of the House of the disproportionately large share of the premium charges imposed upon employees and retirees for participation under the Federal employees' health benefits program.

When the enabling legislation was implemented in 1960 to provide the important fringe benefit of health insurance for Federal workers, the funding formula assessed approximately 62 percent of premium costs to employees and 38 percent to the Government. Over the period of the past 8½ years, however, medical care costs have soared, coverage has been liberalized, and, due to a greater awareness of health care, utilization of benefits has grown. These are but a few of the factors which have played a part in the alarming increase in the dollar output to provide health benefits, and which result in employees paying an average of 72 percent of current costs.

The Subcommittee on Retirement, Insurance, and Health Benefits' public hearings conducted last year most assuredly demonstrates the urgency for the adoption of a new funding formula to require the Government to match the participation of private industry in the vital area, and to relieve employees and annuitants of the unfair burden of continuing to assume the lion's share of constantly spiraling costs.

Therefore, Mr. Speaker, I have today introduced a bill which would require the Government to eventually assume the full costs of the program. My bill proposes that the Government's contributions to subscription charges be increased to 50 percent in July 1969; to 75 percent in July 1970; and that it eventually assume the responsibility for payment of total costs in July 1971.

I believe, Mr. Speaker, that this legislation will put meaning into the costing formula by updating it in a manner to assure that the Government is striving to match the experience which has been demonstrated industrywide in providing cost-free health insurance to its workers. Action should not be delayed on this important matter since the cost situation, serious as it now is, will inevitably grow worse with the passing of time.

HOUSE OF REPRESENTATIVES—*Monday, January 6, 1969*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The Lord give thee wisdom and understanding . . . that thou mayest keep the law of the Lord, thy God.—1 Chronicles 22: 12.

O Lord of love and God of all goodness, in this sacred moment we bow at the altar of prayer thanking Thee for this glorious land in which we live. May we now and always prove ourselves a people mindful of Thy presence, eager to do Thy will, and ready to serve our fellow men. Save us from violence and discord. Mold us into a people united in purpose and principle, in faith and fortitude.

Endue with Thy wisdom all Members of Congress, especially this House of Representatives, and particularly our beloved Speaker. Direct their decisions, prosper their planning, and expedite their efforts as they seek to promote the welfare of our country and the good of all our citizens.

As a result of our endeavors may peace come to our world, justice rise to new life in our Nation, and happiness live in every human heart.

In the Master's name we pray. Amen.

THE JOURNAL

The Journal of the proceedings of Friday, January 3, 1969, was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Vice President, pursuant to Senate Concurrent Resolution 1, appointed Mr. JORDAN of North Carolina and Mr. CURTIS as tellers on the part of the Senate to count the electoral votes for President and Vice President of the United States on January 6, 1969.

SWEARING IN OF MEMBER-ELECT

The SPEAKER. Will any Member-elect who has not been sworn come to the well of the House and take the oath of office.

Mr. MOSHER appeared at the bar of the House and took the oath of office.

VIOLATION BY SOME OF THE NEWS MEDIA OF RESTRICTIONS ON PICTURE TAKING

The SPEAKER. The Chair is troubled over the flagrant violation by some of the news media of the restrictions on the taking of pictures during the organization of the House on last Friday.

All segments of the news media were thoroughly familiar with the rules that taking any pictures—still, moving, TV, or tape—are prohibited except during the period when the klieg lights are turned on.

Some members of the news media who were granted the privilege of attending the opening session of the 91st Congress and permitted to bring their cameras into the galleries ignored the restrictions in complete violation of the agreement upon which they were admitted.

The Chair is calling this matter to the attention of the news media galleries and will expect a report from each on the action taken by them with respect to the violations of the regulations as well as to what provisions they are making to prevent such violations in the future.

RECESS

The SPEAKER. The Chair wishes to make a statement.

The Chair desires deferment of unanimous-consent requests and also 1-minute speeches until after the formal ceremony of the day, which is the counting of the electoral votes for President and Vice President. Therefore, pursuant to the order adopted on Friday last, the Chair declares the House in recess until approximately 12:45 p.m.

Accordingly (at 12 o'clock and 6 minutes p.m.), the House stood in recess subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 o'clock and 55 minutes p.m.

COUNTING ELECTORAL VOTES—JOINT SESSION OF THE HOUSE AND SENATE HELD PURSUANT TO THE PROVISIONS OF SENATE CONCURRENT RESOLUTION 1

At 12 o'clock and 55 minutes p.m., the Doorkeeper, Mr. William M. Miller, announced the President pro tempore and the Senate of the United States.

The Senate entered the Hall of the House of Representatives, headed by the President pro tempore and the Secretary of the Senate, the Members and officers of the House rising to receive them.

The President pro tempore took his seat as the Presiding Officer of the joint convention of the two Houses, the Speaker of the House occupying the chair on his left.

The joint session was called to order by the President pro tempore.

The PRESIDENT pro tempore. The hour of 1 o'clock having arrived, the joint session will now be in order.

Mr. Speaker and Members of the Congress, the Senate and the House of Representatives, pursuant to the requirements of the Constitution and laws of the United States, have met in joint session for the purpose of opening the certificates and ascertaining and counting the votes of the electors of the several States for President and Vice President.

Under long-established precedents, unless a motion shall be made in any case, the reading of the formal portions of the certificates will be dispensed with. After ascertainment has been made that the certificates are authentic and correct in form, the tellers will count and make a list of the votes cast by the electors of the several States.

The tellers on the part of the two Houses will take their respective places at the Clerk's desk.

The tellers, Mr. CURTIS and Mr. JORDAN of North Carolina on the part of the Senate, and Mr. FRIEDEL and Mr. LIPSCOMB on the part of the House, took their places at the desk.

The PRESIDENT pro tempore. The Chair hands to the tellers the certificates of the electors for President and Vice President of the State of Alabama, and

they will count and make a list of the votes cast by that State.

Senator JORDAN of North Carolina (one of the tellers). Mr. President, the certificate of the electoral vote of the State of Alabama seems to be regular in form and authentic and it appears therefrom that George C. Wallace of the State of Alabama, received 10 votes for President and Curtis E. LeMay of the State of California, received 10 votes for Vice President.

The PRESIDENT pro tempore. There being no objection, the Chair will omit in further procedure the formal statement just made for the State of Alabama and we will open the certificates in alphabetical order and pass to the tellers the certificates showing the vote of electors in each State; and the tellers will then read, count, and announce the result in each State as was done in the State of Alabama.

The Chair hears no objection.

There was no objection.

The tellers then proceeded to read, count, and announce, as was done in the case of Alabama, the electoral votes of the several States in alphabetical order.

During the proceedings of the count of the electoral vote.

Senator JORDAN of North Carolina (one of the tellers). Mr. President, the certificate of the electoral vote of the State of North Carolina seems to be regular in form and authentic and it appears therefrom that Richard M. Nixon, of the State of New York, received 12 votes for President, and George C. Wallace, of the State of Alabama, received one vote for President, and Spiro T. Agnew, of the State of Maryland, received 12 votes for Vice President, and Curtis E. LeMay, of the State of California, received one vote for Vice President.

Mr. O'HARA. Mr. President——

The PRESIDENT pro tempore. For what purpose does the gentleman from Michigan rise?

Mr. O'HARA. For the purpose of objecting to the counting of the vote of North Carolina as read.

The PRESIDENT pro tempore. Has objection been reduced to writing?

Mr. O'HARA. It has, Mr. President, and I send to the Clerk's desk a written objection signed by Senator MUSKIE and myself, in which 37 Members of the House and six Members of the Senate have joined.

The PRESIDENT pro tempore. The Clerk will read the objection.

The Clerk of the House read as follows:

We object to the votes from the State of North Carolina for George C. Wallace for President and for Curtis E. LeMay for Vice President on the ground that they were not regularly given in that the plurality of votes of the people of North Carolina were cast for Richard M. Nixon for President and for Spiro T. Agnew for Vice President and the State thereby appointed thirteen electors to vote for Richard M. Nixon for President and for Spiro T. Agnew for Vice President and appointed no electors to vote for any other persons. Therefore, no electoral vote of North Carolina should be counted for George C. Wallace for President or for Curtis E. LeMay for Vice President.

JAMES G. O'HARA, M.C.
EDMUND S. MUSKIE, U.S.S.

ADDITIONAL SIGNERS ON THE PART OF THE SENATE

FRED R. HARRIS, U.S.S.
GALE W. MCGEE, U.S.S.
WARREN G. MAGNUSON, U.S.S.
WALTER F. MONDALE, U.S.S.
JENNINGS RANDOLPH, U.S.S.
HUGH SCOTT, U.S.S.

ADDITIONAL SIGNERS ON THE PART OF THE HOUSE

JOSEPH P. ADDABBO, M.C.
EDWARD P. BOLAND, M.C.
WILLIAM S. BROOMFIELD, M.C.
GARRY E. BROWN, M.C.
GEORGE BUSH, M.C.
JEFFREY COHELAN, M.C.
JOHN R. DELLENBACK, M.C.
EDWARD J. DERWINSKI, M.C.
ED EDMONDSON, M.C.
JOSHUA EILBERG, M.C.
LEONARD FARBSTEIN, M.C.
DANTE B. FASCELL, M.C.
DONALD M. FRASER, M.C.
SEYMOUR HALPERN, M.C.
WILLIAM D. HATHAWAY, M.C.
FLOYD V. HICKS, M.C.
LAWRENCE J. HOGAN, M.C.
JAMES J. HOWARD, M.C.
FRANK HORTON, M.C.
JOSEPH E. KARTH, M.C.
THOMAS S. KLEPPE, M.C.
EDWARD I. KOCH, M.C.
PETER N. KYROS, M.C.
ABNER J. MIKVA, M.C.
WILLIAM S. MOORHEAD, M.C.
THOMAS P. O'NEILL, Jr., M.C.
RICHARD L. OTTINGER, M.C.
HOWARD W. POLLOCK, M.C.
WILLIAM F. RYAN, M.C.
PETER W. RODINO, M.C.
WILLIAM L. ST. ONGE, M.C.
FRED SCHWENGEL, M.C.
LOUIS STOKES, M.C.
LIONEL VAN DEERLIN, M.C.
LOWELL P. WEICKER, M.C.
JAMES C. WRIGHT, Jr., M.C.
SIDNEY R. YATES, M.C.

The PRESIDENT pro tempore. The objection submitted by the Representative from Michigan, Mr. O'HARA, signed by himself and the Senator from Maine, Mr. MUSKIE, complies with the law, having attached thereto the signatures of a Member of each of the bodies of Congress.

Are there any further objections to the certificates from the State of North Carolina? The Chair hears no further objection.

This objection having been submitted in writing and being properly attested to by a Member of each House of the Congress, pursuant to the law in such cases made, it is provided that the Senate will now withdraw and determine the position of the Senate on this objection, after which, in the words of the statute, we will immediately meet again and the presiding officer shall then announce the decision on the questions submitted.

The Senate will now repair to the Senate Chamber.

(Thereupon, at 1 o'clock and 32 minutes p.m., the Senate retired from the Hall of the House of Representatives.)

OBJECTION TO COUNTING ELECTORAL VOTES FROM NORTH CAROLINA

At 1 o'clock and 41 minutes p.m., the House was called to order by the Speaker.

The SPEAKER. Pursuant to the provisions of Senate Concurrent Resolution 1 and section 17, title 3, United States Code, governing the procedure for counting the electoral votes, when the two Houses separate to decide upon an objection that has been made to the counting of any electoral votes from any State, each Representative may speak to such objection for 5 minutes, and not more than once. Under the law, debate is limited to not to exceed 2 hours.

The Chair now asks the Clerk to report the objection which was made in the joint session to the vote of the State of North Carolina.

The Clerk read the objection, as follows:

We object to the votes from the State of North Carolina for George C. Wallace for President and for Curtis E. LeMay for Vice President on the ground that they were not regularly given in that the plurality of votes of the people of North Carolina were cast for Richard M. Nixon for President and for Spiro T. Agnew for Vice President and the State thereby appointed thirteen electors to vote for Richard M. Nixon for President and for Spiro T. Agnew for Vice President and appointed no electors to vote for any other persons. Therefore, no electoral vote of North Carolina should be counted for George C. Wallace for President or for Curtis E. LeMay for Vice President.

JAMES G. O'HARA, M.C.
EDMUND S. MUSKIE, U.S.S.

The SPEAKER. The question is, Shall the objection submitted by the gentleman from Michigan (Mr. O'HARA) and the Senator from Maine (Mr. MUSKIE) be agreed to.

The Chair will attempt to divide the time equally between those Members wishing to speak in support of or in opposition to the objection.

The Chair recognizes the gentleman from Texas (Mr. WRIGHT) for 5 minutes.

Mr. WRIGHT. Mr. Speaker, in opening debate on this issue, I shall attempt to put into some perspective the basic position held by those of us who object to the vote of the faithless North Carolina elector.

This is a truly historic decision that confronts us. The Congress, for good or for ill, will establish a major precedent today. In carrying out our legal mandate to canvass the votes of the electors, and to ascertain that those votes were "regularly given," we face the one fundamental issue which lies at the very heart of the system by which the President and Vice President of the United States are chosen.

The basic question is that of sovereignty. Who, under the American system, is sovereign? In whom does the ultimate right and the power of decision reside?

Are the people sovereign? Do they have the right to expect—indeed, to insist—that their clearly expressed wishes shall be faithfully carried out by the college of electors, that strangely anomalous and almost anonymous appendage which the Constitution rather awkwardly interposed between them and their chosen leaders?

Or shall we determine today that the people, in the final analysis, have no such right at all? Shall we declare that they have no authority whatever to require that their votes be faithfully reflected by their agents, the electors—no right, no remedy, no recourse and no protection against the faithless elector who betrays their trust, abuses his office,

disdains their wishes, and cavalierly substitutes his will for theirs?

Think what a dangerous precedent that would be. And that is precisely the precedent which we shall ratify if we vote down this resolution today. That is the precedent we approve if we by our action interpret the palpable betrayal by the faithless elector of North Carolina as a vote "regularly given."

Obviously, there is nothing regular about it. Since the beginning of the Republic, 16,510 electors have been chosen to perform this formal and now presumably perfunctory duty. Only six of the more than 16,000—only six in all these years—have miscast the ballot with which their people entrusted them. Each of these instances has been deplored, but never has one been rectified. Happily none of them has altered the outcome of a presidential election.

But this is not to say that it could not happen if we, by our inaction today, should tacitly sanction the practice. Consider the consequences in the case of some future third party candidate who might succeed in preventing either of the major candidates from receiving a majority of the electoral votes—and then might crassly attempt to barter away to the highest bidder the votes of the electors pledged to him—and thus the Presidency of the United States. Who is to say that this could not happen—if publicly pledged electors are to be permitted to change their votes by no more authority than their own whim?

The electoral college is a creaky and antiquated bit of machinery, a relic of the powdered wig and snuffbox era. We have long since outgrown it. Personally I think we should be done with it entirely. As early as 1826, Thomas Hart Benton described the office of elector as "useless if he is faithful, and dangerous if he is not."

Until we can reform the electoral system by constitutional amendment, we shall have to put up with this quaint old custom. But we do not have to put up with fraud. We do not have to condone deliberate betrayal of the wishes of the people by one who accepted their appointment in token of his pledge to carry out their wishes.

Perhaps there is no more dangerous flaw in our electoral system than that of a faithless elector ready to ignore the clearly expressed will of the electorate and to substitute his judgment for theirs.

We have the legal and constitutional power, and indeed the duty, to prevent faithless electors from corrupting the election of a President. While independent electors admittedly were contemplated by the Constitutional Convention, we will demonstrate that the adoption of the 12th amendment, and more than a century and a half of constitutional usage have so modified that intent that the Supreme Court rejected such a claim 16 years ago and we should reject it today.

We will show that the "equal protection" provisions of the 14th amendment guarantee every voter the right to an "effective" vote in presidential elections, that the faithless elector dilutes their right, and that it is the Congress and not the States nor the courts which has the statutory duty to protect the constitutional right of every citizen from the actions of an elector who betrays it.

We have filed a formal objection to the vote of the faithless elector. We ask that his vote not be counted for the candidates selected by him because they are not the candidates for whom he was appointed to vote and for whom he assumed a clear obligation to vote.

If we fail to sustain this objection, the consequences of our failure will be much more serious than simply depriving Mr. Nixon of a vote he does not need. For if one elector of North Carolina, nominated by political party convention as an elector for his party's nominees and elected by votes cast not for him—his name did not even appear on the ballot—but for his party's nominees can abrogate his duty, then all 13 North Carolina electors could do so. And if North Carolina's electors have this privilege so do the electors of every other State and there are many of them who appoint their electors by this method.

By every rightful and proper expectation of our political heritage, the vote of the faithless elector from North Carolina was improperly given. Today we have the opportunity—and, I believe, the responsibility—to brand it as such, to disallow it, and to establish once and for all that no elector shall arrogantly flout the will of the people of any State in this Union.

The SPEAKER. The gentleman from North Carolina is recognized for 5 minutes.

Mr. JONAS. Mr. Speaker, I intended to vote to count the ballot for former Governor Wallace which was cast by the elector from North Carolina's Second Congressional District. I shall do so, however, with grave misgivings about the possible consequences of the precedent that will be established if his right to do so is sustained today.

Fortunately we can debate this issue dispassionately and objectively because the result of the election in the electoral college will not be affected regardless of the outcome of the contest today. If the House votes today to sustain Dr. Bailey's right to cast his vote for Wallace, a precedent will be established and, unless electoral college reform occurs between now and the next presidential election, or unless the States affirmatively act, a Pandora's box will have been opened and in the next election there is a possibility that electors will go running all over the lot casting votes for candidates for the Presidency who did not carry their states. Chaos would result from this action.

Suppose in the next presidential election there should be a very close division in the electoral college so that the outcome may turn on a few or even one vote. Just imagine the pressures that might be exerted on individual electors to cast their votes for someone who was not the choice of the people who elected them.

It must be remembered that the elector in question was not elected as elector by the voters of North Carolina's Second Congressional District. He did not become an elector until the votes were counted on election day, and he was elected by the voters from all over North Carolina. One of the reasons given by Dr. Bailey for his defection to Wallace was that the latter received a majority of the votes in the Second Congressional District, but in my judgment that is beside the point. If Dr. Bailey's election had turned on the votes of his district, he would never have been an elector. His election as an elector was made possible by the votes of the people in other districts than his own. As an elector, therefore, he was not representing the people of the Second Congressional District but the people of North Carolina as a whole. It seems to me that his obligation was to the people of the State who gave Nixon more votes than either of the other two candidates, and his defection to Wallace amounted to a repudiation of the wishes of the very people who elected him and who clearly indicated their desire that North Carolina's 13 electoral votes be cast for Nixon.

It must also be remembered that since 1933 the names of the appointed electors have not appeared on our presidential ballot in North Carolina. North Carolina is among the States which list the names of the candidates for President on the ballot, and this year those names were HUMPHREY, Nixon, and Wallace. So the voters of North Carolina were not directly voting for electors but for the candidates for President, and it seems to me that the 627,192 voters in North Carolina who cast their votes for Nixon had a right to expect that the electors would vote for their man if he carried the State. When the elector in question defected to Wallace, in effect he was repudiating the mandate given him by the people who elected him to represent them and he did so in derogation of their wishes that all of North Carolina's 13 votes should be cast for Nixon.

While I personally believe that Dr. Bailey had an obligation to vote in accordance with the expressed will of the people of the State who elected him an elector, nevertheless I do not find anything in the Constitution of the United States that requires him to do so nor do I find any statute in North Carolina that expressly requires him to do so.

In the absence of a constitutional amendment which will change the electoral college system, it is my opinion that the responsibility rests on the State of North Carolina and the other States of the Union to make it impossible in the future for the election of a President of the United States to turn on the whim or predilection of individual electors.

Fortunately the country through the Congress or through the legislatures of the several States will have an opportunity to avoid the confusion and chaos that might result in some future close election in the electoral college. The Legislature of North Carolina will soon be meeting and I trust that some corrective action will be taken to prevent such a situation from arising in future elections.

In the meantime, I think it is incumbent on this Congress to begin prompt hearings on the subject of general electoral reform so that a constitutional amendment may be presented to the States for effective action to be taken before the next general election.

The SPEAKER pro tempore (Mr. ALBERT). The time of the gentleman from North Carolina has expired.

The Chair recognizes the gentleman from Oklahoma (Mr. EDMONDSON).

Mr. EDMONDSON. Mr. Speaker, I can sympathize a little bit with the gentleman from the State of North Carolina who just preceded me, because in my own State of Oklahoma we had a similar situation in 1960 in which an elector, chosen in the State that voted by an overwhelming majority for President-elect Nixon, in the 1960 canvassing of the electoral college voted for Senator BYRD of Virginia instead of following the State's decision for Mr. Nixon. There was some consideration given at that time to some type of contest in connection with the canvassing of his ballot. I think it is rather unfortunate that this debate did not take place at that time, because I think we had at that time a very clear instance—and we have had six of them in history—of an elector who did not follow the decision of his State in connection with the presidential election.

Mr. Speaker, I support the objection of Congressman O'HARA and Senator MUSKIE at this time, and I agree wholeheartedly with my good friend from North Carolina that we are dramatizing today very clearly the need for reform in the electoral college system. I cannot think of any other way that would demonstrate more clearly the need for reform than the issue which is before us today.

The 12th amendment to the constitution specifies:

> The President of the Senate shall, in the presence of the Senate and the House of Representatives, open all the certificates and the votes shall then be counted.

This power of the Congress to count the electoral vote is the only constitutional power specifically granted to anybody or agent to protect the electoral system against arbitrary or unlawful action to thwart the popular will of the people of the States in electing the President of the United States.

This power conferred by the Constitution on the Congress is not in strict terms a legislative power. It requires no Executive approval and is not subject to the Presidential veto as in the case of legislative enactments. When the action of Congress in rejecting the certified electoral votes of certain States was transmitted to President Lincoln in 1865, he said:

> The two Houses of Congress, convened under the twelfth article of the Constitution, have complete powers to exclude from counting all electoral votes deemed by them to be illegal and it is not competent for the Executive to defeat or obstruct the power by a veto * * * or to interfere in any way in the matter of canvassing or counting the electoral votes.

Mr. Speaker, this is an absolute power possessed by the House and the Senate and it is this power which we seek to invoke today.

Mr. Speaker, in the exercise of this power the Congress is to be guided by what the Constitution requires with respect to the electoral process.

In this regard the Constitution in article II, section 1, provides:

> 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.

Mr. Speaker, each State under the Constitution directs the manner of the selection and, hence, the Congress in its powers to count the electoral votes is giving effect to and protecting the constitutional right of the States in their functions with respect to the electoral process.

To me it is significant that the names of the electors did not even appear on the November ballot in the State of North Carolina. The voters had nothing before them except the names of the presidential and vice-presidential candidates for each party.

Those voters were entitled to assume when they voted for the presidential candidate and vice-presidential candidate of their choice, that their votes would be made effective by the electors.

I think we can take congressional notice of the plurality that was cast for President-elect Nixon and for Vice President-elect Agnew. We can take congressional notice of the fact that the North Carolina vote was for them and was intended to be cast for them.

The Congress has not been blind to the potential dangers to the electoral process with respect to protecting the rights of citizens of the States casting their ballots for electors in that phase of the electoral process, and the courts have sustained the validity of congressional enactments in this area—Ex parte Yarborough 110 U.S. 651.

Surely the Congress will not be blind to a flagrant and audacious violation of the North Carolina electoral law in the case of Dr. Bailey, who has decided to substitute his own judgment for that of the voters of North Carolina and has thereby violated his trust.

Mr. Speaker, Congress has the ultimate power to protect the integrity of the electoral process, and the objection of Mr. O'HARA and Senator MUSKIE should be and must be sustained.

The SPEAKER pro tempore (Mr. ALBERT). The Chair recognizes the gentleman from Ohio (Mr. MCCULLOCH) for 5 minutes.

Mr. MCCULLOCH. Mr. Speaker, I rise in opposition to the objection. I sincerely wish that I could support the objectors because I believe that the elector from North Carolina should have voted as the people of North Carolina instructed him.

However, my study and my reading of history of the Constitution requires me to oppose the objection. Both article II and the 12th amendment which superseded it state:

> The electors shall . . . vote by ballot for President and Vice President.

