.

I commend the Senator from Iowa for bringing this information to the attention of the Senate. I recommend that further scrutiny be made of this question because of the tensions of the world today. Now, more than ever, questions not only of security, but of international operations, are becoming more and more essential.

The President, in making his determinations, must depend on reports, including those which are issued by officers such as the gentleman who is in question today. We must be more certain than ever before as to the qualifications, reliability, and other attributes of men of this character.

I commend the Senator from Iowa for bringing this subject to the attention of the Senate.

Mr. MILLER. I thank the Senator from California for his gracious remarks. I commend him for reading the report. I have not had the opportunity to read all of the report; but I have read enough to warrant the statements that I have made. I hope that not only will Members of the Senate read it, but that members of the State Department in high posts will read it, too.

UNDERSTANDING THE VIETNAM PROBLEM

Mr. MILLER. Mr. President, the Washington Evening Star on July 19, 1965, published an excellent article entitled "The 1954 Parley Led to Vietnam Crisis," written by the distinguished columnist David Lawrence. The article is based on Mr. Lawrence's personal observations during the 1954 Geneva conversations, which led to the Geneva agreements, which have been referred to so often during the running debate on our position in Vietnam.

Because I believe it would be a valuable article to read as background for an understanding of why we are engaged as we are in Vietnam today, I ask unanimous consent that the article be printed in the RECORD.

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

THE 1954 PARLEY LED TO VIETNAM CRISIS

(By David Lawrence)

To understand the Vietnam problem and the great danger that the world faces if appeasement and surrender should take the place of firmness and courage, it is only necessary to go back 11 years to the historic Conference at Geneva in 1954 and examine the mistakes that were made then which have led to the crisis of today.

For the Vietnam dilemma is not just a local affair in far-off Asia. It is the most vital and fundamental confrontation between Communist imperialism and the free world which has developed since the Korean war of 1950.

The American people have not yet been awakened to the implications of the Vietnam struggle. There's a tendency to pass it off as something that will be compromised sooner or later or as a conflict from which America should gracefully withdraw.

The same kind of pressures from the appeasers and the defeatists managed to weaken the will of France and Britain at the Geneva Conference in 1954, so that in the end the United States disassociated itself from the agreement reached because it was clear that no strong foundation for peace in southeast Asia had been laid.

This correspondent spent several weeks covering the Conference at Geneva and wrote daily dispatches about it. Here are some excerpts which indicate clearly that the world hasn't learned its lesson and why aggressors are still undismayed:

May 13, 1954: "As to Indochina, there will be a patched-up proposal to bring about a cessation of hostilities, but the United States will not be satisfied with the plan because of a fear that the Communists will be able thereby to overrun all of Indochina. Accordingly, as was announced in the early days of this Conference by Secretary of State Dulles, the American Government will 'disassociate' itself from the proposal."

May 30: "For what good will it do to withdraw all French protection from the newly created states of Cambodia, Laos, and Vietnam if Moscow-trained leaders like Ho Chi Minh are in charge of the Government of Vietnam and of its armies, with substantial aid from Red China, continue to overrun the neighboring states and threaten also Burma and Thailand, whose borders are nearby?"

June 14: "The world is witnessing the dangerous consequences of allied disunity. The American Government is an interested but helpless bystander. For American public opinion would not sanction military intervention in Indochina except on an allied basis, and the French have never been ready formally to ask for it. Hence the free world allows the advantage once more to go to the Communists, who are thereby encouraged to encroach further and further. This hastens the day of a showdown which, if it comes too late, may make it impossible to stop the sweep of Communist imperialism throughout Asia."

July 20: "The Indochina truce, like the Korean armistice, is not a victory, but a readiness to compromise with aggressors and to sanction their continued hold on many million more people who are to become enslaved.

"Plainly the trend in Europe on the part of America's allies is toward further surrender to Communist imperialism."