I understand that language to mean that the electors are constitutionally free and independent in choosing the President and Vice President. Several State courts have said so—*Opinion of the Justices, No. 87*, 250 Ala. 399, 34 So. 2d 598 (1948); *Breidenthal* v. *Edwards*, 57 Kans. 332, 339, 46 P. 469, 471 (1896); *State ex rel. Beck* v. *Hummel* 150 Ohio St. 127, 146, 80 N.E. 2d 899, 909 (1948). *Contra, Thomas* v. *Cohen*, 146 Misc. 836, 841–42, 262 N.Y.S. 320, 326 (Sup. Ct. 1933)—although the U.S. Supreme Court has never passed on the question—Cf. *Ray* v. *Blair*, 343 U.S. 214 (1952).

It should be especially clear to the Members of the House that the concept of "voting by ballot" implies that the voter has a real choice. This was the original understanding, as the debates of the Constitutional Convention—two records of the Federalist Convention of 1787, at 501 (M. Farrand ed. 1937)—and No. 68 of the Federalist, demonstrate beyond doubt. Even the objectors admit this in the materials they have circulated to the Members of this body.

But what has happened since those early days to alter the constitutional freedom of the elector? Nothing. Electors have been "faithless" as early as 1796 and as late as 1960. And each time the Congress counted the vote as actually cast by the elector—Rosenthal, *The Constitution, Congress, and Presidential Elections* 67 Mich. L. Rev. 25, n. 97 (1968). Moreover, hundreds of Congressmen have reacted to such perfidy by introducing resolutions to amend the Constitution by abolishing the office of elector. And why? Because only a constitutional amendment can change the constitutional independence of the elector.

Today, the objectors ask us to circumvent the amending process. They ask us to do what we have criticized so often before—to read into the Constitution what we wish the law to be. They ask us to transform independent electors into rubber stamps. They ask us to adopt a view which not only differs from but which is diametrically opposed to the way the Constitution was written.

But the Congress has previously indicated that the elector must be free to vote his own mind. In the election of 1872, the Democratic presidential candidate, Horace Greeley, won the popular vote of six States. Shortly after the election, he died. When the Democratic electors voted in the electoral college, they scattered their votes among several persons. Three votes were cast for the deceased Greeley. Congress refused to count those three votes because they were not cast for a "person," as the 12th amendment required. See "Electing the President," 33 American Bar Association 1967.

Thus the present system which separates the appointment of electors from the election of a President by over a month necessitates that the electors remain free and independent because the people's choice may have died.

In 1912, it was the defeated Republican vice presidential candidate who died before the electoral college met. Lest their votes be not counted, the Republican electors voted for someone else, and Congress counted the votes. See "Electing the President," 33 American Bar Association 1967.

We cannot have it both ways—electors who are bound if the candidates live and electors who are independent if the candidates die.

The history of this issue in the Congress reveals the consistent application of the rule of law that electors are independent.

Section 15 of title III which is being invoked today was enacted in 1887 in order to establish a procedure for determining how the chosen electors voted. The Congress wished to provide against a repetition of the Hayes-Tilden dispute of 1876 and 1877. In that election, some States sent two sets of returns. Which set was real? That was the question. Section 15 is the procedure for answering that question.

But once the real set is determined, the votes must be counted. Nothing in title III empowers Congress to change or disregard votes because an elector has been unfaithful.

Note that title III allows the State of North Carolina to object. However, North Carolina does not object—and rightly so. Mr. Bailey is an elector and his vote was reguarly given. The laws of North Carolina and the United States were complied with.

Of course, Mr. Bailey violated an agreement with the Republican Party in North Carolina. But what law—State or Federal—did he violate?

I find none. So how can we tamper with the vote?

The objection, however, serves to underscore the need for immediate affirmative action by the Congress in fashioning a resolution for a constitutional amendment to reform the electoral college. I wholeheartedly call for such reform and urge prompt action in this body.

However, that reform must be achieved honestly—by the amendment process. It should not be achieved by ignoring the Constitution and the steady precedents of the Congress.

I urge that the objection be defeated.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York (Mr. CELLER) for 5 minutes.

Mr. CELLER. Mr. Speaker, at the time of the framing of the Constitution, our Founding Fathers, led particularly by Hamilton and partly by Jefferson, felt that the hoi polloi, the unwashed masses, and the rustics, they called them, were not educated enough or did not have intelligence enough to select the President and Vice President; that there was to be a barrier between them and the Presidency. Therefore they set up an elite class to be voted on by the general voters, which we call the electoral college.

That process did not over the course of history seem to work too well. It was not long before changes were effectuated. So that during most of the 19th century and all of the past 20th century this system went into limbo, as it were, that is, the idea of the Founding Fathers, and it became the common understanding and usage that the electorate expects that its votes will be cast for the candidate of its choice without the intervention of another judgment and in a manner contrary to their expressed wishes.

Whether or not electors are pledged, whether or not they are named, whether or not their names appear on the ballot, whether or not the law provides sanctions if they should fail to vote in accordance with the electorate's wishes, the universal—and I say "universal"—understanding in the United States today and in the the 20th century particularly is that the electoral college exercises a ministerial, an agency function and effectuates the expressed wishes of the people. Indeed most electors consider themselves irrevocably committed to support the presidential candidate on whose ticket they were elected or on which they were elected.

This traditional ministerial function of the electors has become sacred. Any departure from that tradition must be challenged as it is today. It must be successfully challenged.

James Russell Lowell, a Republican elector in Massachusetts, in the famous Hayes-Tilden election of 1876, was urged to switch his vote from Hayes to Tilden, which would have made Tilden the victor, since only one vote divided the men in the national count. Lowell refused to do so and stated significantly:

> In my own judgment I have no choice, and am bound in honor to vote for Hayes, as the people who chose me expected me to do . . . They did not choose me because they have confidence in my judgment but because they thought they knew what the judgment would be. If I had told them that I should vote for Tilden, they would never have nominated me. It is a plain question of trust.

So, my good friends, what this man Dr. Bailey did was contrary to that tradition which is sacred in this Nation of ours—a tradition that we must respect. While we have the electoral college we must protect the integrity of the electoral college.

And so the issue here is joined.

Mr. Speaker, Members of this House undoubtedly are aware that it is my plan to hold hearings on electoral college reform early in the present Congress. But no one can predict what the outcome of our deliberations will be.

Meanwhile, I intend to support the proposed challenge to the vote cast by the elector from North Carolina. I do so recognizing that the disposition of this challenged vote will not affect the result of the presidential election. However, I believe it most appropriate and essential that the Congress give effect to the view now held by the overwhelming majority of our people that when the vote of an electorate is cast for President, it shall not be nullified or abrogated by any elector.

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

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

Mr. ABERNETHY. The gentleman stated that when the Founding Fathers set up this system that they provided that the actual election of the President should be made by the electors. Now, that was constitutional, was it not?

Mr. CELLER. That was in the Constitution.

Mr. ABERNETHY. All right; now, would the gentleman tell us when and where it was changed?

Mr. CELLER. Where they changed it?

Mr. EDMONDSON. In the 12th amendment.

Mr. CELLER. The change came by tradition and practice. Also, there is not necessarily any violation of the Constitution in what we are seeking to do today because the Constitution says, for example, that the House has the right to count the vote and the right to count the vote implies a right to say there shall be no vote and, therefore, we have a right to say, "No vote."

Mr. ABERNETHY. Mr. Speaker, if the gentleman will yield further, there is a difference between counting votes and casting votes.

Mr. CELLER. Yes, there is a difference in counting votes and casting votes.

Mr. ABERNETHY. This House has no right to cast a vote. The only right the House has is to count the votes.

Mr. CELLER. I admit the line of difference is slender, but one which I believe can be stretched a little. Hence I think it can be understood that we can cast the vote for Mr. Nixon. Remember, Dr. Bailey, the elector, was nominated and elected for that purpose; namely, to elect Mr. Nixon. He had a trust to vote for Nixon. He cannot disavow that trust. We, therefore, correct his breach of trust or, in other words, cause the ministerial act of voting for Mr. Nixon to be consummated.

The SPEAKER pro tempore. The time of the gentleman from New York has expired.

The Chair recognizes the gentleman from North Carolina (Mr. LENNON).

Mr. LENNON. Mr. Speaker, I would like to make it crystal clear in the beginning, that as an individual I do not agree with the elector from the Second Congressional District of North Carolina. I think he had a moral obligation to vote for the candidate who received the highest vote throughout the State of North Carolina.

But, if I may read to you gentlemen—if I may have your attention for a minute or two because North Carolina is involved and I do think you ought to listen to us from North Carolina on this subject matter—I read from the 12th amendment:

> The President of the Senate shall in the presence of the Senate and the House of Representatives open all of these certificates and the votes shall then be counted.

It does not mention the fact that they may be changed. That is what is proposed here in the objection of the gentleman from Michigan and the Senator from Maine.

Mr. Speaker, I was quite interested in finding in the Library of Congress on Saturday afternoon a very comprehensive article on this subject matter, which appeared in the State of Michigan Law Review published in November 1968 subsequent to the election. If one gets that document, a fine article written by one of the most eminent professors of law in the Nation, Mr. Albert J. Rosenthal, you will find on page 17 a very significant statement. If you will bear with me and listen to me, please, I shall read:

> If we assume that discretion on the part of electors to override the expectations of their constituents must be eliminated, there are three possible ways in which this may be accomplished: by the courts under existing law, by statute, or by constitutional amendment.

No. 1, "by the courts under existing law"—under existing law the courts have not spoken to this subject matter—"by statute"—in 23 States of our Nation they

have by statute mandated the electors to cast their vote.

After passing of the 21st amendment which gave the right to the District of Columbia to participate in the presidential election, the Congress immediately implemented the 21st amendment in its capacity acting as a State legislature for the District of Columbia and mandated and required the electors to take a written pledge and oath to support the nominee of the party at the national level who received a majority or plurality in the District of Columbia.

So, then, it becomes crystal clear that until such time as the State legislatures of the several States act, unless the court at the highest level, the Supreme Court acts, or unless the Congress through constitutional amendment by two-thirds of the votes of the two bodies, and ratification by three-fourths of the legislatures of the 50 States, we are powerless to do anything.

If we could do what is suggested here today, then we can void, if you please, the votes for Richard M. Nixon, all of his votes, and give them to Mr. HUMPHREY, or vice versa, we could void the votes of Mr. HUMPHREY and give them to Mr. Nixon.

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

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

Mr. ABERNETHY. Mr. Speaker, I thank the gentleman for yielding.

The gentleman has made a fine point, and that is that the only power we have here today is to count the votes.

Mr. LENNON. That is all.

Mr. ABERNETHY. And not to cast or void votes. Is that not right?

Mr. LENNON. That is correct.

Now, I want to tell the Members of the House of Representatives what the official position of the State of North Carolina is. This is a statement that was issued through the news media this morning by the chairman of the State Board of Elections of the State of North Carolina. I shall read it:

> It is simply beyond reasonable comprehension that the Federal Congress or any segment thereof would presume to alter the electoral vote from North Carolina or any other state. There is no constitutional authority for such action nor is there any basis in law for the Congress to disrupt this due process.
>
> If there is need for alteration to preclude the eventuality of any elector casting his vote contrary to the political party which elected him then it can and should be done within the state either by the General Assembly of this state or through the respective representative "plans of organization of each political party". Either approach can be accomplished with relative ease under the existing statutes and constitutional provisions in this or in any other state.
>
> Any attempt by Congress to usurp this authority from our state would in my judgment demonstrate again that emotionalism in Washington causes over-reaction and often prescribes a cure much worse than the alleged illness.

The SPEAKER pro tempore (Mr. ALBERT). The time of the gentleman from North Carolina has expired.

Mr. LENNON. Mr. Speaker, would I be permitted to yield to someone sharing my belief for 5 minutes?

The SPEAKER pro tempore. The Chair will state that it has no discretion in this matter, inasmuch as the time is set by law.

Mr. LENNON. I thank the Chair for its ruling.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from New York (Mr. HORTON).

Mr. HORTON. Mr. Speaker, as each of us in this Chamber has come here by virtue of free and fair constitutional machinery for direct representation elections, I feel we owe the American people a duty to support the objection raised by the gentleman from Michigan and the Senator from Maine and in which I have joined.

Our democratic republic has limped along for nearly two centuries with a system for presidential election which is inherently undemocratic and wholly unsuited to the needs of a well-informed electorate in the 1960's and 1970's. But despite its serious weaknesses, the system has somehow survived by yielding up only infrequently the inequitable results and the potential electoral disasters inherent within it. The principal reason that our electoral system has muddled through for so long is that there has grown up a general expectation that presidential electors would and must follow the will of their constituencies in casting their ballots for President and Vice President. This expectation is becoming a part of the judicial and, I believe, the statute law that has grown up around the electoral system.

Today, in one of the most troubled hours of this Nation, we are seeing, for only the sixth time in our Nation's history, the betrayal of this essential trust between the people of a State and one of their electors. As the duly elected Republican elector from North Carolina's Second Congressional District, Dr. Lloyd W. Bailey was both faceless and nameless to the vast portion of that State's voters. They were aware of only one fact about him—that he was part of a slate of electors who would cast all of their ballots for Richard M. Nixon should he win a plurality of North Carolina's popular votes.

Mr. Speaker, the false argument has been raised by Dr. Bailey that he was casting his vote in accordance with the will of the people in his congressional district whom he was selected to represent. This is an outrageous contention. Dr. Bailey was indeed nominated by a district caucus at his party's State convention, but he was elected on a statewide basis. A vote cast for Mr. Nixon was a vote for the Republican electors as a group, and their election turned upon the statewide results—not the vote of their congressional districts. In fact, were the selection by congressional district, Dr. Bailey, as a Republican elector, would not have been chosen.

A great many years ago it was not unusual for electors to be chosen by the voters of each congressional district, with two electors elected at large. But as political parties grew in strength this system fell out of favor. By 1832, it remained in only four States. The principal objection to this method was that it more often than not divided a State's vote. With specific reference to North Carolina, it is interesting to note a contemporary comment on the statutory change of 1933 which removed the names of electors from the ballot. The commentator remarked that change was intended, in part, to "preclude the bare possibility" that the State's electoral count would be split.

We might ask Dr. Bailey if he advocates Republican electors casting their votes for HUBERT HUMPHREY where he carried their congressional districts.

There are 13 presidential electors from North Carolina. They hold among them all of the voting power of the 5,000,000 people of that State in selecting a President and Vice President. Regardless of whom he cast his individual vote for, each North Carolina citizen expects that the winning candidate in his State will receive all 13 electoral votes.

By breaking the faith of his "agency" for the people of the State, Dr. Bailey, who claims to have cast his ballot for George C. Wallace through personal "moral obligation," in effect nullified the "effective votes" of one-thirteenth of all North Carolinians.

Thus, by this reasoning, Dr. Bailey's failure to vote for the President-elect effectively disenfranchised nearly 400,000 citizens of North Carolina.

It is only by our good fortune that this man's vote by "moral obligation" did not change the winner of the national election, nor throw the vote into the House of Representatives for decision under a blatantly undemocratic set of constitutional rules, but it certainly could have been otherwise. In this election it would take only 30 Dr. Baileys to nullify the wishes of a plurality of Americans or to throw the vote into the House. Our good fortune should not cause us to overlook the mockery which has been made of the electoral system as we understand it; it must not cause us to overlook the fraud which was worked on the people of North Carolina.

Title 3, United States Code, section 15, establishes the procedure of the congressional count of electoral votes. It clearly spells out the procedure for objecting to electoral ballots "not regularly given." Cogent arguments for not narrowing the meaning of this phrase to include only formal and procedural regularity have been ably presented here this afternoon. Dr. Bailey had both a moral and legal duty, in my judgment, to the people of his State, of a far higher order than any "moral obligation" he claims to himself to vote for Mr. Wallace. His disavowal of that duty stands as a misuse of the office of elector, and, I believe, renders his ballot highly "irregular."

I implore my colleagues to sustain the objection.

If there is any gain to be had from the action of this faithless elector, it is the hope that its potential consequence will shock our colleagues and this Nation to rebuild the national election procedures of America on sound, modern, and democratic foundations, so that the whimsical actions of one or a few men no longer have the potential of breaking down our great system of government.

The SPEAKER pro tempore (Mr. AL-

BERT). The Chair recognizes the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, there is a saying, of course, among lawyers, of whom there are a goodly number in this body, that hard cases make bad law.

It seems to me perhaps regardless of the outcome and regardless of the decision that we make here today that there may be an unfortunate result because we do face a truly Draconian choice.

There are those who fear that in supporting the objection submitted by the junior Senator from Maine, Senator MUSKIE, and the distinguished gentleman from Michigan (Mr. O'HARA) that we would be doing violence to the Constitution, article II and the 12th amendment.

There are those who fear that unless we do take that step and unless we do vote affirmatively on this resolution that we are encouraging the proliferation of faithless electors in elections to come.

I was interested when the distinguished gentleman from Texas (Mr. WRIGHT) drew the issue for us this afternoon in terms of the sovereignty of the people. He said that is the issue, and that we should carry out the will and wishes, and honor the sovereign right of the people as to who their choice in this last election was.

It seems to me that the gentleman from Texas (Mr. WRIGHT), when he answers that question in the affirmative, is ignoring the fact that the basic defect and the basic vice of the present system of the electoral college, is that it is possible for us to find ourselves in this very unpleasant and uncomfortable position in which we find ourselves today. For it is inherently possible that the will of the popular majority can be thwarted under the system of the electoral college.

Mr. EDMONDSON. Mr. Speaker, will the gentleman yield at that point?

Mr. ANDERSON of Illinois. I yield to the gentleman from Oklahoma.

Mr. EDMONDSON. It only makes it possible if this House will not do what it is in a position to do and has the power to do; that is, to throw out the vote of the faithless elector.

Mr. ANDERSON of Illinois. Of course, I am surprised that no one this afternoon has discussed the statute of 1887, which is really the statute under which these proceedings are being conducted this afternoon. As I interpret not only the language of the statute but the legislative history that surrounds that statute, it was intended to circumscribe to the very narrowest limits the power of the Congress to do anything other than to certify the results in the States. I believe some significance has to be attached to the language that was monotonously intoned a few minutes ago by the tellers who read—

The certificate of the State of—

And I quote—

seems to be in regular form and authentic.

Is the certificate in regular form and authentic? It seems to me, whether we like it or not, we have to concede that is so with respect to the certificate from the State of North Carolina.

I would suggest that the proper action might have been for an action of mandamus to be commenced in the proper forum—in the Federal court in the State of North Carolina—to there challenge the certification of the vote of this faithless elector by the State officer charged with that responsibility.

But I would submit that under the Constitution and under the plain language of the statute of 1887 we cannot taken affirmative action on the resolution offered by the Senator from Maine, (Mr. MUSKIE), and the gentleman from Michigan (Mr. O'HARA). I make that statement because I think it is important that we keep the pressure on for the reform of the present electoral college system. I, for one, favor the direct election of a President. I, for one, believe that we ought to abolish the electoral college rather than to try to put some kind of plaster, some kind of a Band-Aid on the situation and suggest that we in the Congress have the power, on an ad hoc basis, every 4 years, to deal with the kind of situation that confronts us today.

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

Mr. ANDERSON of Illinois. I yield to the gentleman from Florida.

Mr. PEPPER. I just inquired of two able gentlemen on both sides of the aisle from North Carolina, and I find that, as has already been stated, that there were no electors voted for in the North Carolina election, but that the names of the presidential and vice-presidential candidates appeared on the ballots. If we wish to be technical, there were no electors elected in the State of North Carolina. I learned from those gentlemen that the names of the electors were submitted by the Democratic Party, the Republican Party, and the Wallace Party to the secretary of state pursuant to the statute law of North Carolina.

Mr. ANDERSON of Illinois. If the gentleman will suspend briefly, I should like to point out that the Library of Congress Legislative Reference Service has documented the proposals for the reform of our electoral system. That work indicates that presently about 35 States authorize the use of the so-called presidential short ballot on which the names of the presidential and the vice-presidential candidates are printed in lieu of presidential electors. That action carries with it the implication, perhaps, that they will then vote for the candidate of their respective parties, but it is an implication only and is not supported by the law or by the Constitution.

The SPEAKER pro tempore (Mr. ALBERT). The Chair recognizes the gentleman from Louisiana.

Mr. BOGGS. Mr. Speaker, I rise in support of the protest submitted by the gentleman from Michigan and Senator MUSKIE. I was very much interested in the colloquy which occurred here a moment ago with respect to counting and casting votes. In the counting of votes, the question of the legality of the votes being counted is always in order. As I understand it, we are not casting votes; we are counting votes.

As I further understand it, if the vote of the faithless elector from North Carolina is repudiated by this body, it will not be counted for President-elect Nixon. It will simply not be counted for the former Governor of Alabama, who did not carry his State.

Mr. Speaker, I submit that this is a very serious matter. I am glad that we can debate it dispassionately.

I wonder, however, what would be the case if there had been enough faithless electors to put this matter into the House of Representatives. If one could be faithless, then 535, the total number of electors, could also be faithless. The net effect, of course, would be the complete repudiation of the will of the electorate throughout our country.

I realize, of course, that there is a serious constitutional question here. I have been tremendously interested in this matter for a great many years, because I have known people who have deliberately tampered with this system in its present condition of uncertainty in order to throw the election into this body, and therefore act as power brokers and achieve concessions that they could not achieve otherwise.

But even in those cases I have not known of these groups advocating faithless electors. They have invariably put their own electors on the ballot.

For instance, some years ago, in 1964, in my State we had so-called independent electors. In 1960 when former President Kennedy carried my State by a clear majority, there was some question about the legality of the election in some other States, and there were some groups who wanted to change the electors in Louisiana, but they did not suggest by the furthest stretch of the imagination doing what the gentleman from Oklahoma did that year—I think his name was Harris—when he voted for former Senator Byrd, or what the gentleman from North Carolina did last month. They were going to ask the State legislature to instruct the electors to change their votes.

What this really points up, Mr. Speaker, is the crying need to amend the Constitution and once and for all get rid of this anachronistic system which every 4 years puts us in the position of playing Russian roulette with the election of the President of the United States. I hope this Congress will expeditiously adopt a constitutional amendment, because even if we do vote with the gentleman from Michigan—which I shall do—it will certainly not resolve the problem of the electoral college, which must be abolished.

With respect to the idea of throwing a presidential election into the House of Representatives, I cannot imagine a more chaotic situation existing than if on November last, the election of the President of the United States had not been resolved and we, today, rather than having a President elected, would be debating who the President might be—and this with the crisis in the Middle East, and with problems all over the world, as well as countless domestic problems—this is an invitation to anarchy. I hope, Mr. Speaker, that this House in its wisdom and with bipartisan support will adopt a sensible constitutional amendment.

I believe in the federal system. I have proposed an amendment which would maintain our federal system—by giving each State the same number of votes as that State now has under the electoral college system. But the electoral college would be abolished and no election would ever again be determined by the House of Representatives.

I would use the same formula that the American Bar Association adopts in the Bayh amendment; that is, unless a candidate gets 40 percent of the electoral vote, then there would be a quick runoff to determine the winner. That would resolve the question of the unfaithful elector and that would once and for all remove the matter from the House of Representatives and the Senate.

Thus the weaknesses would be removed without weakening the federal system.

I hope that my amendment, House Joint Resolution 1, will be adopted and I hope the objection of the gentleman from Michigan will be sustained, because I think there is ample constitutional basis for it in the 12th amendment and in two Supreme Court decisions.

I include the following at this point:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES, OFFICE OF THE DEMOCRATIC WHIP,
Washington, D.C.

WASHINGTON, D.C., January 3.—U.S. Representative HALE BOGGS (D. La.), House Majority Whip, Friday introduced a Constitutional Amendment with the opening of the 91st Congress which would take the pitfalls out of electing Presidents.

Boggs, joined by several of his colleagues, introduced a measure which would abolish the Electoral College in its present form, while retaining a modified electoral system. Boggs was joined by Congressmen Lester L. Wolff (D., N.Y.), Robert L. F. Sikes (D., Fla.), and Spark M. Matsunaga (D., Hawaii).

House Joint Resolution No. 1, as it has been designated, would also remove from the House of Representatives the power to select a President when a candidate fails to receive a majority of electoral votes.

Boggs said that the Presidential elections of 1968 "brought the Nation to the brink of a catastrophic Constitutional crisis."

"Because we so narrowly succeeded in avoiding such a crisis last fall, it is mandatory that we now take steps to alter our process of electing Presidents."

"The Fact that President-elect Nixon fell far short of receiving a majority of the popular vote and scarcely received a plurality, demonstrates how very real the danger is," Boggs said.

Under the present system, Boggs said, if the election were thrown into the House of Representatives, a small State, such as Delaware, would have the same power in electing the President as would have large States such as New York and California.

"The American Bar Association has proposed a Constitutional Amendment which would provide for the popular election of a President receiving 40% of the popular vote. Without that percentage, under the ABA proposal, a quick run-off would be required. The Electoral College and House determination would be eliminated.

The Boggs proposal provides for the automatic election of a President if he receives more than 40% of the electoral vote. If he does not, a run-off would be required between the two leading candidates. The House of Representatives would play no role in the selection of Presidents, he said.

Although the Electoral College would be abolished, the system of assigning votes on the basis of the number of its Representatives in the House and Senate would be retained, he said.

Boggs emphasized that his proposal would remove the evils of the present system while maintaining the Nation's tradition of Federalism.

Boggs said that he doubted that Federalism could be maintained with a system providing for the direct popular vote of Presidents.

"I see no other logical approach, in view of the fact that the candidates of our two major parties are nominated by convention in the respective 50 States and the District of Columbia."

"Federalism is an integral part of our form of government, and a direct popular vote would not be in that tradition," Boggs said.

In order to be adopted, a Constitutional Amendment must be approved by two-thirds of the House and Senate and be ratified within seven years by the legislatures of three-fourths of the States.

Mr. Speaker, Neal R. Peirce, the noted authority of the electoral system, recently wrote a book entitled, "The People's President." He did a remarkable job of demonstrating how loosely held are the reins of power in the Federal Government.

To recognize the weakness of the electoral college system, one need do no more than read his catalog of 20 national elections beginning in 1828, the Jackson-Adams contest and continuing through 1960, the Kennedy-Nixon election—in each instance where a shift of a few votes would have changed the results.

The book interested me especially because I have spent a great number of years searching for an acceptable alternative. As a matter of fact, in 1951 I was one of those who introduced one of the constitutional amendments. This one proposed keeping the form of the electoral college system but removing any discretion in the electors.

There have been countless other amendments introduced seeking a whole variety of changes, the most frequent ones being: removing discretionary power; distributing the electoral votes on the basis of results in congressional districts; and a nationwide popular vote.

Mr. Peirce catalogs more than 500 proposed amendments, which have been introduced in the course of our history. Many of these, of course, were identical in content but their sheer number points up the concern felt in the Nation since the inception of the system. Of the 500 amendments which have been proposed, about 100 have suggested election of the President and Vice President by direct ballot.

Few Americans realize that even to this day in many places, including my own State, the presidential elector is not an agent of the electorate, but is in fact free and independent to vote for whom he pleases regardless of the popular vote in a given State. This fight has occurred over and over again in many States in the Deep South and it is still with us.

In 1960, even though John F. Kennedy had carried my State by a clear majority and a heavy plurality, when returns from other States were in doubt, notably Illinois, there was talk of the legislature instructing the electors to vote against Kennedy.

The author notes the first faithless elector picked as one of the two Federalist electors in Pennsylvania in 1796. He was expected to vote for Adams but he voted for Jefferson. A Federalist mentioned him in the United States Gazette:

What, do I chuse Samuel Miles to determine for me whether John Adams or Thomas Jefferson shall be President. No! I chuse him to *act*, not to *think*.

And again as recently as 1960, an elector from Oklahoma, which had cast its popular vote for Vice President Nixon, felt free to vote for Senator Harry Byrd who had not been a candidate.

"The People's President" is very timely. With the withdrawal of President Johnson as a candidate, the Democratic Convention was wide open. Gov. George Wallace has indicated his intention of running for the Presidency as an independent. And the 1968 election as of this writing could very well end up in the House of Representatives if any of the candidates fails to receive a majority of the electoral college vote.

Since 1824, when the House of Representatives had to decide between Andrew Jackson who had received 152,933 popular votes and 99 electoral votes, and John Quincy Adams who had received 115,696 popular votes and 84 electoral votes, conditions have changed immensely. In 1824, a frontier nation, sparsely settled and recently independent, could afford to let the House of Representatives wrangle over who might lead it. Federal power was loosely held and of no great consequence on a day-to-day basis. Since then, however, the Presidency has become the most important power center on earth. The office is awesome and staggering in its responsibilities. It is the President and only the President who, among other things, determines whether or not the country becomes involved in a nuclear contest. We face dangers at home and abroad unlike anything dreamed of in 1824, or for that matter, at any previous time. To delay naming the President while the House of Representatives debated could indeed be disastrous.

The House procedure, to say the least, is ill-defined and the idea that a State with one Congressman should have the same voice as New York or California, is the very antithesis of the theory now accepted that each vote should have equal weight.

I find it difficult, however, to accept as the ultimate answer the amendment drafted by the American Bar Association, which would provide for the election of the President by direct popular vote by all of the people of all of the States, just as we elect a Governor in New York or a Senator in California.

The author has done a commendable job in tracing the growth of universal suffrage in the United States, starting with the initial property requirements for voting. He cites acts of Congress, State legislatures, Supreme Court decisions, which have now made suffrage almost universal. It is argued that this makes the popular election of the President the only answer to the electoral college problem. The President, under the proposed amendment, could be elected by a plurality of 40 percent.

As thorough and complete as the book is, however, it leaves a number of questions unanswered. The two major parties nominate by conventions with delegates selected either in primaries or by appropriate appointment by State agencies. In any event, the State system or the federal system is still basic in the nomination of presidential candidates. Whether or not this system could be maintained with a direct popular vote is problematical.

Is it not possible that the matter could be resolved first by removing any discretion from the elector and by employing the same pluralities, say 40 percent, in electoral votes as is proposed in the direct election amendment? Could not the fear of resolution by the House of Representatives be determined by removing the choice from the House and requiring a runoff within a short time if the 40 percent of the electoral votes were not obtained, just as would be required under the proposed direct election amendment? Would this not preserve the federal system and lay to rest forever the fear of an election in the House of Representatives?

The problem is indeed a difficult one. Mr. Peirce, with his admirable knowledge and skill, shows why it has been with us so long and continues to plague us.

The text of House Joint Resolution 1 and other material follows:

H.J. RES. 1

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years after the date of final passage of this joint resolution:

"ARTICLE —

"SECTION 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and together with the Vice President chosen for the same term, be elected as provided in this Constitution.

"The President and Vice President shall be elected by the people of each State in such manner as the legislature thereof may direct, and by the people of the District constituting the seat of the Government of the United States (hereafter in this article referred to as the 'District') in such manner as the Congress shall by law prescribe. The Congress may determine the time of the election of the President and Vice President, which day shall be the same throughout the United States. In such an election, a vote may be cast only as a joint vote for the election of two persons (referred to in this article as a 'presidential candidacy') one of whom has consented that his name appear as candidate for President on the ballot with the name of the other as candidate for Vice President, and the other of whom has consented that his name appear as candidate for Vice President on the ballot with the name of the said candidate for President. No person may consent to have his name appear on the ballot with more than one other person. No person constitutionally ineligible to the office of President shall be eligible to that of Vice President. In each State and in the District the official custodian of election returns shall make distinct lists of all presidential candidacies for which votes were cast, and of the number of votes in such State for each candidacy, which lists he shall sign and certify and transmit to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the electoral votes shall be computed in the manner provided in section 2.

"SEC. 2. Each State shall be entitled to a number of electoral votes for each of the offices of President and Vice President equal to the whole number of Senators and Representatives to which such State may be entitled in the Congress. The District shall be entitled to a number of electoral votes for each such office equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State. In the case of each State and the District, the presidential candidacy receiving the greatest number of votes shall be entitled to the whole number of the electoral votes of such State or District. If a presidential candidacy receives a plurality of at least 40 per centum of the electoral votes, the persons comprising such candidacy shall be the President-elect and the Vice President-elect. If no presidential candidacy receives a plurality of at least 40 per centum of the electoral votes, a run-off election shall be conducted, in such manner as the Congress shall by law prescribe, between the two presidential candidacies which received the greatest number of electoral votes. The persons comprising the candidacy which receives the greatest number of electoral votes in such election shall become the President-elect and the Vice President-elect.

"SEC. 3. The Congress shall by law provide procedures to be followed in consequence of the death or withdrawal of a candidate on or before the date of an election under this article, or in the case of a tie.

"SEC. 4. The twelfth article of amendment to the Constitution, the twenty-third article of amendment to the Constitution, the first four paragraphs of section 1, article II of the Constitution, and section 4 of the twentieth article of amendment to the Constitution are repealed.

"SEC. 5. This article shall not apply to any election of the President or Vice President for a term of office beginning earlier than one year after the date of ratification of this article."

GENERAL SUMMARY OF DIFFERENCES AND SIMILARITIES BETWEEN AMERICAN BAR ASSOCIATION PROPOSAL, AS CONTAINED IN HOUSE JOINT RESOLUTION 470, 90TH CONGRESS, MR. CELLER, AND HOUSE JOINT RESOLUTION 1, 91ST CONGRESS, MR. BOGGS

1. *Voter Qualification.*—The ABA proposal provides that the electors in each State shall have the qualifications requisite for electors of Senators and Representatives in Congress from that State. It further provides the States may prescribe lesser qualifications with respect to residence and that Congress may establish uniform residence and age qualifications. The Boggs resolution is silent on voter qualifications as is the Constitution.

2. *Time, Manner and Place of Holding the Elections.*—The ABA proposal provides that the time, place, and manner of holding elections will be regulated by the States with authority in the Congress to revise such regulation. In addition, the States shall prescribe regulations (subject to Congressional revision) relating to entitlement to inclusion on the ballot. Mr. Boggs' resolution (following the present provisions of the Constitution) provides only that the manner in which elections will be conducted shall be prescribed by the States (and the Congress in the case of the District of Columbia) and that the Congress shall prescribe the time of the election of the President and the Vice President.

3. *"Ticket" Requirements.*—Both the ABA proposal and Mr. Boggs' resolution provide that in a Presidential election each elector shall cast a single vote jointly applicable to the President and the Vice President. They further provide that the names of candidates shall not be joined unless they shall have consented thereto and that no candidate shall consent to his name being joined to more than one other person.

4. *Requirements for Election.*—The ABA proposal requires that a Presidential candidacy must receive at least 40% of the popular vote. Mr. Boggs' resolution retains the present assignment of electoral votes to the States and the District but does away with the electoral college. The Presidential candidacy that receives the most votes in a State will receive that State's electoral votes. A Presidential candidacy must receive at least 40% of the electoral vote to be elected.

5. *Runoffs and Ties.*—Both the ABA proposal and Mr. Boggs' resolution require a runoff election if the requirements for election are not met in the general election. Such runoff election shall be held in such manner as the Congress shall by law prescribe. In both proposals the Congress shall by law provide the procedures to be followed in the case of a tie vote in any general election or runoff election.

6. *Death or Withdrawal of a Candidate.*—The ABA proposal provides that Congress may by law provide for the death of a candidate on or before the date of an election. Mr. Boggs' resolution provides that Congress may also provide for the withdrawal of a candidate before such day.

7. *Effective Date.*—The ABA proposal has no provision for an effective date. Mr. Boggs' resolution provides that the proposed amendment to the Constitution will not apply to any election of the President or Vice President for a term of office beginning earlier than one year after the date of the ratification of the amendment.

[From the Washington (D.C.) Evening Star, Dec. 12, 1968]

WHY NOT LET STATES CHOOSE WITHOUT ELECTORS?

(By Crosby S. Noyes)

Before everybody forgets about the recent election scare and turns his attention to other problems, at least one more serious effort will be made to change the rules under which American presidents are elected.

On the opening day of the 91st Congress, Rep. Hale Boggs, D–La., the assistant majority leader, is ready to introduce the latest of more than 500 proposed constitutional amendments to revamp the election procedure. His proposal, in the form of a joint Senate-House resolution ,is likely to provide an early subject of controversy.

Boggs is proceeding on the sensible premise that the way to succeed where others have failed in trying to change the system is to change it as little as possible. His proposal is likely to disappoint crusading critics who want the whole electoral system done away with and the president chosen by a direct, nationwide popular vote.

As he sees it, the major evils of the existing system are the electoral college and the role of the House of Representatives in choosing a president when no candidate wins a majority of electoral votes. In the November election, it was these two provisions, given the candidacy of Alabama's George C. Wallace, that threatened the nation with a full-fledged constitutional crisis.

The electoral college system has been causing problems for the country at least as far back as 1796, when a Federalist elector from Pennsylvania outraged some of his constituents by casting his vote for Thomas Jefferson instead of John Adams. It is still causing problems today in states where these largely faceless electors are theoretically free to vote as they please, regardless of the popular vote.

But the greater evil undoubtedly is the

election of the president in the House if no candidate wins a majority of electoral votes. In this case, each state would have one vote, with Delaware weighing exactly as much as New York or California and a state with an evenly split delegation not counted at all.

The validity of an election carried out on this basis would be doubtful, to say the least. And the possibility that no candidate could win a clear majority is a danger which in this nuclear age is simply not tolerable.

The Boggs amendment is the simplest possible remedy for this state of affairs. Under his proposal, the electoral college system would be abolished once and for all. So would the power of the House to choose a president from minority candidates. But the same proportional distribution of votes among the states, based on the numbers of senators and representatives, would be retained. If no one candidate won more than 40 percent of the whole electoral vote, a runoff election would be held between the two leading candidates.

There are many people who would prefer to see the election of presidents by direct popular vote. But Boggs, as a practical politician, understands the enormous difficulty of this kind of radical reform of a system that has endured for almost two centuries.

In his view, there is little chance—and also little justification—for doing away with the federal system of choosing candidates for the presidency. The convention system, with all its obvious imperfections, is likely to remain as a permanent feature of the American political landscape. Since the candidates of the two major parties will continue to be nominated by delegates representing the 50 States and the District of Columbia, the election also should follow the principle of federalism, Boggs contends.

Apart from retaining the present distribution of electoral votes, the new amendment is similar in many respects to the proposals drawn up by the American Bar Association and submitted to the last Congress by Rep. Emanuel Celler, D–N.Y. Under that proposal, the president would be elected by direct popular vote, with a runoff election held if no candidate received more than 40 percent of the ballots.

The virtue of the Boggs amendment is that it is perhaps more likely to win the required majority of two-thirds in the House and Senate and, ultimately, ratification by three-quarters of the states.

At this point, there is undoubtedly very strong popular support in the country for electoral reform. But there is also an enormous inertia to be overcome in any amendment of the Constitution. And the dangers of the present system, so clearly revealed in November, may seem less compelling as time goes by.

[From the Associated Press, Dec. 17, 1968]

NIXON'S OFFICIALLY IN WITH 301 ELECTORAL VOTES

The Electoral College has made it official—Richard M. Nixon will be the 37th president of the United States.

But many of the 538 members who cast their ballots yesterday also made something else clear—they think the college is outdated.

Balloting by the college went pretty much according to script as members met in the 50 state capitals and District of Columbia to fulfill the tasks voters chose them for Nov. 5.

An exception in North Carolina left Nixon with 301 votes instead of 302—giving George C. Wallace, the American Independent candidate, 46, one more than originally expected. Democrat Hubert H. Humphrey wound up with the expected 191.

A simple majority of 270 electoral votes was needed to elect.

In North Carolina, Dr. Lloyd W. Bailey of Rocky Mount, cast his ballot for Wallace while the other 12 electors followed the state's majority and voted for Nixon.

"The Electoral College is one part of the system of checks and balances which guarantees that the minority voice can be heard," Bailey said.

In Michigan, former Democratic State Chairman Zolton Ferency, something of a political maverick, refused to cast his ballot for Humphrey. The other electors picked a replacement to keep the delegation's 21 Humphrey votes intact.

The U.S. Constitution allows the electors to vote for any candidate they choose. But tradition dictates, and some state laws demand, that the electors follow the result of the popular vote in their states.

There were some other minor foulups. North Carolina's electors found themselves without someone to administer an oath for more than an hour.

And in North York, one bloc of electors got delayed in a stackup of commuter trains and the man who was supposed to preside was delayed at crowded Kennedy International Airport.

A spot check of electors across the land showed many unhappy with a system that may be on its last legs.

Suggestions run from direct popular election to choosing electors by congressional district.

"The system is outmoded. I would go the popular vote way," said O. M. Travis, one of Kentucky's nine electors.

GOP Gov. Raymond P. Shafer of Pennsylvania said he would recommend to the next General Assembly that it "lead the nation in a call to Congress for a constitutional amendment to abolish the Electoral College."

"We should no longer permit ourselves to be imprisoned by the fears of yesterday," Shafer said, "for they might well thwart the national will tomorrow."

Six of Maryland's electors, who cast the state's votes for Humphrey, said they think the system should be changed.

"It's not a good system but I don't know what the solution is" said Mrs. Esther Kominers of Bethesda. "A direct popular vote would probably be the most reasonable, but there are so many ways of cheating on that, too."

Mrs. Anette Helen Wheatley of Baltimore also said she prefers a direct vote. "I think a lot of people feel they've been shortchanged by this system," she said.

Joseph E. Bean of Great Mills is one of the four Maryland electors who thinks the electoral system should be retained. "We've been doing it for so many years I guess we ought to keep on doing it."

Attorney L. Shields Parsons, one of the 12 Virginia electors who cast the state's votes for Nixon, said he favors a change to a direct popular vote.

Samuel T. Emory of Fredericksburg, an associate professor at Mary Washington College, said he would retain the Electoral College but divide a state's electoral votes for each presidential candidate according to his percentage of the state's popular vote.

[From the National Civic Review, February 1968]

DOWN WITH THIS "COLLEGE"

Use of the Electoral College to choose a President is "archaic, undemocratic, complex, ambiguous, indirect and dangerous," the American Bar Association warned early in 1967. "It gives too much weight to some voters and too little to others; gives excessive power to organized groups in states where the parties are evenly matched; places an undue premium on the effects of fraud, accident and other factors; and allows for possible abuse and frustration of the popular will."

The ABA warning attracted considerable attention but not, perhaps, as much as it deserved. For at least a century and a half, people have been crying wolf about the Electoral College and joking about it—wasn't it Will Rogers who noted its strange absence of campus, courses and athletic teams?—but out of inertia or possible erroneous calculation of advantage by some states, nothing substantial has been done in the way of reform.

The situation at the start of another presidential election year is not reassuring. Experts fear that, for the first time in 144 years, Congress may be called on to say who is to be the new President. With the prospect of splinter candidates on the right and left opposing major-party choices, the situation this time may well be more precarious than in 1948 when Harry S. Truman survived a three-way split in the Democratic party, losing 1,100,000 votes to J. Strom Thurmond of the States Rights party, who carried four states, and about the same number of votes to Henry A. Wallace of the Progressive party, who did not carry any state.

George Wallace of Alabama, an early starter, is already talking openly of his chances of moving into the White House with a minority of the vote. While this seems unlikely to most observers, Wallace just might, by carrying six or seven states, make it impossible for either major-party candidate to obtain the required majority of 270 of the 538 votes in the Electoral College. The decision would then pass to the House of Representatives, with each state delegation casting a single vote.

The last time this happened was in 1824. The electoral vote was then divided: Andrew Jackson of Tennessee, 99; John Quincy Adams of Massachusetts, 84; William H. Crawford of Georgia, 41; and Henry Clay of Kentucky, 37. On a single ballot, the House chose Adams, though he received 105,321 votes to 155,872 for Jackson.

In 1876, Rutherford B. Hayes won the electoral majority even though Samuel Tilden received more popular votes. Similarly, in 1888, Grover Cleveland, the popular winner, was defeated in the Electoral College by Benjamin Harrison. Supporters of these losers accepted the verdict with grumbling, but nowadays the discord and confusion over such arbitrary negation of the popular will certainly would be greater.

There has been a continuous expansion of the franchise and equality in voting in the United States. Today, no one would dream of barring Catholics or Jews from voting, but some colonial governments did so; or suggest requiring a voter to own property, but it was not until 1851 that all the states dropped property requirements. All women could not vote until 1920. The "one man, one vote' principle enunciated by the U.S. Supreme Court did more than democratize the democratic process. It spotlighted the presidential election as the only one of such importance in which some votes are not equal to others and where millions of votes may not necessarily count.

In recent years, Americans have taken comfort in the notion that free elections give us an advantage over our global rival, the Soviet Union, in the orderly transfer of national power. Any revelation that this supposed advantage was illusory would be humiliating. It might even precipitate the violence which lurks just beneath the surface of modern political life.

Perhaps the Electoral College was the best and even the only compromise which could have been accepted at the 1787 constitutional convention in view of the irreconcilable differences of opinion then existing over the role of the states in a national union. Some of the more glaring inequities of the Electoral College have been tidied up over the years, but the basic flaw remains: It awards the electoral vote of each state, calculated on the basis of the total of that

state's congressmen and U.S. senators, on a winner-take-all basis to the candidate receiving the most votes in that state. This almost inevitably forces candidates to concentrate on the larger states and leads to all the abuses catalogued by the 15-member ABA Commission on Electoral College Reform. The public itself is reasonably aware of the difficulty; a Gallup poll last June showed 63 per cent in favor of direct election of the President to 20 per cent opposed.

Since a constitutional amendment takes years to pass, nothing can be done about this perilous condition in time to deal with the contingencies of 1968. But this does not justify further delay. Of various amendments introduced in Congress on this subject, four have attracted particular attention. They are:

1. President Johnson's plan to keep the College but do away with electors. This would prevent a repetition of what has happened often in modern times: the disregarding of the popular vote by one or more electors determined to express their personal preference for President.

2. The district plan, providing that electors be chosen like congressmen and senators—two statewide and the rest from districts—and that they be required to vote for the candidate for whom they are chosen to vote. This plan would not correct the present overrepresentation of sparsely populated states in the Electoral College, however.

3. A proportional plan, abolishing electors but not electoral voting. The electoral vote in each state would be divided according to the popular vote. This plan was passed by the Senate two decades ago, but not by the House.

4. The ABA plan for abolition of the Electoral College in favor of popular election. Under this plan, a presidential winner must poll at least 40 per cent of the vote, or there is a run-off.

The assassination of President Kennedy, several serious illnesses of President Eisenhower and illness of President Johnson were required to prod the country into doing something about the unsatisfactory line of presidential succession. It should not be necessary to undergo a disaster before the Electoral College is reformed or, better yet, eliminated.

[From Saturday Review, Feb. 18, 1967]

THE DIRECT VOTE AND THE ELECTORAL COLLEGE

The President and Vice President of the United States are, of all elected federal officers, the only ones not chosen by direct vote of the American people. As almost everybody knows, and too few seem to care, the President and Vice President are elected by a vote of the Electoral College, an antique American institution which has since 1789 survived more than a hundred Congressional attempts to abolish, or modify it. Members of the House of Representatives always have been elected directly by the people and, since 1913 when the Seventeenth Amendment to the Constitution became effective, all U.S. Senators have been elected by the direct popular vote. Prior to that—which wasn't so very long ago—Senators were chosen by the legislature in each state, with understandable anomalies.

Three nineteenth-century Presidential candidates were defeated in the Electoral College though they received the largest popular vote. Andrew Jackson failed to win an Electoral College majority over Henry Clay and John Quincy Adams in 1824, but Adams was elected President by the House of Representatives in a political deal with Clay. In 1876, Rutherford B. Hayes thought he had lost the Presidency to Samuel J. Tilden, Democrat, by 184 to 163 electoral votes, but, in a fraudulent and farcical Republican recount in the Electoral College, Tilden was ousted and Hayes went to the White House. In 1888, President Cleveland received a larger popular vote than Benjamin Harrison, but the Republican upset the Democrat in the Electoral College, 233 to 168. Four years later Cleveland became President for a second time, beating the incumbent and becoming our only eight-year President whose terms of office did not run consecutively.

The theory behind the Electoral College is that our country is a commonwealth of the several states and by Constitutional law each state gives all of its electoral votes to the winning candidate within its borders, whether he has won by a million votes or a hundred. The losing candidate gets no electoral votes at all. This by itself is debatable democracy. As *The New York Times* recently pointed out, other dangers inherent in the present Electoral College system were painfully illustrated as recently as the Nixon-Kennedy election of 1960, when electors in some of the Southern states exploited the technical fact that those who actually vote in the Electoral College are not bound specifically by law to cast their ballots precisely as the voters ordered them to. Theoretically, the "electors" have the right to vote independently; in 1960 this loophole was utilized in an attempt to throw the closest Presidential vote in our history into the House of Representatives. Last year President Johnson suggested a Constitutional amendment requiring that the electoral vote of each state be cast automatically for the candidate who polled the most popular votes in that state, but nothing has come of it so far—an extremely dangerous federal oversight.