Back in 1954, while the Geneva Conference was going on, the Democrats in Congress, including then Senate majority leader, Lyndon Johnson, were sniping at the Eisenhower administration and accusing it of being a "warmongering" regime. The political disunity in this country had its effect abroad. Inside the British Government the Socialist Labor groups were taking an extreme position and preventing Britain from giving wholehearted support to the United States in its effort to form a truly effective southeast Asia organization.

The politicians somehow have not changed their attitude, and today there are Republicans as well as Democrats here who are making it more difficult for the incumbent administration to convince the Communists that the United States is not going to surrender and will not withdraw its military forces, but will insist upon driving the Communists out of South Vietnam.

It's certainly a critical time in American history and far more dangerous than the average man has been led to believe. The United States has its hands full in trying to fight the southeast Asia war alone. It needs the help of its allies—assistance not only in money but in manpower and particularly by an agreement to embargo all commerce with the Communist countries now supplying aid to North Vietnam.

Such action now can prevent world war III, which otherwise might come through step-by-step escalation set in motion by the same kind of appeasement, pacifism and timidity that led to World War II.

TAX CUTS AND TAX INCREASES

Mr. MILLER. Mr. President, the July 19 issue of U.S. News & World Report contains two very timely articles. Both have as their base the Senate's recent action on the so-called medicare bill.

One bluntly states:

Despite all the tax-cut talk, bigger and bigger bills lie ahead for the vast majority of taxpayers.

It underscores that some of the effects of last year's income tax cut will be wiped out by raising social security taxes, effective next January 1. While it does not say so in so many words, this is the age-old policy of giving with one hand and taking away with the other.

In an accompanying table, the magazine shows the impact of new taxes on a married man with two children. For those with an income of $5,000, the tax increase from this year to the next year will be 9.5 percent.

Editor David Lawrence, in the same issue, makes this observation:

Now, with an increase in Social Security taxes about to be imposed, there will be a reduction in take-home pay for the wage earner, starting next January. Under the Senate bill, factory workers getting between $4,800 and $6,600 a year will have their payments for social security taxes raised from $174 to sums ranging up to $275. This means an increase of from 15 to 58 percent of their current social security tax.

To those who believe they are getting something for nothing, let me repeat the last sentence:

This means an increase of from 15 to 58 percent of their current social security tax.

This accurately sums up some of my arguments against the bill passed last week: The medicare bill will weigh most heavily on those least able to afford such increases.

Mr. Lawrence also points up another argument I made last week:

The American people could have paid for "medicare" out of the general revenues, and the social security tax could have been kept somewhere near the low rates originally planned. But this would have made it necessary for the Government to economize. Too much public money is being spent nowadays for what might be called luxuries—they are not necessities. * * * Inefficiency and waste in expenditures are greater than ever before.

I ask unanimous consent that the article entitled "With All the Talk About a Tax Cut," with the accompanying table entitled "Tax on Married Man With Two Children," and the editorial "Reducing Take-Home Pay," be printed in the RECORD.

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

WITH ALL THE TALK ABOUT A TAX CUT

In Arizona, taxpayers are being hit with a 30-percent jump in the State income tax, a rise of 4½ cents a pack in cigarette taxes, and a boost in the gasoline levy by 1 cent per gallon.

That's typical of a process going on in many States across the Nation: Recent Federal tax cuts are being eaten up by steadily rising State, city and county levies.

The Federal Government itself soon is to wipe out some of the effects of last year's income tax cut by raising social security taxes, effective next January 1.

The upshot: The total tax bite for Americans is going up again after a brief downturn.

The rise that lies ahead will center in State and local taxes and in payroll taxes to support social security programs.

The payroll tax now is 3.625 percent each for employer and employee on the first $4,800 of an individual's income. On January 1, under a Senate plan, it will rise to 4.175 percent on the first $6,600 of earnings.

The tax on the individual and his employer thus will rise from the present maximum of $174 each to $275.55 each next year.

WHAT CONGRESS IS DOING

The Senate on July 9 approved the payroll tax increase. The House has already approved a somewhat smaller boost as part of a package that will include "medicare" for aged persons and an increase in social security benefits.