A committee of experts from the American Bar Association has long been studying the possibility of reform in the Electoral College and came recently to the conclusion that the best way to reform it is to get rid of it completely and substitute a political system by which Presidents and Vice Presidents would be chosen directly by the total national popular vote. This direct, one-man-one-vote system has the virtue of simplicity, but is a waterway fraught with dangerous shoals. Had we moved away from the Electoral College to direct popular election of the President in 1960, the votes might still be in the counting process in New Mexico, Alabama, Texas, and such urban centers as Chicago and Los Angeles, where charges of fraud were legion.

The election commission suggests further that if there are more than two major candidates, and if none of them receives 40 percent of the total popular vote, a national run-off election then be held. All we have to do is think back quickly to any one of the Presidential campaigns within our lifetime to realize what a botched anticlimax a national run-off election would be. Another argument, the oldest one but still valid, against direct popular choice of our President and Vice President has always been fear that the enormous urban areas of the country would dictate every election. Though somewhat undemocratic in concept, the alternative electoral choice by individual states at least keeps a balance between the small and large, urban and agrarian, North and South, East and West that the amazing Constitutional Convention foresaw.

The best plan we have yet come across for reforming the Electoral College is still some form of the Lodge-Gossett Amendment, which would have divided each state's electoral votes in proportion to that state's popular vote. If, for example, a state had fifteen votes in the Electoral College and the popular vote was very close, the winning popular candidate would receive eight electoral votes and the loser seven. This use of the exact ratio to the popular vote (plus an amendment requiring that the electoral vote be cast precisely as the voters voted) has never been given a fair hearing, in our view, though it was killed by the House in 1950 after the Senate had approved it. With the Presidential nominating conventions only a little over a year away, to be followed by the hectic fall campaign of 1968, reconsideration of the Lodge-Gossett Electoral College reform bills, plus President Johnson's proposal, seems very much in order and not a moment too soon for the nation's welfare.

[From the Wall Street Journal, Nov. 7, 1968]

ELECTORAL COLLEGE SYSTEM MAY BE CHANGED DUE TO THE NARROWNESS OF NIXON'S MARGIN

(By Fred L. Zimmerman)

WASHINGTON.—The narrowness of Richard Nixon's victory may finally spell doom for the nation's archaic and potentially dangerous method of choosing Presidents.

A major political crisis, which many Constitutional experts had considered highly possible, was averted by Mr. Nixon's capture of a small but clear-cut majority of electoral votes. But through the long hours of vote-tallying that kept the result in doubt until late yesterday morning, the situation verged on a deadlock that could have sent the election into the House, where chaos probably would have ensued while the Representatives were trying to pick a President.

That danger having passed, Congress is likely to devote major attention next year to overhauling the system. The reform proposal that has the most supports is to replace the present Electoral College mechanism with direct, popular election of a President.

DEVISED IN 1787

The indirect, two-step selection process in use today was devised in 1787 by men who thought the choice of a President was too important to trust to ordinary voters. Thus, instead of picking a President, voters choose a group of "electors" from each state, the number to be equal to that state's Congressional delegation.

These electors were supposed to be the best and wisest men available but today are mainly small-time politicians given the pro forma positions as a reward for party service. They vote for President following the general election, with a simple majority in the Electoral College being sufficient for election. Their vote takes place on the first Monday after the second Wednesday in December, this year on Dec. 16.

Unlike what was envisioned by the Founding Fathers, however, the electors don't make an independent choice but merely ratify the popular-vote decisions in their states. Thus, in most elections the vote in the Electoral College has been a pointless, but fairly harmless, exercise that doesn't have any bearing on the Presidential outcome.

What engendered all the fear of chaos this year was the possibility, made strong by the third-party candidacy of George Wallace, that neither Mr. Nixon nor Vice President Humphrey would receive in Tuesday's balloting a majority of the 538 electoral votes.

WALLACE'S HOPE

That would have plunged the nation into a confused period of maneuvering aimed at the Dec. 16 Electoral College vote. The two other candidates—especially the one placing third—would have been pressured to yield their electoral votes to the front-runner, giving him an electoral majority. Mr. Wallace always hoped that during this period he could assume a crucial role as kingmaker.

In the event that none of the candidates swung his electoral support to another, the choice of a President would have been dumped into the House, whose members are a lively group of politicians capable of a rousing fight even over something as mundane as whether to waive the reading of yesterday's Journal of Proceedings. Twice, in 1801 and 1825, the nation has watched in near-panic as the House, amid great wheeling and dealing, has chosen the President.

Intensifying the confusion in an election by the House is the fact that each state would have one vote and that 26 votes would elect the President. This would make the lineup between Republicans and Democrats in state Congressional delegations crucial.

Although Mr. Humphrey ostensibly would have had the advantage, because Democrats control more state delegations than Republicans do, it was by no means certain that Southern Democratic Representatives would have voted for Mr. Humphrey—who ran third in many of their districts. Beyond that, some state delegations would be evenly divided (Tuesday's vote deadlocked the Maryland and Virginia party lineups in the House) and that would have increased the difficulty of winning a majority of 26 states' votes.

FEW DEFENDERS

Not surprisingly, hardly anyone defends the Electoral College system. But although reform proposals have kicked around Capitol Hill for years, the inertia that is endemic to the legislative process always has held them back. This year's widely publicized narrow escape, which some observers are calling a "civics lesson," may have made enough people familiar with the weaknesses of the present system so that Congress will be pressured into action.

Last year, the American Bar Association threw its considerable weight in such matters behind a proposal to junk the mechanism and provide for the election of the President on the basis of a direct, nationwide popular vote. Under the plan, a front-runner could be elected with at least 40% of the total popular vote. In the rare event that no candidate received 40%, there would be a runoff election between the top two.

Mr. Nixon previously has stated he favors the so-called "district vote" reform proposal, which would divide each state into electoral districts comparable to Congressional districts. The winner of the popular vote in each district would get its electoral vote, and two additional electoral votes would go to the winner of the state's popular vote.

[From the Washington Post]

LAST ELECTORAL MEETINGS?

If all goes well, Richard M. Nixon will be elected President of the United States today. Most citizens have been laboring under the illusion that that event took place nearly six weeks ago when voters in the 50 states and the District of Columbia cast 31,770,237 votes for Mr. Nixon and 31,270,533 for Hubert H. Humphrey. But actually these votes were cast and counted only by way of advising the electors of the various states as to what they should do when they meet today.

Rumor has it that at least one elector will disregard the popular vote in his state, perhaps as just another reminder of the fallibility of the present system. Fortunately, most of the electoral votes will be cast in accord with the dominant wishes of voters in the respective states, but it might easily have been otherwise. If Mr. Nixon's thin margin over his Democratic rival had left him without a majority of electoral votes, the 45 electoral votes won by George Wallace would have been on the auction block. The country would have witnessed the strange spectacle of a minority candidate trying to determine the outcome of an election by swinging the electoral votes won in his name to another candidate who might be or might not be approved by the rank and file who had supported Mr. Wallace.

As the electors meet today, therefore, the country ought to be more conscious than it has ever been before of the defects in its presidential electoral system. There is much impatience over the fact that "dummy" electors stand between the people and the presidential candidates, with some asserting the right (which the Constitution unfortunately gives them) to thwart the will of the people. There is much concern over the fact that California, with a close popular vote, should give all its 40 electoral votes to Mr. Nixon and Texas, with a still closer popular vote, should give all its 25 electoral votes to Mr. Humphrey. Positive fright arises from the prospect that any close presidential contest may be thrown into the House of Representatives.

Much rejoicing will be heard, therefore, if Congress and the states decide that today's meeting of the electors should be the last. A constitutional amendment will be required, of course, and there is still much disagreement over the precise form it should take. We hope that these differences can be ironed out and that a new electoral system can be devised early in the new Congress so that the states will have plenty of time to ratify it before the election of 1972.

[From the Washington Post, Dec. 15, 1968]

THE DEFECTOR ELECTOR

In deserting Richard Nixon and his fellow Republican electors to vote for George C. Wallace, Dr. Lloyd W. Bailey of Rocky Mount, N.C., joins a handful of other electors from the past who have made footnotes to history by violating the wishes of the voters who selected them. Dr. Bailey's action also exposes other flaws in the anachronistic Electoral College system and underlines the reasons for its reform.

This system of picking Presidents and Vice Presidents violates fundamental democratic principles in a number of ways. Under its winner-take-all rule for allocating a state's electoral votes a candidate could win an electoral victory and yet receive fewer popular votes than his opponent. It quadrennially disfranchises millions of voters in the sense that their ballots do not count in the final selection process. In New York, for example, the 3,007,938 voters who cast ballots for Richard Nixon might as well have stayed home, if one judges from the electoral vote. Vice President Humphrey barely carried the state but received all of New York's 43 electoral ballots.

The constitutional independence of an elector risks voter disfranchisement in an even more direct way. In North Carolina not only were all the Humphrey voters in a sense disfranchised when Nixon carried the state, but the defection of Dr. Bailey as a Nixon elector also more pointedly disfranchised the Nixon voters. Despite party discipline, custom and state laws which tend to bind electors to the candidates to whom they are pledged, the Constitution grants them a discretion that they sometimes insist on exercising.

The Electoral College system violates democratic principles by making the votes of some voters count for more than the votes of other voters. While more voters go to the polls in the larger states, they are able to influence more electoral votes. Studies show that, on balance, the voters in larger states have a better chance of influencing the outcome of an election. Wallace's third-party candidacy raised the risk of an electoral deadlock in which no candidate would have commanded an electoral vote majority. The decision would then have fallen to the Congress, with the consequent risk of political deals and possibly serious delay in naming the nation's chief executive, who conceivably would not have been the one a plurality of voters wanted.

Dr. Bailey becomes one of only five electors in American history who have voted clearly contrary to the wishes of voters selecting them, but other electors have switched in slightly different circumstances. There have also been independent elector movements as well as third-party candidacies. In 1796 a Federalist elector switched to vote for Thomas Jefferson rather than John Adams, and history records a voter then as complaining in language appropriate for many North Carolinians now:

"I chuse him to act, not think."

But, from then until now, the Electoral College system has resisted basic change. Dr. Bailey remains free to ignore the wishes of the voters. His defection, coupled as it is with Wallace's third-party candidacy which could have created a constitutional crisis, should alert the nation. It should produce new efforts for fundamental electoral reform.

[From the New York Times, Nov. 11, 1968]

ENDING ELECTORAL CHAOS

The nation's near-miss on an electoral deadlock has made plain the need for Congressional action to rule out more such flirtation with disaster in Presidential elections. Both Senator Bayh of Indiana and Representative Celler of New York plan hearings on electoral reform; democracy will be the gainer if no paralysis of will impedes action by their Congressional colleagues when a reform plan is presented.

The shift of a relative handful of votes in Illinois and Missouri last week would have put those states in the Humphrey column and thus denied President-elect Nixon the Electoral College majority he now clearly has. In such a deadlock, the power of picking a President might well have been shifted from the 72 million Americans who went to the polls to one man—George C. Wallace. The third-party candidate had exacted from all his electors a sworn commitment to vote for him "or for the candidate he shall direct."

But even if Mr. Wallace proved unsuccessful in his kingmaker role and the decision went to the House of Representatives, a period of confusion and cynical political maneuvering almost surely would have ensued before the country knew who its President would be.

Under the Constitution, each state would have but one vote in the Presidential balloting in the House. How that vote would be cast would be decided by a majority of each state's delegation. Had an electoral deadlock thrown that responsibility into the new House, maximum uncertainty would have clouded the outcome.

Twenty-six state votes are needed to elect a President. The Democrats would start with clear control of only 21 delegations. The Republicans control nineteen. Five delegations are evenly split between Democrats and Republicans, and a crucial five are nominally Democratic—but from states which went to Mr. Wallace. Many Southern Congressmen—especially incumbent Democrats—promised their constituents that, if the decision fell to them, they would vote for the Presidential candidate who carried their district, regardless of party label.

The potentialities for chaos that existed this year in both Electoral College and House—plus the virtual certainty that a deadlock would have made the Presidency a commodity for political barter—should be all the evidence Americans need that no similar risks must be run again. The answer lies in a system that will guarantee the right of the people to choose their own Chief Executive, not rely on the roulette wheel that the present electoral system has become.

[From the Washington Post]

NEW ELECTORAL SYSTEM

Senator Bayh quite properly emphasizes that popular sentiment for abolition of the obsolete electoral college, following the narrow escape from a national crisis on Nov. 5, is not enough. If a new system for election of the President is to be in effect by 1972, an enormous amount of work will have to be done. The Gallup Poll showing 81 per cent of those interviewed in favor of basing the election of the President on the popular vote throughout the Nation is merely a favorable base for the operation.

It is a good sign that conservatives as well as liberals are in favor of a change. Senator Thurmond, for example, wants to abolish the electors and divide each state's electoral votes among the candidates on the basis of the popular votes cast. He seems to think this would lend encouragement to a third party in case the two major parties fail to offer a meaningful choice. But this, with nothing more, would leave three-cornered races, when no one had a clear majority, to be decided by possibly a small fractional vote or be thrown into the House of Representatives, with all the evils that the process might entail.

The first step toward a new system should be additional hearings that would explore the relative merits and defects of each proposal, to be followed by the drafting of an appropriate constitutional amendment. Fortunately, Mr. Bayh's Subcommittee on Constitutional Amendments will not be writing on a blank page. It will have before it the extensive hearings of 1966 and 1967, a wide assortment of resolutions on the subject, several books, many articles and the highly useful report of the American Bar Association's Commission on Electoral College Reform in 1967. No doubt many members of Congress will be seeking additional information. But the big problem now lies in drafting a set of principles that will command support by two thirds of the Senate and House and win ratification by three fourths of the states.

In our view the new system should provide:

1. Abolition of the electors who now stand between the voter and the candidate of his choice and in some instances threaten to take the right of choosing the President away from the people.

2. Abolition of the contingent election of a President in the House of Representatives and of a Vice President in the Senate.

3. Machinery for election of the President and Vice President, standing as a team on the ballot, by direct popular vote throughout the Nation.

4. In a two-way race the candidate with a majority of the votes would be the winner. If three or more candidates were running, a plurality vote of at least 40 per cent would be necessary to win. If no one had such a plurality, a runoff election would be held.

5. Authority of Congress to fix the date for the election and the runoff, if any, by law.

6. Authority for Congress to fix uniform age and residence requirements and other qualifications for voting in national elections.

7. Authority for Congress to require the use of voting machines in all presidential elections, probably with Congress providing funds for the same, and to require bipartisan or civil service watchers in every polling place to avoid fraud.

8. Authority for Congress to determine what presidential candidates should be entitled to a place on the ballot. This is essential to prevent Alabama and possibly other States from keeping the names of major candidates off the ballot so as to deny people of the state an opportunity of voting for them.

9. Provision should also be made for the possible death of a presidential candidate before the election.

Any such shift in the mode of electing the President would be, of course, an immense undertaking. The importance and complexity of the job are not an argument against undertaking it. But they do underline the need for a prompt beginning so that the new system can be approved and the necessary legislation passed before the 1972 political pots begin to boil.

The SPEAKER. The gentleman from Virginia (Mr. POFF) is recognized for 5 minutes.

Mr. POFF. Mr. Speaker, I will vote against the objection. This does not mean that I approve Mr. Bailey's conduct. I disapprove. The system should be changed. The change should make such conduct impossible. Such change can be made, however, not by mere legislative pronouncement but by constitutional amendment only.

Thus, my position is based upon the Constitution and the law as it now exists. But it is also based upon a deep concern for the national consequences which a vote for the new objection might have.

Frankly, I fear that if the House were to sustain this challenge, it might defeat or defer chances for electoral reform. The impression would soon get abroad that Congress, without benefit of constitutional amendment, has solved the problem of the defecting elector. I would not want to be the instrument of such a gross misimpression.

Worse than this, I foresee another potential mischief in sustaining this challenge. If the Congress can look behind the solemn certificate of the Chief Executive of a State, reject that certificate and by a simple majority vote decide what electoral votes were "regularly given" and which were given irregularly, then the Congress can expropriate from the people their power to elect their President. Ordinarily, such a danger is too remote to be credible. But who is bold enough to say that in some future election, the results will not be so close, the personalities so controversial, and the temper of the times such that political fervor, malice or sheer caprice will not dominate respect for the will of the people?

According to the prevailing viewpoint, the present state of the law is such that:

First. The Federal Constitution does not bind electors to vote for the nominee of their party;

Second. The States cannot bind electors;

Third. The law of the State of North Carolina does not attempt to bind electors; and

Fourth. The Federal statute requires the Congress to count all electoral votes which "have been regularly given by electors whose appointment has been lawfully certified to" by the Governor of the State.

An analysis of each proposition is indicated. The Federal Constitution does not bind electors. The converse is so. Both article II, section 1 and the 12th amendment provide that electors shall "vote by ballot." The naked language clearly implies a written, secret vote, inherent in which is the notion of untrammeled discretion. Beyond the language of the Constitution itself, there are several references in the Federalist Papers, including prominently the much quoted comment of Hamilton in No. 68 of "The Federalist," to the independent status of the elector. The Congress has honored the same viewpoint. Congress has counted the vote actually cast by every defecting elector in history. Moreover, in proposing the 12th and 23d amendments, Congress retained the concept and procedure of electors voting by ballot.

Can the States by law bind electors? Article II, section 1, clause 2 of the Federal Constitution empowers the States to appoint electors "in such manner as the Legislature thereof may direct." However, this language does not empower the States to deprive electors, once appointed, of their free choice in the electoral college. With only one exception, all decisions of State courts have said so.

The Supreme Court of the United States has never said otherwise. The Supreme Court in the Alabama case of Ray against Blair has said that a State has the power under article II when fixing the "manner" of appointment of electors to permit political parties to extract a loyalty pledge before the elector is "appointed." But that decision does not give States the power, once the pledge is given and the elector is appointed, to bind the elector to honor his pledge when he votes in the electoral college. Indeed, in the 1956 election, 4 years after the decision and in the same State, one appointed elector, having publicly given his pledge before appointment, violated his pledge in the electoral college, and the Congress counted his vote accordingly.

While there is, then, a minority viewpoint reflected in the legislative opinions of 13 State legislatures and the District of Columbia, the majority viewpoint of the courts holds that even State legislatures have no constitutional power to divest an appointed elector of his unfettered discretion in the electoral college.

Whether one embraces the minority viewpoint or the majority viewpoint, the controlling fact remains that North Carolina has not attempted by law to bind North Carolina presidential electors. Under the circumstances and the law governing the circumstances, that is a controlling fact. It remains only to inquire whether the electoral vote cast by elector Bailey, having been lawfully certified by the Governor of his State, must be counted by the Congress as it was cast. The language of title 3, United States Code, section 15, answers in the affirmative.

After defining procedures to be followed when an electoral vote is challenged in the Congress the language reads as follows:

> No electoral vote or votes from any State which shall have been regularly given by electors whose appointment has been lawfully certified to . . . from which but one return has been received shall be rejected.

It is argued that Bailey's vote was not "regularly given" because it was not the vote that those who "appointed" him thought he would give. What the words "regularly given" were intended to connote must be distilled from the history of the statutory enactment. Congress passed this statute in 1887 with the problem pictured by the Hayes-Tilden election contest in mind. Seeking to avoid for all time the cumbersome commission procedure Congress employed to resolve that contest, Congress wrote a statute designed to require all future contests to be resolved in the State or States where they developed. It was intended that when Congress receives only one return of electoral votes from a State and the electors have been certified by the Governor as properly appointed, Congress will not reject that return. The certificate and transmit-

tal were intended to signify that the electors had been appointed in the "manner" directed by the legislature and that the votes had been "regularly given" under the law of the State.

If the action of this House is to uphold the literal language of the Constitution, if it is to honor its manifest purpose, if it is to abide by the pronouncements of the scholars and the decisions of the courts, then the House must reject the objection to the Bailey vote.

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

Mr. POFF. I yield to my distinguished friend from Oklahoma.

Mr. EDMONDSON. I thank the gentleman for yielding.

I believe the gentleman's first point has some validity, but I question the second point with regard to the claim of expropriation of power by the Congress from the people.

Are we not confronted here with a situation in which an elector is expropriating for himself, for a candidate of his choice, the power of the people of the State of North Carolina.

Mr. POFF. The gentleman will recall that my preface was that Mr. Bailey should have expressed the will of the people in the vote he cast in the college of electors. But my further statement is, and I abide by it, that under the Constitution and the law as it exists today he has an untrammeled discretion. And on that I am obliged to make my decision today.

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

Mr. POFF. I am glad to yield to my colleague.

Mr. ABERNETHY. With the Constitution giving the Congress the authority and also the direction to count these votes, if we did other than count them, that is, if we voided a vote, then would it not be possible for this Congress to void enough votes so as to elect a man other than Richard Nixon?

Mr. POFF. The gentleman expressed in more eloquent terms than I the same proposition that I suggested earlier.

The SPEAKER. The Chair recognizes the gentleman from California (Mr. CORMAN) for 5 minues.

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

Mr. CORMAN. I yield to the gentleman from New Jersey.

Mr. RODINO. Mr. Speaker, I support the objection to the count of the electoral vote of the elector from North Carolina, Dr. Lloyd W. Bailey. I do so with a full realization of the constitutional thicket, because of the overriding principle—also imbedded in the Constitution and recently elaborated upon by the Supreme Court—that one man must be fully equal to another man in exercising his franchise.

The independent elector, as the Constitution foresaw, has run counter to the responsibilities of universal suffrage which this country has been perfecting since the inception of the Constitution itself.

The real question before us is whether we shall be bound by a practice that has never been accepted by the people, or whether we shall now move to assure the people of North Carolina, and indeed voters throughout the United States, that their vote cannot be faithlessly negated by an elector who changes his mind. Since the early 1800's electors have been understood to be "agents" of the people—to act on their behalf, and not to decide their franchise for them. This issue goes to the heart of the concept of democracy, which we all so proudly and so often hail—to our own people and to the people throughout the world.

Even if the objection is sustained by our vote today, we will only be plugging a glaring loophole, for the purposes of the 1968 election only, in a system that cries out for fundamental reform. Such reform, I would hope, will be a priority item on the agenda of the 91st Congress. And if the issue before us now serves to further focus our attention upon the need for reform the time spent now will be well worth it.

I have wondered often how Members of Congress would react if they were obliged to be elected under the provisions of the electoral college. Think for a moment how you would feel if the people of your congressional district wisely chose to send you to Congress, only to find that just as you had moved into your Washington office, moved your family, adjusted your business and personal affairs, an "independent elector" dissatisfied with your choice of office staff cast his vote for your opponent.

Under that system, by 1969, we would find more than enough outraged "elected" non-Congressmen to perhaps overthrow the Government. Does the Presidency, the highest office in the land, deserve less?

Mr. Speaker, a vote to sustain the objection is a vote for basic honesty, for honor, for responsibility and reliableness, and most of all a vote that upholds the most fundamental principle of our system of government—that this Government is of, by, and for the people.

Mr. CORMAN. Mr. Speaker, I rise to support the challenge to the vote cast by the North Carolina elector. I do so to effectuate the express wishes of the North Carolina electorate as well as the universal understanding of electorates throughout the Nation. In the latter half of the 20th century we cannot afford the fiction of an independent elector exercising his own judgment in derogation of the will of the people.

I would like to commend the gentleman from Illinois (Mr. ANDERSON) for pointing up, as have others, the need to move expeditiously on reform in this area, but do not think that we can hide behind a fiction today to frustrate one of the most basic rights of the American people, that is, to vote and to have their vote given efficacy in the election of the person to hold highest office in the land.

The laws of North Carolina are clear. They contemplate that a presidential elector will cast his ballot for the party candidate designated on the ballot. The challenge before us implements not merely the Federal interest in the selection of our President and Vice President, but also is the last means of enforcing the rights of the citizens of North Carolina. I recognize that there is no precedent in the Congress for challenging an elector who has been unfaithful to his electorate. Indeed, the success of this challenge may have limited effect as precedent since the vote challenged will not be determinative of the final result. However, we must also comprehend how serious the consequences will be if the Congress, squarely confronting the issue of an unfaithful elector, rejects the challenge now raised to the vote cast by a North Carolina elector. A refusal by the Congress to reject an electoral vote cast in defiance and derogation of the will of the electorate may encourage increasing numbers of electors to disregard the will of the voters in the future.

Mr. Speaker, in 144 years—1820 to 1964—out of 15,245 electoral votes cast there have only been four "unfaithful" electors. Adherence to the will of the people has been the norm. Manifestly, the people believe they are voting for the President and Vice President. The almost unbroken chain of fidelity on the part of electors to the will of the people should not be rejected by the Congress.

The Constitution is an evolving instrument. Almost two centuries of our history reflect a nearly consistent practice. It makes clear that the preference of the voters does take precedence over independent decisions by electors.

Today, the Congress sits as a court of last resort. No other forum is presently available in this case to effectuate the express wishes of the North Carolina electorate.

It is not enough, however, merely to reject the vote cast for George Wallace. To do only that would be to deprive the citizens of North Carolina of the full weight and effect of their votes. It would be to deprive them of equal protection of the law. A citizen of North Carolina is certainly entitled to have his vote counted in the same manner as the vote is counted of a citizen from California. It is not enough merely to reject the challenged vote. We must also act affirmatively and count the vote exactly as though it had been cast in accordance with the wishes clearly expressed by the people of North Carolina.

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

Mr. CORMAN. I yield to the gentleman from Oklahoma.

Mr. EDMONDSON. I thank the gentleman for yielding, because a little bit ago we had cited a Law Review article from another State. It is interesting that the North Carolina Law Review commenting on the 1933 North Carolina statute which took the names of the electors off the ballot had this to say:

> Here, the legislature, acting under its plenary power of determining the method of appointing Presidential electors has attained the desirable object of direct voting for President and Vice President (11 N.C. Law Review 229).

This was the clear intent of the North Carolina Legislature by the enactment of this law, and it seems to me that we have a moral obligation as well as a legal one in seeing that that intent by the legislature in connection with this law is being carried out.

Mr. CORMAN. I thank the gentleman.

For those who support reform in this matter I would hope that you would not so strain the facts today and make a wrong decision to dramatize the need for electoral reform.

I urge that we support the resolution, and I yield back the balance of my time.

The SPEAKER. The Chair recognizes the gentleman from Illinois (Mr. PUCINSKI).

Mr. PUCINSKI. Mr. Speaker, there is no question that the distinguished gentleman from Michigan (Mr. O'HARA) and the distinguished Senator from Maine have performed a valuable public service by bringing this action and challenging the vote for George Wallace. It helps to focus upon yet another dilemma of our democracy. They have placed this issue into the spotlight of public debate, and I hope such debate will hasten the day when we will be able to effectuate electoral reforms in this country in a constitutional manner.

Mr. Speaker, the distinguished gentleman from New York (Mr. CELLER) has placed his finger on the issue here when he reminded us that the Founding Fathers conceived this concept of the electoral college because at that time they did not believe the voters of this country were capable of selecting a President through general elections. Of course, the gentleman from New York (Mr. CELLER) quite properly pointed out that this ancient idea is totally alien to us today. But there can be no question—and there has been ample debate here—that the Constitution does provide that the elector is a free agent. Repugnant as this may be to representative government, the principle is clear that under the meaning of the Constitution he is a free agent—free to vote as he wishes. This is one of the sad dilemmas of our democracy and must be corrected.

There is always a tendency to seek change through expediency.

I believe it has been properly stated that nothing moves more slowly than a democracy, but move it does and, in its seemingly cumbersome movement, this slow process has brought us to the highest standard of human dignity and freedom ever conceived by man.

There is no question that we need a change. That change will come through the constitutional amendment process only if we reject this resolution today.

Mr. Speaker, we have adopted only 25 amendments to our Constitution since the birth of the Republic. Since the very birth of the Republic we have lived without the 25th amendment, which finally provides the machinery for succession. We even had an occasion where a President's wife managed the affairs of government simply because there was no machinery available for succession when the President was incapacitated. It was not until last year that the Congress faced this issue and adopted the 25th anniversary on succession as it will this electoral college issue.

But I say to you when we try to alter the Constitution through legislative fiat we invite great difficulties.

It seems to me that there will be a 26th amendment, as the distinguished gentleman from Louisiana (Mr. BOGGS) so eloquently stated. There will be electoral reform, but it will come only when we demonstrate that we cannot meet the challenge through resolutions such as the one proposed here today.

Mr. Speaker, no one argues the fact that we need a basic electoral change, and I do support electoral change. I do realize the great danger that this country faced on the morning after election when we were not quite certain how the President was going to be selected.

I say to the House that by adopting this resolution we clearly indicate that there is a legislative way to correct the change, while indeed the country cries out for a constitutional change to once and for all get this problem settled so that the President may be elected by popular vote.

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

Mr. PUCINSKI. I yield to the gentleman from Texas.

Mr. WRIGHT. I thank my distinguished colleague from Illinois for yielding to me at this time.

I am sure that the gentleman from Illinois agrees with us that this action under question represented a derogation of the elector's duty and that the North Carolina elector had a strong moral and ethical obligation if not an absolutely binding legal obligation to cast his vote for Nixon?

Mr. PUCINSKI. There is no question about it.

Mr. WRIGHT. And so the gentleman would agree, also, that the vote the faithless elector cast was a most irregular procedure to our basic system?

Mr. PUCINSKI. I agree with the gentleman on that. But the fact of the matter is I do not believe we can adjust his actions through this resolution.

Mr. WRIGHT. The gentleman is familiar, I am sure, with the statute of 1887 which conferred upon the two Houses of the Congress the responsibility of canvassing the votes and of determining whether they were regularly given?

Mr. PUCINSKI. As the gentleman has heard in the previous debate there is a serious question as to just exactly where and when that statute begins and ends. I believe the statement was made here earlier that the statute provides for the Congress merely to confirm. I do not believe the Congress, within the framework of the Constitution, has the right to change any of the votes.

Mr. WRIGHT. Would the gentleman conclude that this vote by this elector who flouted the will of his electorate and abused the obligation that he assumed was "regularly given?" Would the gentleman characterize this as a regular action or an acceptable action to which the people do not deserve remedy?

Mr. PUCINSKI. I would say to the gentleman that we have come to this high pinnacle of man's achievement in this country simply because we have resisted changing our Constitution with the shifting sands of public opinion which ebb and flow like the tide. We really should not try to meet this problem through the resolution method, but through a proper constitutional amendment, so that once and for all we can have order out of chaos in the election of our Presidents.

The SPEAKER. The time of the gentleman from Illinois has expired.

The Chair now recognizes the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, some Members argue that it would be unconstitutional to sustain this objection: I say that the truly unconstitutional action would be to count the North Carolina elector's vote for Wallace. I shall not repeat the detailed legal analysis which other Members have made on this subject. My position is fundamental. The major function of the Constitution is to distribute the powers of government, and its great unifying principle is to affirm the ultimate power of the people as voters.

The framers of the Constitution may have believed that the electors would make independent judgments, and would be chosen for their individual wisdom, but this never became practice. In the first election in which there was an active contest for the Presidency, a Pennsylvania voter criticized the first faithless elector in these words:

> Do I chuse Samuel Miles to determine for me whether John Adams or Thomas Jefferson shall be President? No I chuse him to *act*, not to *think*.

And that has been the expectation of voters ever since. The Nixon voters, who by their plurality enabled Dr. Bailey to become an elector from North Carolina, chose him to act for them by casting his vote for Nixon on December 16. After all, the voters in North Carolina who wanted Wallace to receive the State's electoral votes marked their ballots for Wallace. Thus Dr. Bailey exercised an authority to think for himself which the voters did not intend to give him.

The State of North Carolina has legislation on this subject. In exercising its constitutional power of determining how electors are to be appointed, the State adopted a ballot in which the names of the presidential and vice-presidential candidates would appear, not those of the electors. This is a clear expression of the States' will that its electoral votes be counted according to the choice of the voting public. To count a North Carolina elector's vote for Wallace would make a mockery of this law, an instrument to deceive voters into thinking they were helping elect the man whose name they marked on the ballot, whereas they were actually casting their vote for an unknown person who in turn could choose for President a person against whom they had voted.

Now what are the facts:

On December 16, 1968, Dr. Lloyd W. Bailey, a duly elected Republican elector from North Carolina cast his vote for George C. Wallace stating that he considered it "my moral obligation to do so." Bailey was selected as a Republican elector by the Second Congressional District Republican Convention prior to the Republican National Convention.

A person who cast his vote for Nixon on election day was not wholly conscious that he was actually voting for an intermediary or expected that that intermediary would vote for Wallace and not for

Nixon. If he wanted the elector to vote for Wallace, he would so mark his ballot, or pull his lever. Putting it in another way, unless the Nixon electors are bound to vote for Nixon in the electoral college, there is no way in which the citizens who wish to choose Nixon for President can effectuate that choice.

To reemphasize, North Carolina statutes do provide that the names of electors shall not appear on the election ballot. Only the names of the presidential and vice-presidential candidates appear on such ballots. The law provides that a vote for such candidates shall be counted as a vote for the electors of the party by which such candidate was named. Certainly this in turn implies an obligation on the part of the elector to cast his vote for the candidate of his party. Not to do so destroys the effectiveness of the citizen's choice.

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

Mr. DERWINSKI. I yield to the gentleman.

Mr. CHAMBERLAIN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to state I am in sympathy with the objective of the gentleman from Michigan (Mr. O'HARA) and associate myself with his position.

I would further like to say that this is an issue that does not give me any trouble, as apparently it is giving some Members here today.

Out our way when we count ballots, if we find one that is irregular on its face—or fraudulent in this case may be a better word—we do not count it. I cannot imagine a ballot being more irregular, or more fraudulent, than the one that we have before us today. This is a fraud that has been perpetrated before all the people of this whole United States. It is not right to count this ballot and we should not do so.

Mr. DERWINSKI. The gentleman from Michigan is certainly one of the most profound Members of this House and he has just proved it by that statement.

The SPEAKER. The Chair recognizes the gentleman from California (Mr. BURTON). Is the gentleman opposed to the motion?

Mr. BURTON of California. Yes, Mr. Speaker.

The SPEAKER. The gentleman is recognized.

Mr. BURTON of California. Mr. Speaker, I rise in opposition to the resolution.

As one of the coequal branches of the Government, we have the continuing responsibiilty to measure our actions by the power granted to us under the Constitution as well as the limitations on our power as spelled out by the Constitution.

It is essential that we recognize that this body cannot amend the Constitution of the United States by either statute or resolution. The Constitution can only be amended in the manner specified by this basic charter. In other words, by amendment to the Constitution and concurrence by the requisite number of the several States. It has been clear for some time that our electoral procedures contain some rather significant—perhaps even dangerous—defects. Some of these defects can be remedied by the enactment of a Federal statute; however, in the instant case of the "faithless elector," the Constitution appears to me to be quite clear and therefore we are without authority—in the absence of an amendment changing this provision of the Constitution—to either ignore or invalidate the vote cast by Mr. Bailey, of North Carolina.

I hope that the 91st Congress comes to grips with and resolves our electoral imperfections and I should like to commend the gentleman from Michigan (Mr. O'HARA) and our colleague in the other body—Senator MUSKIE—for giving us an opportunity to debate and highlight this important issue. This debate should add a further note of urgency to the cause of electoral reform.

As the Constitution now stands, my research has led me to believe that the Founding Fathers, for whatever reasons, decided that presidential electors were to exercise their own independent judgment.

On the first day of this session, last Friday, in my view, we ignored our constitutional responsibility and duty in the matter of seating the gentleman from New York. In my view we were mandated by the Constitution to seat Mr. POWELL, after ascertaining that he met the basic qualifications set forth in the Constitution; and that we exceeded our authority when we imposed, in effect, a condition of a fine on his being seated. Although I have little doubt that this body has the authority after observing procedural and substantive due process to discipline one of our Members, the constitutional course in that instance was to first seat the gentleman from New York and subsequent to the seating determine what, if any, discipline should be imposed upon him.

Similarly today, I urged my colleagues to resist the temptation to impose our collective will by majority vote on the judgment exercised—no matter how ill advised or lamentable we may deem it to be—by the so-called faithless elector from North Carolina. It appears to me that this gentleman was exercising his right granted to him under the basic charter. While it may be argued that this elector misled those who selected him and further that the judgment of those who decided he should be an elector is open to some question, all of this is irrelevant. The fact of the matter remains that the present provision of the Constitution must be honored until that provision is altered or deleted in the manner set forth in the Constitution of the United States. I shall not belabor the point of how very important it is that we maintain a government of laws and not of men, and that we, as Members of the U.S. Congress, abide by this provision, as well as all others, until that point in time that we are successful in deleting this archaic procedure from the framework of our presidential elections.

For these reasons, I urge my colleagues to vote with me in opposition to the pending motion.

Mr. JONES of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. BURTON of California. I yield to the gentleman.

Mr. JONES of North Carolina. Mr. Speaker, it appears to me that this House is attempting to involve itself in matters which are clearly covered by the U.S. Constitution as well as the election laws of the State of North Carolina. I agree with those who state that the electoral college is filled with imperfections and is in dire need of reforms as soon as possible. But, Mr. Speaker, to take an isolated case from the State of North Carolina which can in no way possibly affect the outcome of the presidential election, is to say the least, out of order. I think statements taken from yesterday's Washington Post, January 5, 1969, can best express my feelings, and they are as follows:

> The Muskie-O'Hara challenge assumes that the vote of Elector Bailey is illegal because it was cast contrary to the wishes of the voters who chose him at the polls. But North Carolina did not challenge the vote for this reason. That state certainly contemplates that Republican electors chosen by the voters shall vote for the Republican presidential candidate, for it puts the name of the candidate (not that of the electors) on its ballot. Yet it does not require them by law to be faithful to their trust.
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> It is interesting to note that Bailey explained his vote as conforming to the will of the voters in his district. He said that he was nominated as a district elector and that his district went for Wallace. This did not, of course, release him from his moral obligation to vote for the winning candidate in the state under the general ticket system. But the basic fact is that North Carolina did not legally bind him to support the winner of the popular vote in the state, and the Constitution leaves him free to make his own choice.
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> Under the Twelfth Amendment, Congress seems to have the duty of counting this vote as it was cast. Even if Congress should assert the right not to count it on the rather far-fetched assumption that it was not legally given, where could Congress find any authority to change it from a vote for Wallace to a vote for Nixon? The duty imposed by the Twelfth Amendment and the act of 1887 is merely to count the votes—not to say for whom they should have been cast.
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> Since Congress itself has no right to intervene, it is scarcely persuasive to say that it can do so by pretending to enforce a North Carolina law that does not exist. To say the least, it is a very strange undertaking.
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> Congress has been importuned on many occasions to amend the Constitution so that there would be no possibility that "dummy" electors might frustrate the will of the people in choosing the President. But Congress has failed to do so. It can scarcely excuse that neglect or overcome its unfortunate consequences now by asserting the right to count votes so as to deprive electors of the discretion the Constitution gives them.

I hope this House will vote down this resolution which to me is totally irrelevant and unnecessary.

The SPEAKER. The Chair recognizes the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL of Massachusetts. Mr. Speaker, we are called upon today to exercise our constitutional obligations in the counting of the electoral vote. What in the past was mere formality, becomes much more as we consider our legal duty to judge the regularity of votes cast.

In the past, the Congress has acted under the provisions of the Constitution as amended and the 1887 electoral count

law. Today's action is a first only in that we are using that provision of the law that describes the method for objecting to an elector's vote. Regardless of the outcome of this debate, I believe our action today is correct and obligatory. The phrase "regularly given" is vague; therefore, it is incumbent upon us to discuss, at least in this instance, what may or may not be considered regular.

There is no direct precedent to which we can turn; nor is the law so explicit and defined that we can look solely to it. We must look to related cases and the history of the electoral college and consider constitutional custom.

I support the objection of the gentleman from Michigan. I believe the intent of the people of North Carolina to cast their electoral vote for Richard Nixon has been thwarted, and that the elector, Dr. Bailey acted as an individual and not as an agent of the people of his State.

There are two views of the role or power of the elector. The first is that electors are appointed by the parties in the States to exercise their own judgments with regard to the selection of the President. In this opinion, the electors are not bound by law or morality to select that man chosen by the people of their State. The other view is that electors are agents of the people of their States, the formal means by which the people's vote is recorded. They have no independent existence, and are asked neither to decide or even to think; they merely transmit the vote of their State.

Although there is ample evidence that many of the authors of the Constitution favored the former view, practice among those men who have been privileged to be electors, from the beginning, has conformed to the latter view. By now, we all know the views of that anonymous constituent in 1796 who chose the elector Samuel Miles "to act, not to think." In the entire history of our Nation, only six men have voted against the wishes of their constituencies.

The Supreme Court in Ray against Blair upheld the right of a State to require that electors pledge themselves before the general election. I believe we all support this decision. However, the case of the North Carolina elector is not quite so easy. The 1933 electoral law of the State of North Carolina does not, on its face, require pledged electors. However, I believe that this was the intent of the law.

The North Carolina law states that the names of electors shall not be placed on the ballot, and only the names of presidential and vice-presidential candidates shall appear. A vote for the candidates is counted as a vote for the electors of the party by which the candidate was named. The elector does not exist except through the presidential candidate. This is not a case, as in some States, where voters vote for electors who it is assumed will vote for certain candidates. The voter casts his ballot for the President, and it is deemed that the electors of that candidate's party are chosen. Dr. Bailey only existed as an elector for the people of North Carolina in terms of his party's support for Richard Nixon. He had no individual standing.

If we accept his vote, we are denying the vote of the people of his State. They did not vote for Dr. Bailey—his name was not even on the ballot. Other nations have electoral systems wherein people vote for parties and not people. However, we have always deemed it the right of the people to choose their government. If Dr. Bailey's vote is upheld, we are saying that it is right, it is fair, and it is legal that the people of North Carolina vote blindly. Obviously, if this is the case, they did not vote for Richard Nixon; neither did they vote for Dr. Bailey. In a sense they voted for a party, but that party could not guarantee that their vote would be cast for the candidate of their choice.

I believe the 1933 North Carolina law meant to bring the people's vote closer to a direct vote for President, and not remove it one more step from an effective vote.

More than 20 States do not print the names of electors on the ballot. In one way or another, a vote for a candidate is deemed a vote for electors who are assumed to support that candidate. If we sustain Dr. Bailey's vote, we are saying to the people that it is legal to imply an elector's preference for a candidate—by associating him with a candidate's party—without putting any obligation on that elector to concur with the wishes of the people. Intimation becomes fact; appearance becomes reality.

We are making the voting process a game, as things are not what they seem. We are asking people to make vital decisions but we do not let them know what the choices are, nor are we allowing them to really decide.

I do not think our action here today is any substitute for electoral reform. There looms the possibility that such decisions as this one could be made every 4 years, with each State's laws making an entirely new case. But separate from the great need for changing our electoral process, for making clear the provisions of the law, for translating votes into electoral choice, there is a need to uphold the dictates and the intent of the Constitution and the North Carolina electoral law of 1933. The people of the State of North Carolina voted for Richard Nixon. That vote placed Dr. Bailey in a position to transmit their vote to the electoral college. Dr. Bailey has no standing and no identity as an elector apart from the people's vote for Richard Nixon. He is the people's agent; he is obligated to represent the people and the State of North Carolina in the electoral college. If we allow his vote to stand today, we have allowed the votes of the people of North Carolina to disappear, to become void. We have an obligation to guarantee that the people's vote is meaningful, that it exists. Therefore, I support the objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Missouri (Mr. BURLISON).

Mr. BURLISON of Missouri. Mr. Speaker, I rise in opposition to the objection. I wish to state affirmatively early that in so doing, I do not approve of our present system of electing the President of the United States. Three times in our history the popular will of our people has been defeated—in the infamous elections of 1824, 1876, and 1888.

In six instances we have had the "unfaithful elector" situation which we are discussing at this point. This demonstrates the great potential for absolute repudiation of the popular will of our people. So I think most of us must conclude that the electoral college is a reprehensible and an undemocratic anachronism.

This brings us to the question of whether the remedy submitted by the distinguished gentleman from the other body and the distinguished gentleman from Michigan is the appropriate one. In my humble judgment, it is not.

In the first place, it is illegal. Both article II of the Constitution and the 12th amendment thereto make it clear, as well as the arguments that were submitted at the Constitutional Convention, that it was the intent of the drafters of our Constitution that the elector would have an independent judgment which he should and could exercise.

Ironically, the law which the gentleman from Michigan and the gentleman from the other body seek to invoke is a law passed to prevent a recurrence of that greatest miscarriage of the popular will that has ever happened in this Nation—the election of Hayes over Tilden in 1876. Ironically, they invoke in this instance a law which was passed to cure that situation. By their own admission, in a document put out by the gentleman from Michigan and the gentleman in the other body—and I refer to the "memorandum in support of an objection to counting the vote of a North Carolina elector"—paragraph 10 of that document—"In 1876 the present electoral system faithfully was adhered to on all sides," so the situation in 1876 had no instance of the "unfaithful elector" that we are debating on this occasion.

My conclusion, Mr. Speaker, is two-pronged:

First. The objection offered by the gentleman from Michigan and the gentleman from the other body is constitutionally invalid and is not remedied by an inapplicable law passed in 1887 for a different purpose, to remedy the situation which existed in 1876.

Second. The second facet of my conclusion, Mr. Speaker, is that our system for electing a President is woefully inadequate. But let us not approach the problem piecemeal as here proposed. Let us in this first session of the 91st Congress discharge our full responsibility by starting the turn of the wheels which will mean amendment to our Constitution and elimination of the innocuous electoral college system for electing a President.

I have introduced legislation to this effect. Many others have and will. Whether you prefer the proportionate system, or the district system, or the popular system—which I prefer—let us do away with our present inadequate system; but let us not compound our past errors by approving the objection.

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

Mr. BURLISON of Missouri. I yield to the gentleman from Oklahoma.

Mr. EDMONDSON. Mr. Speaker, I

commend the gentleman on the splendid presentation he has made.

The SPEAKER. The time of the gentleman from Missouri has expired.

The Chair recognizes the gentleman from North Carolina (Mr. GALIFIANAKIS).

Mr. GALIFIANAKIS. Mr. Speaker, I rise to oppose the resolution.

Mr. Speaker, the vote case by presidential elector, Dr. Lloyd Bailey of North Carolina, raises many interesting questions, some of which deserve careful and deliberate consideration by this Congress. Unfortunately, by law we are required to count the electoral votes today, January 6. This provides very little—indeed inadequate—time to consider thoroughly the many implications of Dr. Bailey's act.

Suppose the resolution rejecting Dr. Bailey's vote is passed by this Congress today. And suppose Dr. Bailey decides tomorrow, as he might very well do, to test his constitutional right to vote as he did. We shall then be no closer to resolving this particular problem than we are now. Indeed, the problem will be further complicated by the intervention of the courts and may well interfere with the ultimate adoption of a more adequate, permanent solution to the fundamental problem presented here.

At the outset, I must emphatically differentiate between my personal feelings on the matter and what I perceive to be the controlling law. I believe Dr. Bailey had a moral commitment, as a Republican elector, to cast his vote for the Republican candidates, President-elect Nixon and Vice President-elect Agnew. I have no doubt that the voters whom Dr. Bailey represented as elector confidently anticipated that their expression of preference would be preserved by the North Carolina electors should the Republicans carry the State, as they did. I feel this assumption is particularly valid since the third party candidate, George Wallace, also appeared on North Carolina's presidential ballot, providing those voters who preferred him ample opportunity to choose his slate of electors.

Furthermore, if it is the intention, in whole or in part, of Senator MUSKIE and Congressman O'HARA to question the presidential elector system, I am entirely in accord with their motives. I feel the entire electoral system needs the most careful reexamination and consideration.

But at the same time, I do not see that these gentlemen have made a legal case for their challenge. The first question is whether or not there are, in the laws of the State of North Carolina, provisions which require an elector to cast his vote for the candidates of the party he represents. It appears that the North Carolina constitution and statutes are entirely silent on this point. I am confident that the Supreme Court of North Carolina would hold, in construing the laws of the State, that in the absence of express language or clear implications in the law, no such interpretation can prevail. I find neither such express language nor such clear implication in the laws of North Carolina.

Also, I do not see that the Federal laws will help their case. The statute which authorized Congress to reject electoral votes does so in a very limited and specific way. I quote:

> No electoral vote or votes from any State which shall have been regularly given by electors whose appointment has been lawfully certified to according to section 6 of this title from which but one return has been received shall be rejected, but the two Houses concurrently may reject the vote or votes when they agree that such vote or votes have not been so regularly given by electors whose appointment has been so certified.