If experience is a guide, both the healthcare and social security programs will continue to expand, in coverage and cost, during the years ahead—and payroll taxes will rise much above the levels now projected.

The accompanying chart gives you some idea of the heavier tax impact due next January 1. It reflects the anticipated boosts in the payroll tax for social security, on the basis of the increases that were approved by the Senate on July 9, and the boosts expected in the major taxes that are levied by the States.

On a percentage basis, the impact will be greatest on individuals with incomes of $10,000 or less, although it will also be substantial on those earning higher incomes.

In a typical example, a married man with 2 children and $3,000 of annual income can expect his State and Federal tax bill on 1966 income to climb by $17 above this year, or 15 percent.

At the $4,000 level, a boost of $26 is in store next year, while the family man making $10,000 faces an increase of $160, or nearly 11 percent.

In the case of a single man earning $2,500, a tax boost of $28 is in prospect—more than half a week's wage.

Not counted in these figures are a raft of other State and local taxes, including certain sales taxes, real estate levies and autolicense fees. Such taxes are scheduled to go up in many States. Thus many taxpayers across the country face even stiffer hikes in tax bills than shown in the table.

It will take some time, in the case of many individuals, before rising State and local taxes and higher social security levies exceed the recent reductions in Federal income taxes. Yet the trend is clear:

Despite all the tax-cut talk, bigger and bigger bills lie ahead for the vast majority of taxpayers.

Tax on married man with 2 children [1]

Total income per year	1965	1966	Change
$5,000	$503	$551	Up $48, or 9.5 percent.
$10,000	1,462	1,622	Up $160, or 10.9 percent.
$15,000	2,545	2,750	Up $205, or 8 percent.
$25,000	5,165	5,460	Up $295, or 5.7 percent.
$50,000	14,766	15,286	Up $520, or 3.5 percent.
$100,000	40,526	41,496	Up $970, or 2.4 percent.

[1] Not included in these figures are sales taxes, real estate taxes, and auto license fees. Such levies are rising in many States, will boost total tax bills still higher in months ahead.

NOTE.—Figures for 1966 are based on social security bill as approved by the Senate.

Source: U.S. News & World Report Economic Unit.

REDUCING TAKE-HOME PAY

(By David Lawrence)

Most workers, when asked how much they are earning, cannot, as a rule, remember exactly the total sum—they think only in terms of take-home pay. What is deducted by the employer from wages or salary for payment of the worker's taxes is not usually considered a part of income. Labor unions, for example, base their calculations on what the wage earner actually takes home.

Now, with an increase in social security taxes about to be imposed, there will be a reduction in take-home pay for the wage earner, starting next January. Under the Senate bill, factory workers getting between $4,800 and $6,600 a year will have their payments for social security taxes raised from $174 to sums ranging up to $275. This means an increase of from 15 to 58 percent of their current social security tax.

The Government also requires employers to match the amounts paid by the employees, so that next year approximately $5 billion more will be collected in social security taxes. This amount is to increase steadily, and in 7 years will go up by $17.4 billion.

What does all this mean to the economy of the Nation? What effect will it have on labor-union demands for increased incomes for the workers? What will be the impact on the price structure?

All these questions need to be examined because anything which is going to affect the national economy so intensively is bound to have some influence on business conditions as a whole and particularly on the capacity of the United States to compete in certain foreign markets. For undoubtedly prices in this country will have to rise to take care of the increased costs.

Theoretically, the Federal Government has reduced the tax burden by cutting income-tax rates and by eliminating some of the excise taxes. But, at the same time, the increases in taxes levied for social security will tend to offset some of the benefits allegedly to be derived from the tax-reduction policies of the last 2 years.

Certainly the labor unions are not going to overlook the fact that take-home pay will be reduced. Demands for higher wages are inevitable.

But, even though the individual worker may be convinced that "medicare" is eventually for his own benefit and for that of older members of his family whom he might otherwise be compelled to care for out of his wages, the fact remains that the labor unions will feel it their duty to obtain as quickly as possible increases in wages to offset the drop in take-home pay resulting from larger payroll deductions for social security.

Was there some other way to take care of the medical problems of the elderly? Unquestionably it could have been done and benefits given not only to the needy but to all the aged if the Government had decided to pay for medical care out of its general receipts. Persons with large incomes now are paying higher rates than those with low incomes. There certainly is no reason why the principle of the graduated income tax shouldn't continue to apply, instead of using a system of special taxes.

For it is a hardship to impose what is really a double tax on income. Many citizens who have been led to believe they benefit from being in a low income-tax bracket will discover that there are no tax deductions or exemptions when it comes to paying social security taxes. Some portion of social security benefits certainly should be paid for out of wages. But the whole system now has been extended so much that in the not-far-distant future employers and employees together will be paying for social security about 11 percent of all wages up to $6,600 a year. This is entirely apart from deductions made by the withholding of income taxes under the so-called pay-as-you-go plan.

The American people could have paid for "medicare" out of the general revenues, and the social security tax could have been kept somewhere near the low rates originally planned. But this would have made it necessary for the Government to economize. Too much public money is being spent nowadays for what might be called luxuries—they are not necessities. The pressure by the politicians to get pork barrel appropriations continues. Inefficiency and waste in expenditures are greater than ever before.

A prudent system of managing the Nation's finances would have provided all of the benefits that now are to be given for the medical care of the aged and for retirement incomes for the workers. But a double system of taxation is bound to increase the hardships of many millions of wage earners who really cannot afford to have their take-home pay reduced.

Sooner or later, the Federal Government must adopt sound fiscal policies and insist upon efficiency and economy in the expenditure of public funds. Otherwise, as the Treasury deficits continue year after year, the value of the dollar will continue to decline and America will feel the full effects of the dreaded inflation which, throughout history, has ruined the financial structure of many a nation.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

S. 627. An act to exempt oceanographic research vessels from the application of certain vessel inspection laws, and for other purposes;

H.R. 1217. An act for the relief of Capt. Paul W. Oberdorfer;

H.R. 1314. An act for the relief of Foster Masahiko Gushard;

H.R. 1322. An act for the relief of Mrs. Ana Cristina Rainforth;

H.R. 1374. An act for the relief of CWO Elden R. Comer;

H.R. 1487. An act for the relief of Maj. Kenneth F. Coykendall, U.S. Army;

H.R. 1889. An act for the relief of Albert Marks;

H.R. 2881. An act for the relief of George A. Grabert;

H.R. 3625. An act for the relief of Alfred Estrada; and

H.R. 8484. An act to amend section 2634 of title 10, United States Code, relating to the transportation of privately owned motor vehicles of members of the Armed Forces on a change of permanent station.

ADJOURNMENT

Mr. BIBLE. Mr. President, if there is no further business to come before the Senate, I move that the Senate adjourn until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 6 o'clock and 16 minutes p.m.) the Senate adjourned until tomorrow, Wednesday, July 21, 1965, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate July 20, 1965:

U.N. AMBASSADOR

Arthur J. Goldberg, of Illinois, to be the representative of the United States of Ameri-

ca to the United Nations with the rank and status of Ambassador Extraordinary and Plenipotentiary, and the representative of the United States of America in the Security Council of the United Nations.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 20, 1965:

DEPARTMENT OF THE INTERIOR

Harry R. Anderson, of California, to be an Assistant Secretary of the Interior.

HOUSE OF REPRESENTATIVES

TUESDAY, JULY 20, 1965

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D.D., prefaced his prayer with this verse of Scripture: II Corinthians 4: 11: *That the life of Jesus might be made manifest in our mortal flesh.*

O Thou God of all grace and goodness, we commit and commend ourselves not to the changing tides of time but to the majesty and mercy of the triumphant and the eternal.

Grant that we may be inspired to select decisively the highest values of life and serve them faithfully at any cost and to the very end and fulfilling them in sacrifice.

Help us to make more real and vivid the life of our blessed Lord and those characteristics of His spirit which we were meant to reveal.