Clearly, our only basis for rejecting Dr. Bailey's vote under this section would be upon the determination by this Congress that his was not a lawfully certified appointment or that his vote was not cast in a regular manner. There apparently is no contention raised as to the first point, and to argue that the fact of Dr. Bailey's vote in itself made it irregular, I believe, assumes the questions rather than answering them.

As I understand it, the duty of Congress under the law is, of course, to count electoral votes, not to cast them, nor to ignore them, nor to recast them. There may be flaws in the scheme which produces these votes, but these must be traced to the Constitution of the United States and to the several State codes. It is hardly appropriate for Congress to try to amend the Constitution of the United States by custom.

Mr. HENDERSON. Mr. Speaker, will the gentleman from North Carolina yield?

Mr. GALIFIANAKIS. I yield to my distinguished colleague.

Mr. HENDERSON. I should like to commend the gentleman from North Carolina for the statement he is making. I join him in his remarks.

Mr. Speaker, when the House sits to receive the electoral vote cast by the electors duly chosen in the various States to serve in the electoral college to elect the President of the United States, our duty is similar to that of a local board of elections which canvasses and certifies the returns.

Our function is solely to receive the votes, count them, and certify the result.

It is not to determine whether the votes were properly cast.

I do not believe our laws should permit an elector to disregard the expressed will of the voters and cast the electoral vote entrusted to him as a representative of his political party for a candidate other than the candidate of his party. Nevertheless, our present law does permit such action and the Congress has no legal authority to change the vote cast by a duly qualified elector or to refuse to consider and count it.

I expect to support a constitutional amendment which would change our electoral system to prevent such actions in the future, but in the absence of such an amendment, or a State law spelling out clearly the duties of an elector, he has the legal, if not the moral, right to vote as he chooses.

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

Mr. GALIFIANAKIS. I am glad to yield to the gentleman from Oklahoma.

Mr. EDMONDSON. Mr. Speaker, I join my friend in commending the gentleman from North Carolina for a splendid speech.

I ask unanimous consent to insert in the RECORD at this point a statement with regard to the 12th amendment and the manner in which it does direct that the electors act as agents for the people.

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

There was no objection.

The statement is as follows:

THE 12TH AMENDMENT

In 1800, the electors met and cast their votes, each voting for two candidates, without distinction as to a Presidential and Vice-Presidential choice, as then prescribed by the Constitution. The result was a tie for first place between Jefferson and Burr, the two Democratic-Republican candidates, each of whom received 73 votes. John Adams received 65 votes, his "official" Federalist running mate, Pinckney, received 64, and one Federalist elector voted for John Jay. This left Jefferson and Burr tied for President, and after considerable cliff-hanging, the House elected Jefferson over Burr. Subsequently, in order to prevent the possibility—which was close in the House—of the election as President of an unintended candidate through wheeling and dealing among the State delegations—the Congress submitted to the States, the twelfth amendment, which was ratified in time to govern the casting of the electoral votes for President and Vice-President, and makes other changes in the electoral college procedure, is the language which now governs the choice and operation of electors. In the debates preceding its adoption by the Congress, there is ample rhetorical evidence that it was the intent of the framers of the amendments to provide for as direct a Presidential election as they deemed possible, and that they viewed the electors as mere agents of the voters. Their speeches, from which I quote below, are favorable to our cause. But the environment in which they were delivered poses some questions since most electors immediately prior to the adoption of the Amendment were not chosen by direct election at all, but by the State Legislatures.

I. THE RHETORIC

A. *In the Senate.* Senator Jackson of Georgia. "You must keep the election out of the House of Representatives if you wish to keep the Government from civil war, from the danger of having a man not voted for by the people proposed to be placed over your head, as you are plainly told has been proposed. We are but the servants of the people, and it is our duty to study their wishes."

Senator Nicholas, of Virginia: "By taking the number three instead of five, you place the choice with more certainty in the people at large, and render the choice more consonant with their wishes. . . . The people hold the sovereign power, and it was intended by the Constitution that they should have the election of the Chief Magistrate."

Senator Samuel Smith, of Maryland: . . . the Constitution; which if (I understand) is right, intended that the election of the Executive should be in the people, or as nearly as was possible, consistent with public order and security to the right of suffrage. . . . Our object in the amendment is or should be to make the election more certain by the people."

Senator Breckinridge of Kentucky: "If any principle is more sacred and all-important for free government it is that elections should be as direct as possible; in proportion as you remove from direct elections you approach danger. And if it were practicable to act without any agents in the choice, that would be preferable even to the choice by Electors."

B. *In the House.* Rep. Clopton of Virginia: "he believed the provision, if conformed to

the ideas suggested by him, would be more likely to insure the ultimate election of President and Vice-President according to the will of the people, as the electoral votes are to be considered as their expression of the public will."

Rep. G. W. Campbell of Tennessee: "He considered to be the duty of this House, in introducing an amendment to the Constitution on this point, to secure to the people the benefits of choosing the President, so as to prevent a contravention of their will as expressed by Electors chosen by them."

Rep. Clopton (further): "The Electors are the organs, who, acting from a certain and unquestioned knowledge of the choice of the people, by whom they themselves are appointed and under immediate responsibility to them, select and announce those particular citizens, and affix to them by their votes and evidence of the degree of public confidence which is bestowed upon them. The adoption of this medium through which the election should be made, in preference to the mode of immediate election by the people, was no abandonment of the great principle, that the appointment of the constituted authorities ought to be conformable to the public will. It was no abandonment of that principle in respect to the President and Vice President. The adoption of this medium in the first resort, and the adoption of this alternative of a Legislative election in the last resort, were not intended as disparagements to the energy of that principle—were not intended to operate any diminution of its force. The spirit, the genius of the Government, is the same. The same principle was intended to influence its elections, although in a different form and after a different manner. It is a great characteristic feature of the Government. It is a primary, essential, and distinguishing attribute of the Government, that the will of the people should be done; and that the elections should be according to the will of the people."

Rep. Holland of North Carolina: "Sir, I am one of those who have been early taught to respect the will of the people, and notwithstanding what has been said, I still retain an opinion that the public will is of binding obligation and I hope I shall continue to regard it. The Constitution itself is predicated upon the will of the people, and in order to ascertain this will at all times, the framers were obliged to resort to elections and delegations of power by which agents were to be appointed to express and execute their will, whether acting in a Legislative or Executive capacity. But the delegation of power ought to be imposed only in cases where the will of the people cannot be otherwise known. Under these impressions, I have not admired the plan adopted in the Constitution of electing those high officers by Electors. I should have preferred an immediate suffrage to this indirect mode of electing by Electors; but as the framers of the Constitution have thought proper to ascertain the public will through the medium of Electors, I am unwilling that they also should be under any unnecessary trammels whereby the will of their constituents should be impeded.

The SPEAKER. The gentleman from Minnesota (Mr. FRASER) is recognized for 5 minutes.

Mr. FRASER. Mr. Speaker, I regret that parliamentary considerations have led to a limited challenge today; one which, if sustained, will only disqualify the vote of the defecting elector. I would have gone further and required the defector's vote to be counted in accordance with the pledge that he carried. At a future time that further result should be urged.

Does the Constitution confer upon an elector the unrestricted right to exercise his discretion regardless of the system used to elect him, and without reference to firm, public pledges to vote for a particular candidate which were the sole basis of his election? I think not, although I must confess that until I reviewed the language of the Constitution and read some of the court decisions I had a contrary view.

Mr. Speaker, it is true that the drafters of the Constitution contemplated that presidential electors would use their own judgment and discretion in voting for a President. Presumably this intent was expressed by calling for the elector to "vote by ballot." But the same article of the Constitution contains a further provision which must be examined.

The critical language is found in article II, section 1 of the Constitution, which provides that each State shall appoint presidential electors "in such manner as the Legislature thereof may direct." This language is a general grant of power, broadly drawn, which does not circumscribe the procedures under which the States may choose electors.

In truth, the courts have repeatedly upheld a variety of procedures for the appointment of electors, including election by the legislature, by statewide vote, and by district votes. Moreover, the courts have sustained the validity of the procedure used in North Carolina and in at least 34 other States. In these States only the names of the presidential and vice-presidential candidates appear on the ballot, and not the names of the electors. It is beyond dispute that the latter system contemplates that the electors will vote for the candidates on whose behalf they were filed. The electors are under an explicit pledge in some of those 35 States and under an implied pledge in the others to vote for those candidates. The creation of the implied pledge has been explicitly referred to by the U.S. Supreme Court.

Thus, for over a century and a half, both practice and the courts have sanctioned a system of appointing electors who carry either an explicit or an implied pledge to vote for a certain candidate. Thus, a system of appointing electors has prevailed for over 150 years which explicitly follows a system outside the contemplation of the original drafters of the Constitution. Nevertheless, this system appears to come within the broad grant of power afforded each State to appoint these electors in "such manner as the legislature may direct."

The only question which remains is whether or not the Congress shall give full force and effect to the system followed by almost all of the States. There is no reason why we should not. If we sustain this challenge, we will be upholding the exercise by the States of their general power to determine the procedures to be used in selecting electors; we will carry forward the will of the voters rather than permitting that will to be frustrated; and we will insure the integrity of the election system which is so essential to a free society.

If Congress sustains this challenge, it does not in any way impair the rights of third parties to present themselves to the voters, nor does it bar a State from following a method of selecting electors who are free to exercise discretion. If we sustain the challenge today, we simply affirm the right of the States to make effective one system of selecting electors which in no way detracts or erodes their right to adopt other systems.

I urge that the challenge be sustained.

The SPEAKER. The Chair recognizes the gentleman from Michigan (Mr. GERALD R. FORD).

Mr. GERALD R. FORD. Mr. Speaker, I doubt if anyone in this Chamber today is happy with the prospect of having to make a decision on this matter at this time. But on the other hand we are awfully fortunate that we are not making another decision, that other decision being who would be the next President of the United States. As we all know, we came dangerously close to having to face up to that problem as the closeness of the election in November became more obvious to every one of us. So, although we have the lesser of the two challenges pending before us, I think we ought to take a look at some of the problems that face us in trying to resolve in our minds how each of us should vote.

In December 1967 I first raised the question before a Republican Governors' conference in Florida of the possibility of the House of Representatives having to decide who might be the next President. Quite frankly I was disappointed with the response that I received from even Members of this body. I was disappointed with the interest on the part of the press. The news media discounted the possibility of this constitutional crisis. However, I do not believe that many people were discounting this serious problem as the election night wore on, believe me.

And, perhaps, the mere fact that we have this issue pending before us today is yet another incentive for the Congress to initiate some affirmative action to avoid the possibility of a constitutional crisis in November 1972.

I am all for a change in the method by which we select the President. I have some views favoring one method over another, but I am willing to moderate these personal views in order to achieve a solution. Therefore, I urge immediate action in the Committee on the Judiciary and on the floor, and the sooner we get together the better. But we have a concrete problem before us today as to what we should do about this specific issue raised by the gentleman from Michigan (Mr. O'HARA) and Senator MUSKIE.

Constitutionally, the gentleman from Ohio is right, the gentleman from Virginia is right, and the gentleman from North Carolina is right. I cannot argue with the freedom of choice of the elector predicated upon a strict interpretation of the Constitution. On the other hand it is my opinion that we have to weave into our decisionmaking the question of the moral issue.

Our function today is to decide what votes we count. Do we count the vote of the faithless elector from the State of North Carolina or do we count the votes of the people of North Carolina who voted in the plurality for the President-elect? And, when I weigh on the scales under these circumstances whose vote or votes I am going to count today, I am

going to vote for the vote of the people of North Carolina who voted for Dick Nixon.

Now, some will say that is a bad precedent. Well, I hope it is a precedent in a moot case, because, in the next 4 years, I hope we have found a better way to select a President of the United States than the manner in which we do it today. Therefore, whether it is a precedent under this procedure or not, I am not concerned about it.

I am concerned about affirmative action on our method of electing a President. I hope that whatever the precedent is today that it certainly will be moot, and that we will soon have a new method and a new means of choosing a President so as to be effective in November of 1972.

Therefore, Mr. Speaker, may I conclude with this final observation—for obviously I am going to vote for the resolution if we get to that question, and I hope we do not—and in order to obviate a precedent which I believe would be bad, even though I would hope it would not be applicable in 1972, I am going to move, or seek to move to table the resolution. As soon as we conclude the debate, I am going to move to table the resolution, and I hope it is in order.

The SPEAKER. The time of the gentleman from Michigan has expired.

The Chair would like to inquire if there are any other Members who are going to speak in opposition to the objection. At present the Chair has one Member on the list who is going to speak in opposition, and three or four Members who will speak in behalf of the objection. The Chair is making the inquiry in order that the Chair can protect the Members on the question of equality in the debate.

The Chair recognizes the gentleman from Texas (Mr. ECKHARDT).

Mr. JONES of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. Mr. Speaker, I yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. Mr. Speaker, I thank the gentleman for yielding.

I would like to insert into the RECORD at this point—and I would also like to read—a telegram received by me today which is as follows:

RALEIGH, N.C.

Hon. WALTER B. JONES,
Representative of North Carolina,
House Office Building,
Washington, D.C.:

Pursuant to your request you are advised that under the North Carolina statutes a presidential elector is not required to cast his vote for any particular candidate.

JAMES F. BULLOCK,
Deputy Attorney General.

I thank the gentleman from Texas for yielding to me.

Mr. ECKHARDT. Mr. Speaker, I would be reluctant to appear here to oppose a resolution with such honorable intent against one guilty of such dishonorable conduct if I did not consider it incumbent on me to do so under my oath of office.

Last Friday I voted "present" upon that basis, and today I shall vote "no" upon the same basis.

There are twin derelictions that I consider to be the highest crimes of a representative official. The first is lack of fidelity to the people, and the second is lack of fidelity to the Constitution of the United States.

On so thorny a constitutional question as the basic one raised in debate here today one would be bold, indeed, if he were so sure of his correctness as to say the opposite conclusion defied the Constitution. And though, on the constitutional objection that I shall raise here, I feel that Congress' authority is clearly and expressly limited short of judging a hypothetical question of Dr. Bailey's authority to defy the voters' mandate, I concede that others may come to a contrary conclusion. If they do, they are upholding the Constitution as they see it, and this is what they should do.

My arguments against this resolution do not rest upon the basis of any of the constitutional arguments that have heretofore been raised. I do not believe it is so clear as the very able chairman of the Committee on the Judiciary contends that the electoral college is a mere conduit of the will of the persons who select them.

I do not, on the other hand, believe it is so clear, as the gentleman from California said, that the electors may vote without restraint their true and independent views. But I do believe that there is one thing that is beyond question in the Constitution, and that is that the joint session of the House and the Senate has no power whatsoever other than to hear the returns of the electors read, until it is shown that there is at least a possibility that one of the candidates does not have a majority.

The time we reach the point that we are attempting to decide by this resolution is at the point where the House gets jurisdiction to determine the issue of the Presidency.

There is no possibility of the House receiving that jurisdiction under the facts of this case. But technically, if I were not stopped by the peculiar rule involved where an issue is presented to this body through the joint body and therefore cannot be amended, what I would be speaking for here and now would be a delay of action with respect to the decision on the vote of the elector from North Carolina until it was determined that his vote might result in a failure of a majority appearing for any given candidate.

Now that is the only point at which this body receives jurisdiction to determine the issue of the propriety of the election or of the propriety of the vote of an elector in the electoral college, and until this occurs this body is utterly and completely without jurisdiction to deal with the matter.

Now there are also practical aspects in following this mandate of the constitution and they are the same aspects that constrain the Supreme Court from deciding moot cases and questions.

If this determination, with respect to the electors of North Carolina, were to determine who would be President of the United States, then nearly every responsible law journal in the universities in the country and most of the students of constitutional law would have written on this subject and we would be deciding this question on a mature basis of consideration, and not as a moot case or question.

If we decide a case on this basis, then we decide it on the weakest consideration that a matter of this importance could possibly command.

I urge the House that we cast a "no" vote at this time, without resolving the question of whether Dr. Bailey was compelled to follow the mandate of the vote of the State of North Carolina or was not compelled to follow that mandate.

The SPEAKER. The Chair recognizes the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Speaker, the question is whether the Congress may prevent a presidential elector chosen on the assumption that he would vote for Mr. Nixon from in fact casting his vote for Mr. Wallace.

Originally, there was no doubt that an elector was free to exercise his own judgment. But customary law has long since dictated an obligation to keep faith. As long ago as 1903, James A. Woodburn said in The American Republic that—

> No law of the Constitution is stronger or more inviolable than this unwritten one that a presidential elector is required to vote for the candidate selected by the popular election.

The gentleman from Michigan (Mr. O'HARA)—to whom we must be grateful for raising the issue—relies on the electoral count law of 1887 as the basis of his challenge of the vote of Dr. Bailey. I have some difficulty with the use of the 1887 law for this purpose, since that law seems to imply that if an elector is duly elected by the law of his State, his vote may not be challenged.

But there is another, and I think clearer, ground for this House to count Dr. Bailey's vote as not a vote for Mr. Wallace. We are here acting under the language of the original Constitution—and of the identical language of the 12th amendment of 1804:

> The President of the Senate shall, in the presence of the Senate and the House of Representatives, open all the certificates and the votes shall then be counted.

In counting Dr. Bailey's vote, we ought to assume that he did not betray his trust.

If Dr. Bailey does not like the way we count his vote, it is open to him to go to a Federal court of equity and attempt to have his vote corrected. And there, even if he should persuade the court that Congress in counting his vote was wrong, the court of equity will invoke a old maxim of equity: He who comes into equity must come with clean hands. The court, noting Dr. Bailey's betrayal of trust, will turn him away, saying: "Physician, heal thyself."

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

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

Mr. PEPPER. Mr. Speaker, I ask the gentleman, if we were to follow the literal language of the Constitution, which some of our distinguished colleagues feel we are bound to do, could we have anything like an effective election tallied here today?

Article II of the Constitution provides:

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.

In the case of the State of North Carolina, that would have been 13. The State of North Carolina did not do that. They authorized the Democratic Party to submit to the Secretary of State a list of Democratic electors, and they authorized the Republican Party and the Wallace Party to do the same thing. So the Legislature of North Carolina authorized three sets of electors, but only one set voted for President and Vice President. That would be one-third of the total number authorized to vote by the Legislature of the State of North Carolina if we ignore the vote of the people of the State.

Therefore, is it not apparent that by common acquiescence and the laws of the several States that we have come to treat the electoral college as an institution about as functional as is the appendix in the human body?

I ask one further question: Suppose the State of North Carolina had not named any electors, but suppose the Secretary of State had certified to the Congress that the State of North Carolina, let us say, voted for the President-elect. Suppose that today there were no certificate from the electors but that there was a certificate from the Secretary of State to the effect that they had voted for Nixon. Would it be counted here today?

Mr. REUSS. I am confident it would be.

Mr. PRYOR of Arkansas. Mr. Speaker, will the gentleman yield?

Mr. REUSS. I yield to the gentleman.

Mr. PRYOR of Arkansas. Mr. Speaker, the case of Dr. Lloyd W. Bailey is certainly not a case against the splendid State of North Carolina, any political party, either of the three presidential aspirants who presented themselves to the American electorate on November 5, or actually against Dr. Bailey himself. But rather, in its broadest sense the Bailey case presents a challenge to the very possibility, or principle, or philosophy, that the American voters could, if Dr. Baileys exist everywhere, find themselves completely disenfranchised and the popular will of the people annihilated.

Had Dr. Bailey, a Republican Party elector, pledged to support Richard Nixon, decided to cast his vote for HUBERT HUMPHREY, instead of George Wallace on December 16 in the electoral college, justice would have been equally flaunted—the peoples' wishes flagrantly violated. A Dr. Bailey in Arkansas, New York, or any of our States would of course have presented the same issue as arises at this historical moment today.

We talk about rights a great deal today. Civil rights, Indian rights, and water rights. But, Mr. Speaker, the Bailey issue is one of peoples' rights—or the right of the people to speak effectively with their ballot—the will of the electorate of any given State not to be abandoned or mocked because of the personal whims or desires of electors who violate their agency relationship with their people.

The case of Dr. Bailey in its broad sense presents a challenge to the patchwork of cloudy and nebulous statutes and court decisions on both the Federal and State levels in the area of the elector's relationship to those who chose him to represent them in the electoral college. It is our hope that the deliberations of this body and the meeting squarely of the great constitutional issue encompassed in the Bailey situation will serve to clarify the position of those who make up the electoral college.

But on a broader front the case of Dr. Bailey comes to the basic roots of an antiquated, clumsy, and unfair method of electing our President. The question of what we now describe as an "unfaithful elector" is only one of many flaws, discrepancies, and dilemmas in our electoral college jungle.

Hopefully, the Bailey situation added to other related facets attached to the electoral college system, will demonstrate the necessity of the 91st Congress giving the highest priority to seeking wholesale reform in our method of electing our President.

The SPEAKER. The gentleman from California (Mr. HOSMER) is recognized for 5 minutes.

Mr. HOSMER. Mr. Speaker, I rise in favor of the resolution and recall to your mind that one of the stated purposes of our Constitution, set forth in its preamble, is to establish justice. That is quite relevant to our decision today whether to count or not to count the electoral vote from North Carolina. For here, too, we are seeking justice.

And what is justice?

It is a fair result which comes from an application of both law and equity.

Law, as this Republic knows it, comprises the written provisions of our Constitution and our statutes, and the unwritten provisions of the common law.

Equity, on the other hand, is the conscience of justice. It is an obligation upon those seeking justice not to be blind in situations where the rote application of law will promote injustice. It is an obligation to seek out the conscionable where otherwise the unconscionable would prevail.

True, equity is principally a tool of the courts, the judicial branch of our Government. But it is nowhere a tool denied the Congress, the legislative branch, in the conduct of its business. In fact, we, the Congress, if we seek justice, are as bound to apply its principles in the conduct of our business as are the courts.

Today our business is to decide the election of a President and a Vice President. In this process we have been called upon to determine the validity of one vote cast by an elector from North Carolina. In essence, we are called upon under the resolution before us to decide whether counting that particular vote will serve a conscionable or an unconscionable end. We are obliged to use all the tools of our trade in arriving at this decision. Equity is one of those tools, for this House cannot act without conscience in rendering justice.

The central issue before us, then, is whether counting this vote will conscionably forward justice or unconscionably thwart it.

What are the facts?

Simply that the elector in question in some manner held out to someone, including the electorate of North Carolina, that should he become an elector he would vote for his party's candidate for President and Vice President. For that reason alone and none other was he made an elector. But to the contrary notwithstanding, when it came to balloting, he cast his ballot for two other candidates. All this is open and notorious knowledge of which we have taken legislative notice by entertaining the resolution before us.

In this sense he has defrauded those to whom he held out a contrary intention in order to qualify to cast his ballot.

This elector's fraudulent conduct is unconscionable.

If we see only the legalisms some have cited and blindly permit his unconscionable act to be effected by counting his ballot, thus forwarding his unconscionable purpose, we will thwart the ends of justice as I have explained them. We certainly will not be forwarding them.

As I have also explained, we have the power to employ equity in determining this business before us. No one has denied that we have this power. Therefore we possess the capability to thwart this unconscionable fraud by this elector upon those who made him such.

I strongly recommend we exercise that power. It is our duty to do so and thereby achieve the conscionable ends of justice. We can do so only by supporting the resolution. It will be a good precedent because it will bring a fair result.

The SPEAKER. The time of the gentleman from California has expired.

The Chair recognizes the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Speaker, in 1826, Senator Thomas Hart Benton said in regard to the office of presidential elector:

The agent must be useless if he is faithful, and dangerous if he is not.

These words apply with full force and vigor to the case of Lloyd Bailey, the faithless and, hence dangerous, elector of North Carolina.

Some 16,000 Americans have been chosen as presidential electors under the laws of the several States, in the 180 years since the American people first embarked upon the exciting, courageous and eminently successful experiment of allowing the powerful Chief Executive of a great nation to be chosen by the people over whose government he presides. Sixteen-thousand people—men and women of every race, every religion, every walk of life. Sixteen thousand people—some of them eminent public figures, more of them obscure private citizens—have been given the ministerial but solemn function of listening to what the people say at the polls and jotting it down on their ballots. Of this great army of Americans only six throughout the history of the Republic have sought to impose their own private judgment, their own will, over the free choice of the people to whom they are

accountable. This is a record of amazing fidelity to a system which has had few sanctions, and in which even those few sanctions have not been hitherto applied.