May we in these troubled times manifest more of His sympathy, His compassion, His love, His passion for peace that we may all become one in His spirit.

To Thy name shall be the eternal praise. Amen.

THE JOURNAL

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 1217. An act for the relief of Capt. Paul W. Oberdorfer;

H.R. 1314. An act for the relief of Foster Masahiko Gushard;

H.R. 1322. An act for the relief of Mrs. Ana Cristina Rainforth;

H.R. 1374. An act for the relief of CWO Elden R. Comer;

H.R. 1487. An act for the relief of Maj. Kenneth F. Coykendall, U.S. Army;

H.R. 1889. An act for the relief of Albert Marks;

H.R. 2881. An act for the relief of George A. Grabert;

H.R. 3625. An act for the relief of Alfred Estrada; and

H.R. 8484. An act to amend section 2634 of title 10, United States Code, relating to the transportation of privately owned motor vehicles of members of the Armed Forces on a change of permanent station.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 9. An act to provide readjustment assistance to veterans who serve in the Armed Forces during the induction period;

S. 76. An act for the relief of Anna Maria Heiland;

S. 102. An act to provide an additional place for holding court in the district of North Dakota;

S. 135. An act for the relief of Elizabeth Kam Oi Hu;

S. 136. An act for the relief of Angel Lagmay;

S. 137. An act for the relief of Rosauro L. Lindogan;

S. 375. An act for the relief of Pedro Antonio Julio Sanchez;

S. 612. An act for the relief of Kevin Dillon Schofield;

S. 711. An act for the relief of Mrs. Hertha L. Wohlmuth;

S. 850. An act for the relief of Samuel L. McCoy;

S. 870. An act for the relief of Kaloyan D. Kaloyanoff;

S. 872. An act for the relief of Vasil Laci;

S. 879. An act for the relief of Kim Sa Suk;

S. 949. An act to promote commerce and encourage economic growth by supporting State and regional centers to place the findings of science usefully in the hands of American enterprise;

S. 1119. An act for the relief of Julio Francisco Dumas y Alcocer and Maria Josefa Dumas; and

S. 1198. An act for the relief of Mrs. Harley Brewer.

The message also announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 627. An act to exempt oceanographic research vessels from the application of certain vessel inspection laws, and for other purposes.

SUBCOMMITTEE ON DOMESTIC FINANCE OF COMMITTEE ON BANKING AND CURRENCY

Mr. PATMAN. Mr. Speaker, I ask unanimous consent that the Subcommittee on Domestic Finance of the Committee on Banking and Currency have permission to sit during general debate today.

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

Mr. GROSS. Mr. Speaker, reserving the right to object, I thought we had a rather large bill coming up today, dealing with poverty. I should think the Committee on Banking and Currency and all its members would be interested in that bill.

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

Mr. GROSS. I yield.

Mr. PATMAN. Mr. Speaker, we have a hearing concerning certain unsavory characters in certain institutions in our country. We have some witnesses from some distance and should like to accommodate them. The hearing should not be very long. I can assure the gentleman that our members are interested in the bill that is coming up.

Mr. GROSS. Mr. Speaker, the gentleman says that the committee has some out-of-town witnesses to hear?

Mr. PATMAN. That is correct.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

COMMITTEE ON AGRICULTURE

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture have until midnight to file a report on the bill H.R. 9811, the farm bill.

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

There was no objection.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

MRS. NATHALIE ILINE

The Clerk called the bill (H.R. 1380) for the relief of Mrs. Nathalie Iline.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. GROSS. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

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

There was no objection.

OUTLET STORES, INC.

The Clerk called the bill (H.R. 2924) for the relief of the Outlet Stores, Inc.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. TALCOTT. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

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

There was no objection.

CHARLES MAROWITZ

The Clerk called the bill (H.R. 1445) for the relief of Charles Marowitz.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. GROSS. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

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

There was no objection.

NORA ISABELLA SAMUELLI

The Clerk called the bill (S. 618) for the relief of Nora Isabella Samuelli.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. TALCOTT. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.