There have only been six of them, and in no case, have their disregard for their duty, changed the result of a presidential election. The lawyer's maxim, "De Minimis Non Curat Lex," might be thought to apply here, and we may be urged to disregard the tiny and ineffectual mischief done by Elector Bailey on the grounds that the Nation, the President, and the people of North Carolina have suffered no lasting harm from his irresponsibility.

I see it differently, Mr. Speaker. As I see it, these six faithless electors have gone largely unremarked in our history because we have been fortunate enough not to have several of them emerge at the wrong time. Let us suppose, Mr. Speaker, that 85,500 popular votes, in the States of Illinois, Alaska, and New Mexico, had been cast differently. Let us suppose that by this combination of minute alterations in the voting patterns of 1968, the election had been thrown into the House of Representatives by the margin of one electoral vote. In a situation like this a single faithless elector, motivated either by ideological considerations, as Bailey apparently was, or by some even less defensible motive, could have literally held the history of the Republic in his own hands, and subjected it to his own will. This, I submit, is not the kind of power the American people are willing to entrust to an electoral college made up of saints and scholars, and they certainly did not intend that their next 4 years of leadership should be decided by an anonymous elector from North Carolina.

Mr. Speaker, I would now like to address myself briefly to the historical questions involved in this objection.

Everyone knows, Mr. Speaker, that the presidential electors are free agents. Like a lot of other things that "everyone knows," this assertion simply has no basis in historical fact.

I do not question those learned observers who contend that the Founding Fathers intended the electors to be men of independent judgment, who would exercise their own wisdom in selecting among their fellow citizens for the Presidency. This assumption among the Founding Fathers is too well documented to question.

But there are two other facts to take into consideration in judging the duty of an elector, besides the original concept of the position. First, it is simple historical fact that the electoral college never functioned as the Founding Fathers intended it to, even from the beginning. In the very first presidential election, the electors were chosen in the sure and certain knowledge that they would all vote for George Washington. The individual electors were no more free agents, nor were they expected to function as a deliberative body, in 1788 than in 1968.

In 1792 the same thing was true. Again, George Washington was the unanimous and foreknown choice of the electors. By the time the third election took place, in 1796, it was clearly understood by all the electors that their function was to give voice to the candidate they were pledged to prior to their election. This understanding was so firm that only one elector in 1796 chose to violate his pledge. Samuel Miles, an elector pledged to John Adams, voted instead for Thomas Jefferson. One of his constituents spoke for most Americans in 1796, and for the overwhelming majority of Americans in 1968, in saying of this defection:

> Do I chuse Samuel Miles to determine for me whether John Adams or Thomas Jefferson shall be President? No! I chuse him to act, not to think.

In 1800 the electors remained faithful to a man to their preelection pledges. This time, the great majority were pledged not only to a presidential candidate—Thomas Jefferson—but to his vice presidential running mate, Aaron Burr. They remained so faithful to their duty that under the original constitutional provisions, there was a deadlock for the two offices, which had to be settled in the House.

This brings us to the second major consideration to be kept in mind in determining the contemporary function of an elector. The 1800 election was not looked upon by the people of the time as a strange one-time anomaly that would never happen again if the electors simply did their independent duty. On the contrary, it was assumed on all sides that the 1800 experience would constantly repeat itself because it was assumed on all sides that electors would simply vote for the candidates they were pledged to vote for. The Congress, acting on this assumption, undertook to amend the Constitution to fit the new reality. And the 12th amendment was rapidly ratified by the States.

My basic point, Mr. Speaker, is that it is not article II, section 1, which governs the electoral college today. It is the 12th amendment. The quotes from the Constitutional Convention, and the arguments in the Federalist Papers deal with constitutional language which has been almost wholly superseded by the 12th amendment. It is to the legislative history of the 12th amendment that we must turn to find out what the electors were meant to be in the minds of the men who wrote and approved that amendment.

In those debates, which are preserved in large part in the Annals of Congress, the remote ancestor of today's CONGRESSIONAL RECORD, it is crystal clear from the debates that there was no significant body of opinion in the Congress which still clung to the notion that electors were free agents.

Let me quote very briefly from some of the remarks made during the debate on the 12th amendment:

Senator Nicholas of Virginia:

> The people hold the sovereign power, and it was intended by the Constitution that they should have the election of the Chief Magistrate.

Senator Samuel Smith, of Maryland:

> Our object in the amendment is or should be to make the election more certain by the people.

Representative Clopton of Virginia: He believed the provision, if conformed to the ideas suggested by him, would be more likely to insure the ultimate election of President and Vice President according to the will of the people, as the electoral votes are to be considered as their expression of the public will.

Representative G. W. Campbell of Tennessee: He considered to be the duty of this House, in introducing an amendment to the Constitution on this point, to secure to the people the benefits of choosing the President, so as to prevent a contravention of their will as expressed by electors chosen by them.

It is the clear duty of the Congress, not to interpose its will between the people and their choice of a President, but to offer the shield of its authority as a protection of the sovereign right of a free people to see conferred the highest office in their gift upon the man they have chosen.

Mr. BENNETT. Mr. Speaker, it seems to me that a negative vote on this objection is required because of the specific wording of the Constitution and I expect to so vote. I take this opportunity to express the hope that the issue thus raised may again point out the need for an amendment to the Constitution to eliminate the electoral college, and also to provide for a better way to nominate the President and Vice President each 4 years.

Like many others I have been for years introducing legislation of this nature and I hope it can receive prompt attention this year.

Mr. FOUNTAIN. Mr. Speaker, I want to join those who have expressed their opposition to the petition of objection filed by the gentleman from Michigan and the Senator from Maine.

I, too, feel that Dr. Bailey had a moral obligation to cast his electoral vote for Mr. Nixon because Dr. Bailey was an elector for the State of North Carolina and not just of the Second District, which I have the privilege of representing here in this House.

A moral obligation and a legal requirement, however, in this instance, are two different things. There is no requirement in the Constitution of the United States, the constitution of North Carolina, the United States Code, or the statutes of North Carolina that binds a presidential elector to any one candidate. Nor to my knowledge has a decision binding our electors been issued by any competent court.

Therefore, regardless of whether we agree or disagree with Dr. Bailey's decision, Congress is powerless to act as proposed. It is powerless to vacate Dr. Bailey's vote and it is powerless to assign it to Mr. Nixon or any other candidate.

I am aware that one of the stated reasons for the proposals of the gentleman from Michigan and the Senator from Maine is to dramatize the weaknesses in our present form of electing a President.

I think this particular weakness has been dramatized and I hope the Congress will address itself at an early date to effective and appropriate reform.

But to call upon the Congress to do what it clearly has no authority to do in this particular case before us today is not solving the longstanding problem

nor is it a workable solution to what some feel is an errant vote by one elector duly chosen under the laws and constitution of our Nation and our State.

Therefore, I repeat: There is no present legal or constitutional provision existing in the State of North Carolina to dictate how a presidential elector should cast his vote. And in the absence of any such binding authority, Congress cannot alter the electoral vote of North Carolina. It can only count it as provided by the Constitution and the Federal statutes.

Lasting solutions are needed to our unanswered questions of presidential elections but the action proposed today is not one of those solutions.

Mr. McDONALD of Michigan. Mr. Speaker, the case of the defecting North Carolina elector points up once again the basic unfairness of the electoral college system.

Here we have the people of the State of North Carolina voting for President-elect Nixon, but one of the Republican electors giving his vote to another candidate, thus thumbing his nose at the very people who entrusted him to vote their will.

When the Founding Fathers instituted the electoral college this was a sparsely settled agricultural nation; communications were primitive; a good education was denied the bulk of the population and the educated elite felt the ordinary citizen was not capable of making a wise choice as to who would govern.

Party politics as we know it today had not come into fashion and the duty of the electors was to choose the two best men to run the country, the candidate getting the larger vote to serve as President and the other as Vice President.

Electors in the early years of our Republic were supposed to be men of the highest caliber, men of wisdom, integrity, and high purpose. It was felt that only by choosing such men could we assure our people of responsible government.

The original reasoning behind the elector system may have been constructive in the early years of the Republic, but the development of a vigorous two-party system gave the Nation a political atmosphere none of the Founding Fathers could have foreseen.

The retirement of George Washington led to partisan division and it became apparent that the election provision would usually result in selection of the top man from each party. The 12th amendment remedied this and electors vote for President and Vice President.

During the early 1800's, the practice of electing famous, independent electors was abandoned and parties started selecting partisan electors whose function was to vote for the candidate to whom they were committed.

Thus, for the past 150 years few voters have even known or cared about the identity of the electors for whom they voted on election day.

Electors are still legally and constitutionally independent and cannot be compelled to vote for the man to whom they are committed. As a result, there have been deviations, the latest occurring in the 1968 election in North Carolina.

It is important to point out that as a direct result of the electoral college system, we have had three presidential elections in which the candidate who led in popular vote was defeated.

One election was decided in the House, one by a special electoral commission, and one on the basis of the electoral vote.

The electoral college has outlived its usefulness. Today, with a third party in the field and other threats of vote splintering, it could deny the office of President to the man chosen by the largest segment of the voters.

An election thrown into the House could lead to the sort of backstairs bargaining that disgraced this Nation in 1824, when Andrew Jackson led in the popular vote but was defeated as the result of a deal between Henry Clay and the supporters of John Quincy Adams.

It is time to get rid of this political monstrosity before it does the sort of damage never envisioned by its creators.

Mr. WYMAN. Mr. Speaker, the trouble with the argument of the petitioners in this matter is simply that as things stood in the 1968 election, the electors are not legally bound, no matter how dismaying may be an admitted violation of trust and confidence in voting for other than the candidate in whose name the elector was chosen.

At the Federal level unless and until this is changed by constitutional amendment, or to a lesser extent within the several States by State law, electors are legally free to vote as they individually see fit.

If the instance to which petitioners here object involves as they maintain "a constitutional principle of enormous magnitude" the proper role for this Congress consists of the proposal of a remedial constitutional amendment to be the result of deliberative legislative procedures.

The duty and the responsibility of Congress at this juncture is to vote not to sustain the objection.

Mr. DOWDY. Mr. Speaker, this resolution before us to attach and set aside the certificate from the State of North Carolina, certifying the electoral vote of that State is not within the province of a legislative body under the Constitution and laws of the Federal Government. We have no right to go behind the certificate of the official of North Carolina.

The right or wrong of the action taken by the elector in casting his vote is not an issue for us. Any contest of that vote should have, and necessarily must have been undertaken by the officials of the State of North Carolina, which has not been done. Those officials were satisfied the vote was legally cast.

If we take action here, on this resolution, we are relegating to ourselves an authority we do not have under the Constitution. We would be rewriting the Constitution in an unconstitutional manner, in the same way that the Supreme Court has done in other regards on numerous occasions.

It has been stated in this debate that courts have never passed on this issue, and this is true. It has not even been before a court, and the reason is the same reason we should not consider it today. The question is moot—it will not change the result of the election, regardless of what we do. A court would not take jurisdiction nor hear this issue, just as we should not do in the manner it is presented. Whether right or wrong, it is true that under the Constitution, an elector is a free agent, to vote for whom he believes to be the most able and competent to be President or Vice President. We have not the authority by joint resolution to alter the Constitution. It should be done, if at all, by constitutional amendment, as provided in the Constitution.

By reason of the fact that this body should not be considering this question at all, the resolution should be tabled as moot, in order that we might get on with the regular order of business.

Furthermore, we ought not establish a precedent, that the Congress of the United States has any right in disregard of the U.S. Constitution, to disregard the certificate of the proper official of any State in certifying the results of an election in his State, in particular, in cases wherein there has been no question raised by anybody in that State as to the accuracy of the certificate.

Many of the problems of our Nation today have been brought about by Federal executive agencies, Federal courts, and the Federal Legislature trodding forbidden paths. This is one we should avoid. Leave the answer to constitutional amendment, or action by the individual States. This was the intention of the Founding Fathers, and the way it ought to be.

In the meantime, in this instance, we have the authority and duty to count the votes as properly certified—not cast them as we think they should be cast.

Mr. FLOWERS. Mr. Speaker, article II, section 1, of the U.S. Constitution provides in part as follows:

> 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.

The selection or appointment of each State's electors has been accomplished in many ways during the history of our country. It was a longstanding practice in many States, for example, for the legislature itself to appoint by name those persons designated to serve as that State's electors. The function of the electors is a State function. They derive their power not from the Congress but from their respective States. It should not, therefore, fall to the Congress to question the vote cast by a duly appointed elector of an individual State, and the identity of the person for whom that elector voted should not have any bearing on the matter whatsoever. Congress has the power to tabulate or count the votes cast by all of the electors of all of the States and the District of Columbia. This power is derived from article II, section 1, of the Constitution, as amended, and superseded by amendment No. 12 thereto. Said amendment No. 12 reads in part as follows:

The President of the Senate shall, in the presence of the Senate and House of Representatives open all of the certificates and the votes shall then be counted.

If a challenge to the appointment of an elector is to be made, it should be made in the proper manner through the appropriate channels provided by each individual State.

This Congress must, and I believe it will, uphold the Constitution of the United States, and this dictates that the vote cast by Dr. Lloyd Bailey of North Carolina, a duly appointed elector of the State of North Carolina, be counted by this Congress just as it was cast by Dr. Bailey for George C. Wallace for President of the United States and Curtis E. LeMay for Vice President of the United States. Dr. Bailey is answerable to the people of the State of North Carolina. He is not answerable to the Congress of the United States.

Mr. BATES. Mr. Speaker, once again there is placed before us, in full view of the American people, a glaring and dangerous shortcoming in our Constitution—a deficiency that has cried out for a remedy for too long a period of time; a deficiency in an electoral system that, as Justice Jackson once observed, "suffered atrophy almost undistinguishable from rigor mortis." Nonetheless, we should not, indeed, we cannot overlook the constitutional fact that the elector, once seated, is free to cast his vote in the electoral college as he may choose. This has long been the constitutional law as I understand it. We are not here to resolve the moral issue concerning Mr. Bailey's vote as a North Carolina elector, or a custom or tradition that finds no constitutional support.

The significant question before the people of America today is not to redefine the past, but to provide a remedy for the future so we can avoid a perilous situation of the type in which we almost found ourselves due to the close vote in the last election. There are various acceptable ways to rectify the present situation. But as a foundation for any change it is imperative that the actual vote of the people be reflected. I, therefore, urge, Mr. Speaker, that the Judiciary Committee initiate hearings immediately and recommend to the House its judgment as to the constitutional changes that would seem best to cope with this very important problem.

Mr. VANIK. Mr. Speaker, I rise to support the O'Hara motion. In my concept of the constitutional process, a presidential elector has no discretion with respect to the candidate for whom he is instructed to cast a ballot.

Today's voting displays a more serious defect in our present election process which must be corrected immediately. The entire electoral college method of choosing the President of the United States is archaic and undemocratic.

The electoral college process, which has always been a cumbersome one, has also been a dangerous one. Under the present system, if no candidate receives the majority of electoral votes, the election is thrown into the House of Representatives. History has shown that in the past—in 1796, 1824, and 1876—deals and compromises were worked out behind closed doors, which angered great portions of the Nation and led to disunity in the country and distrust of the Federal Government. In the world's oldest democracy, there can be little support of an administration which has not received the largest plurality in a given election.

Even when the election is not thrown into the House of Representatives or the Senate, the electoral college is still a liability. As the 1968 meeting of the electoral college again revealed, electors can vote any way they want to. On their personal whim or purposeful defection, these single individuals can ignore—and destroy—the will and studied choice of hundreds of thousands of voters.

Mr. Speaker, it is irrational for us to continue to use the electoral college system in present-day democratic elections. Therefore, I am introducing today a joint resolution to amend the Constitution to provide for the direct popular election of the President and Vice President of the United States. The resolution also provides that if no candidate receives a plurality of at least 40 percent of the total number of votes certified, then Congress will provide for a runoff election between the two candidates having the most popular votes. This proposal is patterned after the Celler-Bayh bill of the 90th Congress.

Mr. FISH. Mr. Speaker, the "unfaithful elector" challenge by the gentleman from Michigan (Mr. O'HARA) poses the question whether the Congress has the power to alter a vote by a lawfully certified elector because he disregarded the people's will. National attention will again be focused on a serious weakness of our electoral system, and this is good.

I have long advocated basic reform in the electoral system. Change, however, should come about through a constitutional amendment and not piecemeal by what is at best a questional assertion of congressional power to alter the vote of a qualified elector.

The Congress is asked to vacate the vote cast for Wallace by an elector from North Carolina chosen by a Republican Party convention of his State.

There is no question that the elector was properly elected. There is no question but that he was chosen on the assumption that he would cast his vote for Nixon, the winner of the popular vote in North Carolina. There is no question the elector voted for Wallace in defiance of a moral obligation imposed on him. But neither is there a requirement in the law of North Carolina binding an elector to vote for the winner of the popular vote, nor was any challenge to the elector's action made in North Carolina.

The gentleman from Michigan relies on an 1887 law, passed by Congress in response to the Hayes-Tilden scandal of 1876 when Congress gave all the disputed votes to Hayes. The intent of the 1887 law was to keep future disputes out of Congress and within the respective States. The 1887 law limits the power of Congress with respect to counting electoral votes to decide whether a vote has been "regularly given by electors whose appointment has been so certified." The challenge relies on the ground that the vote of the North Carolina elector was not "regularly given."

Advocates of the objection to counting the vote admit that the Constitution, article 11, section 1, visualizes an independent office of presidential elector. But it is argued that custom has evolved the principle of the pledged elector.

Granted custom and usage, quite a different question is presented over the power of Congress to act in this case.

It was pointed out in debate that only a constitutional amendment can change the constitutional independence of an elector. Furthermore, nothing in the 1887 law suggests Congress intended to take upon itself the power to change an elector's vote because he disregarded the people's will. Quite the contrary is evident from the legislative history of the law.

The need for definitive electoral reform cries out. All Members of Congress believe the people are sovereign. Had Congress the power to overturn the unfaithful elector, I would be counted with the objectors. I conclude, however, that Congress has no such power.

When we contemplate the chaos which might have resulted had no presidential candidate received a majority of electoral votes in 1968, the need for electoral reform is patently urgent.

The system needs change. The correct way is by constitutional amendment, and the time for such amendment is now.

Mr. RARICK. Mr. Speaker, the House this afternoon is concerned with a challenge against one of the 13 electoral votes cast from the State of North Carolina. Under the Constitution and our oath of office we, as Congressmen, are not election supervisors nor given discretion to recompute the vote received from a sovereign state. The Constitution clearly proscribes our duty as "to count the electoral votes," the ministerial function of a central collecting agency and a tabulating point.

The President pro tempore of this session announced that the joint session was called under the Constitution for the purpose of opening the certificates, ascertaining, and counting the votes of the electors of the several States for President and Vice President.

Senator JORDAN of North Carolina in the capacity of one of the tellers announced:

The certificate of the electoral vote of the State of North Carolina seems to be regular in form and authentic.

And thereafter announced the respective votes. The challenge was then made to one vote in the return.

North Carolina elector, Dr. Bailey, chose not to cast his vote for the Republican candidate. Rather, as a Republican elector, he cast his ballot—and it was counted and included in the return—for the former Governor of Alabama, George C. Wallace.

The defection is the basis for the challenge—which can in no way affect the election. I find it hard to understand how or why the frailty of one unfaithful elector can be used to dramatize a so-called weakness of the electoral system.

When we contemplate that in over 190 years there have been only six instances of like defection under the sys-

tem, it would appear to the contrary that Dr. Bailey's revolt should prove that the electoral system is a workable system—any defects or weaknesses are not from the Constitution but rather those of human frailty.

Admittedly the North Carolina electoral revolt does not present any crisis or even a contest. The State of North Carolina undertook no remedial action, but rather ratified the vote by certifying it to Congress. Since the election is over and Mr. Nixon has won, the incident—at most—is being utilized as a vehicle to promote change in the constitutional system.

It is interesting to note that some who repudiate the event do so to indicate the need for a change to give the people a more direct voice in the selection of their President. The paradox is that such is Dr. Bailey's explanation of his action.

He said he voted for Mr. Wallace because Mr. Wallace was the candidate who had carried the congressional district in which he lived, indicating that Dr. Bailey felt he, too, was trying to give the people of his own district a more direct voice in their preference for President.

There have been many accusations and protestations against the electoral system based on the premise that once the election is over, the elector can change his mind and vote contrary to his people.

Have we not experienced other situations where politicians are elected but forget their promises and people once the votes are counted. This being so, no one would say that because of human frailty in our elected leaders using their discretion we have dramatized a breakdown in our representative type government. Or, would they have us change this, too?

Discounting the emotion of the hour and conjecture as to what might have happened or could have happened—one elector bolted his party, nothing more, nothing less. There was no constitutional crisis. Through supposition and fear everything has been blown out of reasonable perspective.

The fear that the election might have been thrown into the House was whose fear? The people's or political factions? Had it been, there still was no crisis—the Constitution itself provides for such contingencies. But the Constitution does not provide for political parties nor partisan controls.

The election is in the House today. And those who would inject fear of the system of electors into our people by moving to recast the votes could be in reality attempting to perform precisely what they object to; that is, electing a President in the House of Representatives.

Since the constitutional provision assigning our role in the presidential election, in this instance, does not give discretion to recast or recount the votes—otherwise valid and authenticated on the face. We, like Dr. Bailey, are constitutional agents of limited authority, vis-a-vis, to count the votes as reported from the States.

No one can approve Dr. Bailey's action, nevertheless, as Representatives under our oath to preserve and defend the Constitution as it now exists, we would be as wrong as he should we do other than vote down the objection previously made.

Mr. SCHWENGEL. Mr. Speaker, the question raised by Senator MUSKIE and the gentleman from Michigan (Mr. O'HARA) relative to the electoral vote of North Carolina, brought before this body once again, the crucial problem of urgently needed election reforms. As so correctly noted by the distinguished gentleman from Michigan (Mr. GERALD R. FORD), we should be thankful that an even more crucial decision relative to the election was not before us, to-wit selection of the President of the United States. Our constitutional system would have been severely tested were that question presented to us. The closeness of the election coupled with the question presented here, make it imperative that the Congress act during this session to update our election procedures, including the electoral college procedures.

It was my pleasure to join Senator MUSKIE, and my colleague, Mr. O'HARA, in their objections to counting Dr. Bailey's vote as an elector for the State of North Carolina. Title 3, sections 15 to 18, of the United States Code implements the provisions of article II, section 1 of the U.S. Constitution relative to the procedure for counting of electoral votes by the Congress. Specifically title 3, section 15 provides in part:

> . . . and no electoral vote or votes from any State which shall have been regularly given by electors whose appointment has been lawfully certified to according to Section 6 of this title from which but one return has been received shall be rejected, *but* the two Houses concurrently may reject the vote or votes when they agree that such vote or votes have not been so *regularly given* by electors whose appointment has been so certified. [Emphasis added]

Debate on this issue placed a number of the attorney-Members of this body in direct conflict as to the meaning of the words "regularly given." The "strict constructionist" would argue, that the electors are permitted to vote for anyone, regardless of the outcome of the election, unless the provisions of that State's laws are to the contrary. In this case, North Carolina's laws do not specifically bind the electors to the outcome of the popular vote. The "broad constructionist" would argue on the other hand that "regularly given" should be read in light of the electors moral obligation to vote in accordance with the outcome of the popular vote.

Without belaboring the niceties of the legal arguments it seems to me the view which takes into consideration the moral obligation of the elector is the soundest position. As so well put by my colleague, the gentleman from Illinois (Mr. DERWINSKI):

> Out our way when we count ballots, if we find one that is irregular on its face—or fraudulent in this case may be a better word—we do not count it. I cannot imagine a ballot being more irregular, or more fraudulent, than the one that we have before us today.

Among the various definitions accorded to the word "regular" by Webster is the following:

> 5. Undeviating in conformance to a standard set by convention, a party—

And so forth. The clear standard set by the "convention" of nearly 190 years of precedent is that electors will vote in accordance with the outcome of the popular vote, regardless of whether or not they are required by law to do so. Dr. Bailey, the so-called faithless elector, has violated his clear moral obligation to the majority of the people of North Carolina who voted for Dick Nixon, and who, in reliance on many years of precedence, thought he would cast his vote in accord with the outcome of the popular vote. A more clear case of an irregular vote would be difficult to find.

The SPEAKER. The Chair recognizes, for the purpose of concluding debate, the gentleman from Michigan (Mr. O'HARA) for 5 minutes.

Mr. O'HARA. Mr. Speaker, needless to say, I did not take the oath of office on Friday with the intention of standing here on Monday and proceeding to violate the Constitution of the United States. I have filed this objection because I believe that doing so does not violate the Constitution; it supports it.

It has been said that the Constitutional Convention created a scheme of constitutionally independent electors. I concede that it was the intention of the members of the Constitutional Convention that electors be independent. And if one stopped reading there one could reach no other conclusion.

But a lot of water has gone over the dam in the past 180 years. Most notably, the 12th amendment was adopted.

Now, the 12th amendment is a replacement for most of the electoral scheme adopted by the Constitutional Convention. If Members will look in their House manuals they will find that the original provisions of article II, section 1 which were replaced by the 12th amendment do not even appear there. Instead, a footnote under the 12th amendment indicates that the 12th amendment replaced them.

Now, why did we have the 12th amendment? We had it precisely because by that time, 1803, it was already well understood that these electors were not independent, that they were voting at their party's call.

The 12th amendment was produced by the tie between Jefferson and Burr that resulted from the fact that every Democratic elector voted for Jefferson and for Burr. Now, that was not considered to be a freak result. If it had been, the 12th amendment would not have been needed. But everyone agreed that unless the 12th amendment were adopted every election after that would result in a similar tie.

The understanding of the framers of the 12th amendment was that electors would vote for the nominees of their party. And that is the important legislative history involved here.

Indeed, in an Alabama case that went to the Supreme Court in 1952—Ray against Blair—Blair, who wanted to be a Democratic elector but did not want to be bound to vote for the Democratic nominee, made the claim that the Con-

stitution made him a free agent, and the Supreme Court rejected that claim.

We ought to reject that claim today when Dr. Bailey makes it.

It has been said that the situation which we face today would be different and somehow more favorable to the objectors if the State had a specific requirement that the elector take an oath to support the nominee of his party. Well, the North Carolina statutory system clearly contemplates that he do exactly that. I do not believe the North Carolina Legislature would have dreamed, in 1933, that it needed to exact such a requirement. Never in the history of North Carolina had an elector been faithless. There had not been a faithless elector in the United States of America for more than 100 years before North Carolina adopted its statutory scheme, which clearly contemplated that electors would vote for the nominees of their party.

But what if they had required an oath?

What good would it have done them? How could they enforce it? They could not. The Constitution requires a vote by ballot. How would the State know who had cast the errant ballot? Much less are they able after the event to require him to cast it as his oath required. Only the Congress can see to it that the elector respects his obligations, and the only way we can do it is by sustaining the objection that the junior Senator from Maine, Senator MUSKIE, and I have filed.

The SPEAKER. The time of the gentleman from Michigan has expired. All time has expired.

The question is, Shall the objection submitted by the gentleman from Michigan (Mr. O'HARA) and the Senator from Maine (Mr. MUSKIE) be agreed to?

For what reason does the gentleman from Michigan (Mr. GERALD R. FORD) rise?

Mr. GERALD R. FORD. Mr. Speaker, I move to lay the objection of Senator MUSKIE and Representative O'HARA on the table.

The SPEAKER. For what purpose does the gentleman from Michigan (Mr. O'HARA) rise?

Mr. O'HARA. Mr. Speaker, I make a point of order against the motion of the gentleman from Michigan (Mr. GERALD R. FORD).

The SPEAKER. The gentleman will state his point of order.

Mr. O'HARA. Mr. Speaker, as enunciated by the presiding officer of the joint session, the President of the Senate, the procedure under which we operate is controlled by statute, the statute of 1887 now found in title 3 of the United States Code. Section 15, title 3, provides that when all objections so made to any vote or paper from a State shall have been received and read, the Senate shall thereupon withdraw and such objections shall be submitted to the Senate for its decision, and the Speaker of the House shall in like manner submit such objection to the House of Representatives for its decision.

Then, Mr. Speaker, in section 17, title 3, it provides that each Senator and Representative may speak to such objection or question 5 minutes and not more than once, but after such debate shall have lasted 2 hours it shall be the duty of the presiding officer of each House to put the main question without further debate.

Mr. Speaker, I submit that the main question is on the objection filed by Senator MUSKIE and myself and that the statutory requirement in the United States Code, section 17, requires that it be put.

The SPEAKER. Does the gentleman from Michigan (Mr. GERALD R. FORD) desire to be heard?

Mr. GERALD R. FORD. Mr. Speaker, I do desire to be heard.

I think that the crux of the question comes on an interpretation of section 17 and particularly the last part of that section, which reads as follows:

> After such debate shall have lasted 2 hours it shall be the duty of the presiding officer of each House to put the main question without further debate.

Now, if you will note the heading of that section, it says, "No. 17. Same; limit of debate in each House." That section and particularly the last part which I quoted from is only applicable as to debate. It makes no reference whatsoever to parliamentary procedure. It simply says that the debate shall be limited to 2 hours. It does not by the use of any words in that section preclude a traditional parliamentary procedure. Certainly, Mr. Speaker, a motion to table is a legitimate traditional parliamentary procedure. I have no objection to the limiting of the debate as it has been by statute. It is there. But there is not a scintilla of evidence, there is not one word in that language of that section which says we are precluded from using a recognized parliamentary procedure. For that reason, Mr. Speaker, I think the procedure is correct and I oppose the point of order.

The SPEAKER. Does the gentleman from Michigan (Mr. O'HARA) desire to be heard further?

Mr. O'HARA. I do, Mr. Speaker.

I would like to point out, Mr. Speaker, that in fact the statute does control, and there are a number of parliamentary procedures that could somehow permit the Members to speak for more than 5 minutes. But it is clear to me that the Presiding Officer could not entertain any such unanimous-consent request for other procedural suggestions or motions that would permit someone to speak for more than 5 minutes or to speak more than once in violation of the statutory procedure set forth.

I would also like to point out—and I failed to do so in my earlier remarks—that the concluding sentence of section 15 of title 3 of the United States Code reads as follows:

> No votes or papers from any other State shall be acted upon until the objections previously made to the votes or papers from any State shall have been finally disposed of.

I believe, Mr. Speaker, that is further evidence of the intention of the statute, that we must finally dispose of and act upon the main question of the objection.

The SPEAKER. The Chair is prepared to rule.

The gentleman from Michigan (Mr. GERALD R. FORD) makes a motion to lay on the table the objection submitted by the gentleman from Michigan (Mr. O'HARA).

The Chair anticipated that question and has had an opportunity to give consideration to the questions involved. Both of the gentlemen from Michigan (Mr. GERALD R. FORD and Mr. O'HARA) agree that the statute involved is title 3, section 17 of the United States Code.

It seems to the Chair that the law is very plain with respect to the 5-minute rule and time of debate. With respect to the problem, the section states, and I quote:

> It shall be the duty of the presiding officer of each House to put the main question without further debate.

In the opinion of the Chair the main question is the objection filed by the gentleman from Michigan (Mr. O'HARA) and the Senator from Maine, Senator MUSKIE.

The Chair is of the opinion that the law plainly governs the situation; that the Chair must put the main question and that the motion to table is not in order.

Accordingly, the Chair sustains the point of order.

The SPEAKER. The question is, Shall the objection submitted by the gentleman from Michigan (Mr. O'HARA) and the Senator from Maine (Mr. MUSKIE) be agreed to.

The question was taken; and the Speaker being in doubt, the House divided, and there were—ayes 86, noes 123.

Mr. BOGGS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 170, nays 228, not voting 32, not sworn, 4, as follows:

[Roll No. 9]

YEAS—170

Addabbo	Derwinski	Hicks
Albert	Diggs	Hogan
Anderson, Calif.	Dingell	Holifield
	Donohue	Horton
Andrews, N. Dak.	Dulski	Hosmer
	Duncan	Howard
Ayres	Edmondson	Hutchinson
Beall, Md.	Edwards, Calif.	Ichord
Biaggi	Eilberg	Joelson
Biester	Esch	Johnson, Calif.
Bingham	Evans, Colo.	Karth
Boggs	Fallon	Kazen
Boland	Farbstein	Kleppe
Bolling	Fascell	Koch
Brademas	Feighan	Kyros
Broomfield	Flood	Laird
Brotzman	Ford, Gerald R.	Leggett
Brown, Calif.	Ford, William D.	Lloyd
Brown, Mich.		Long, Md.
Brown, Ohio	Fraser	Lowenstein
Burke, Mass.	Frelinghuysen	McCarthy
Bush	Friedel	McDade
Byrne, Pa.	Gallagher	McDonald, Mich.
Byrnes, Wis.	Garmatz	
Carey	Gibbons	McFall
Cederberg	Gilbert	McKneally
Celler	Gonzalez	Madden
Chamberlain	Gray	Mailliard
Chisholm	Green, Pa.	Matsunaga
Clark	Grover	Meeds
Clay	Gude	Mikva
Cleveland	Halpern	Miller, Calif.
Cohelan	Hanley	Minish
Conte	Hansen, Wash.	Mize
Conyers	Harsha	Mollohan
Corman	Harvey	Moorhead
Culver	Hastings	Morgan
Daniels, N.J.	Hathaway	Mosher
Dawson	Hawkins	Moss
de la Garza	Hays	Murphy, Ill.
Delaney	Hechler, W. Va.	Nix
Dellenback	Helstoski	O'Hara

O'Konski	Riegle	Thompson, N.J.
Olsen	Robison	Tiernan
O'Neill, Mass.	Rodino	Tunney
Ottinger	Rooney, Pa.	Van Deerlin
Patman	Roybal	Vanik
Patten	Ryan	Weicker
Pelly	St Germain	Widnall
Pepper	Scheuer	Wilson,
Perkins	Schwengel	Charles H.
Philbin	Shipley	Wright
Pirnie	Sisk	Wyatt
Pollock	Slack	Yates
Powell	Smith, Iowa	Yatron
Price, Ill.	Stanton	Young
Pryor, Ark.	Stokes	Zablocki
Rees	Stratton	
Reuss	Sullivan	

NAYS—228

Abernethy	Frey	Pike
Adair	Fulton, Pa.	Poage
Adams	Fuqua	Poff
Alexander	Galifianakis	Preyer, N.C.
Anderson, Ill.	Gaydos	Pucinski
Anderson, Tenn.	Gettys	Purcell
	Giaimo	Quie
Andrews, Ala.	Goodling	Quillen
Arends	Green, Oreg.	Randall
Ashbrook	Griffin	Rarick
Ashley	Griffiths	Reid, Ill.
Aspinall	Gross	Reifel
Baring	Gubser	Reinecke
Bates	Hagan	Rhodes
Battin	Haley	Rivers
Belcher	Hall	Roberts
Bennett	Hamilton	Rogers, Colo.
Berry	Hammer-	Rogers, Fla.
Betts	schmidt	Rooney, N.Y.
Bevill	Hansen, Idaho	Rosenthal
Blackburn	Hébert	Roth
Blanton	Heckler, Mass.	Roudebush
Bow	Henderson	Rumsfeld
Bray	Hull	Ruppe
Brinkley	Hungate	Ruth
Brock	Hunt	Sandman
Broyhill, N.C.	Jacobs	Satterfield
Broyhill, Va.	Jarman	Saylor
Buchanan	Johnson, Pa.	Schadeberg
Burleson, Tex.	Jonas	Scherle
Burlison, Mo.	Jones, Ala.	Scott
Burton, Calif.	Jones, N.C.	Sebelius
Button	Kastenmeier	Shriver
Cabell	Kee	Sikes
Caffery	Keith	Skubitz
Cahill	King	Smith, Calif.
Camp	Kirwan	Smith, N.Y.
Carter	Kuykendall	Snyder
Casey	Kyl	Springer
Chappell	Landgrebe	Stafford
Clancy	Landrum	Staggers
Clausen,	Langen	Steed
Don H.	Latta	Steiger, Ariz.
Clawson, Del	Lennon	Steiger, Wis.
Collier	Lipscomb	Stephens
Collins	Long, La.	Stubblefield
Colmer	Lujan	Stuckey
Conable	McClory	Symington
Corbett	McCloskey	Talcott
Coughlin	McClure	Taylor
Cowger	McCulloch	Teague, Calif.
Cramer	McEwen	Teague, Tex.
Daniel, Va.	McMillan	Thompson, Ga.
Davis, Ga.	MacGregor	Thomson, Wis.
Davis, Wis.	Mahon	Udall
Denney	Mann	Ullman
Dennis	Marsh	Utt
Dent	Mathias	Vander Jagt
Devine	Mayne	Vigorito
Dickinson	Meskill	Waggonner
Dorn	Michel	Wampler
Dowdy	Miller, Ohio	Watts
Downing	Mills	Whalen
Eckhardt	Mink	Whalley
Edwards, Ala.	Minshall	White
Edwards, La.	Mizell	Whitehurst
Erlenborn	Montgomery	Whitten
Eshleman	Morton	Wiggins
Evins, Tenn.	Myers	Williams
Findley	Natcher	Winn
Fish	Nedzi	Wold
Fisher	Nelsen	Wolff
Flowers	Nichols	Wydler
Flynt	O'Neal, Ga.	Wylie
Foley	Passman	Wyman
Foreman	Pettis	Zion
Fountain	Pickle	Zwach

NOT VOTING—32

Abbitt	Brooks	Everett
Annunzio	Burke, Fla.	Fulton, Tenn.
Barrett	Burton, Utah	Kluczynski
Bell, Calif.	Cunningham	Macdonald,
Blatnik	Daddario	Mass.
Brasco	Dwyer	Martin
May	Price, Tex.	Schneebeli
Monagan	Railsback	Waldie
Morse	Ronan	Watkins
Murphy, N.Y.	Rostenkowski	Watson
Podell	St. Onge	Wilson, Bob

NOT SWORN—4

Hanna	Reid, N.Y.	Taft
Lukens		

So the objection was rejected.

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

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. The Clerk will notify the Senate of the action of the House, and will inform that body that the House has rejected the objection submitted by the Representative from Michigan (Mr. O'HARA) and the Senator from Maine, (Mr. MUSKIE) and is now ready to further proceed with the counting of the electoral vote for the President and Vice President.

RECESS

The SPEAKER. The Chair declares a brief recess, subject to the call of the Chair.

Accordingly (at 4 o'clock and 35 minutes p.m.), the House stood in recess, subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 4 o'clock and 45 minutes p.m.

COUNTING THE ELECTORAL VOTES; JOINT SESSION OF THE HOUSE AND SENATE HELD PURSUANT TO THE PROVISIONS OF SENATE CONCURRENT RESOLUTION 1

At 4 o'clock and 45 minutes p.m., the Doorkeeper, Mr. William M. Miller, announced the President pro tempore and the Senate of the United States.

The Senate entered the Hall of the House of Representatives, headed by the President pro tempore and the Secretary of the Senate, the Members and officers of the House rising to receive them.

The PRESIDENT pro tempore took his seat as the Presiding Officer of the joint convention of the two Houses, the Speaker of the House occupying the chair on his left.

The joint session was called to order by the President pro tempore.

The PRESIDENT pro tempore. The joint session of Congress for counting the electoral vote resumes its session.

The two Houses retired to consider separately and decide upon the vote of the State of North Carolina, to which objection has been filed. The Senate has been duly notified—and appreciates the graciousness of the House in so doing—of the action of the House of Representatives on the objection. The Secretary of the Senate will now report the action of the Senate.

The Secretary of the Senate read as follows:

In the Senate of the Unted States:

Ordered, That the Senate by a vote of 33 ayes to 58 nays rejects the objection to the electoral votes cast in the State of North Carolina for George C. Wallace for President and for Curtis E. LeMay for Vice President.

The PRESIDENT pro tempore. The Clerk of the House will now report the action of the House.

The Clerk of the House read as follows:

In the House of Representatives of the United States:

Ordered, That the House of Representatives rejects the objection to the electoral vote of the State of North Carolina submitted by the Representative from Michigan, Mr. O'HARA, and the Senator from Maine, Mr. MUSKIE.

The PRESIDENT pro tempore. Under the statute in this case made and provided, the two Houses having rejected the objection that was duly filed, the original certificate submitted by the State of North Carolina will be counted as provided therein.

Tellers will now record and announce the vote of the State of North Carolina for President and for Vice President in accordance with the action of the two Houses referred to and pursuant to the law.

Mr. JORDAN of North Carolina. Mr. President, I think first I should apologize for one of my constituents having forced a call of the two Houses in joint session and for all the work we have had to do today.

Mr. President, in accordance with the vote of the two Houses, Richard M. Nixon, of the State of New York, received 12 votes for President, George C. Wallace, of the State of Alabama, received one vote for President, Spiro T. Agnew, of the State of Maryland, received 12 votes for Vice President, and Curtis E. LeMay, of the State of California, received one vote for Vice President.

Mr. FRIEDEL (one of the tellers). Mr. President, the certificate of the electoral vote of the State of North Dakota seems to be regular in form and authentic, and it appears therefrom that Richard M. Nixon, of the State of New York, received four votes for President and Spiro T. Agnew, of the State of Maryland, received four votes for Vice President.

The tellers then proceeded to read, count, and announce, as was done in the case of North Dakota, the electoral votes of the several States in alphabetical order.

The PRESIDENT pro tempore. Gentlemen of the Congress, the certificates of all of the States have now been opened and read, and the tellers will make the final ascertainment of the result and deliver the same to the Vice President.

The tellers delivered to the President pro tempore the following statement of the results:

The undersigned, SAMUEL N. FRIEDEL and Glenard P. Lipscomb, tellers on the part of the House of Representatives, B. EVERETT JORDAN and CARL T. CURTIS, tellers on the part of the Senate, report the following as the result of the ascertainment and counting of the electoral vote for President and Vice President of the United States for the term beginning on the 20th day of January, 1969:

States	Electoral votes of each State	For President			For Vice President		
		Nixon	Humphrey	Wallace	Agnew	Muskie	LeMay
Alabama	10			10			10
Alaska	3	3			3		
Arizona	5	5			5		
Arkansas	6			6			6
California	40	40			40		
Colorado	6	6			6		
Connecticut	8		8			8	
Delaware	3	3			3		
District of Columbia	3		3			3	
Florida	14	14			14		
Georgia	12			12			12
Hawaii	4		4			4	
Idaho	4	4			4		
Illinois	26	26			26		
Indiana	13	13			13		
Iowa	9	9			9		
Kansas	7	7			7		
Kentucky	9	9			9		
Louisiana	10			10			10
Maine	4		4			4	
Maryland	10		10			10	
Massachusetts	14		14			14	
Michigan	21		21			21	
Minnesota	10		10			10	
Mississippi	7			7			7
Missouri	12	12			12		
Montana	4	4			4		
Nebraska	5	5			5		
Nevada	3	3			3		
New Hampshire	4	4			4		
New Jersey	17	17			17		
New Mexico	4	4			4		
New York	43		43			43	
North Carolina	13	12		1	12		1
North Dakota	4	4			4		
Ohio	26	26			26		
Oklahoma	8	8			8		
Oregon	6	6			6		
Pennsylvania	29		29			29	
Rhode Island	4		4			4	
South Carolina	8	8			8		
South Dakota	4	4			4		
Tennessee	11	11			11		
Texas	25		25			25	
Utah	4	4			4		
Vermont	3	3			3		
Virginia	12	12			12		
Washington	9		9			9	
West Virginia	7		7			7	
Wisconsin	12	12			12		
Wyoming	3	3			3		
Total	538	301	191	46	301	191	4

SAMUEL N. FRIEDEL,
GLENARD P. LIPSCOMB,
Tellers on the part of the House of Representatives.
B. EVERETT JORDAN,
CARL T. CURTIS,
Tellers on the Part of the Senate.

The PRESIDENT pro tempore. The state of the vote for President of the United States, as delivered to the President of the Senate, is as follows:

The whole number of the electors appointed to vote for President of the United States is 538, of which a majority is 270.

Richard M. Nixon, of the State of New York, has received for President of the United States 301 votes;

Hubert H. Humphrey, of the State of Minnesota, has received 191 votes.

George C. Wallace, of the State of Alabama, has received 46 votes.

The state of the vote for Vice President of the United States, as delivered to the President of the Senate, is as follows:

The whole number of the electors appointed to vote for Vice President of the United States is 538, of which a majority is 270.

Spiro T. Agnew, of the State of Maryland, has received for Vice President of the United States 301 votes.

Edmund S. Muskie, of the State of Maine, has received 191 votes.

Curtis Lemay, of the State of California, has received 46 votes.

This announcement of the state of the vote by the President of the Senate shall be deemed a sufficient declaration of the persons elected President and Vice President of the United States, each for the term beginning on the 20th day of January, 1969, and shall be entered, together with a list of the votes, on the Journals of the Senate and House of Representatives.

Members of the Congress, the purpose for which the joint session of the two Houses of Congress has been called, pursuant to Senate Concurrent Resolution No. 1, 91st Congress, having been accomplished, the Chair declares the joint session dissolved.

(Thereupon, at 5 o'clock and 10 minutes p.m., the joint session of the two Houses of Congress was dissolved.)

The House was called to order by the Speaker.

The SPEAKER. Pursuant to Senate Concurrent Resolution 1, the Chair directs that the electoral vote be spread at large up the Journal.

The Chair understands that there were additional signatures of Members of the House and Senate on the objection raised to the electoral vote of the State of North Carolina. Without objection, the signatures of the additional Members will appear in the RECORD and the Journal.

There was no objection.

GENERAL LEAVE

Mr. ALBERT. Mr. Speaker, pursuant to the request of several Members, I ask unanimous consent that the Members desiring to do so may extend their remarks over a period of 5 days on the O'Hara objection to the electoral vote of the State of North Carolina that we discussed during the time the Senate had retired to its Chamber to debate the objection.

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

There was no objection.

TO INCREASE THE PER ANNUM RATE OF COMPENSATION OF THE PRESIDENT OF THE UNITED STATES

Mr. ALBERT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10) to increase the per annum rate of compensation of the President of the United States.

The Clerk read as follows:

H.R. 10

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102 of title 3, United States Code, is amended by striking out "$100,000" and inserting in lieu thereof "$200,000".

SEC. 2. The amendment made by this Act shall take effect at noon on January 20, 1969.

The SPEAKER. Is a second demanded?

Mr. GROSS. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from Oklahoma (Mr. ALBERT).

Mr. ALBERT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as Members all know, this is the first suspension bill of the 91st Congress. Normally the Speaker would not recognize Members to call up bills under suspension of the rules this early in the term and without committee consideration. The only reason that this method has been used on this occasion is that it presents to the House the opportunity to consider this legislation before the new President takes office. Members know that under article II, section 1, clause 7, of the Constitution the salary of the President of the United States cannot be increased during his term of office. Therefore, if the matter is to be handled at all, it must be passed by both Houses of Congress and signed by the President before noon on January 20. Members further know, Mr. Speaker, that committee assignments have not been made and will not be made in time for normal hearings and proceedings to be had in order to consider this bill by the deadline.

In view of these circumstances, the distinguished minority leader and the distinguished chairman and ranking member of the Committee on Post Office and Civil Service and myself have jointly offered this resolution for the consideration of the Members of the House.

Mr. Speaker, all Americans are aware that a dollar sign cannot be put on the President's office. This is the most important position on earth today. It is well known that the salaries of many officials in private business far exceeds

that recommended here. Moreover, Mr. Speaker, it is interesting to note that of all salaries of officers and employees of the Government of the United States, action on the salary of the President has been the most laggard. The original salary was set in 1789 at $25,000 per year and there have been only three increases since that time. The last increase was made effective January 20, 1949, 20 years ago. This was an increase from $75,000 to $100,000.

Increases have been made for all officers and employees of the Government since the last Presidential pay increase. Let us take a few examples. The salary of Members of Congress in 1949 was $15,000 annually. By two increases salaries are now $30,000 per year. The salary of the Vice President and the Speaker of the House was raised from $30,000 in 1949 to $43,000 in 1968.

Salaries of Cabinet officers were raised from $22,500 in 1949 to $35,000, a 55.5-percent increase.

The salary of the Chief Justice of the United States was increased from $25,500 to $40,000, a 56.9-percent increase. Salaries of Associate Justices were $25,000 in 1949; today they are $39,500, an increase of 58 percent.

The highest salary provided by law for top career civil service employees in 1949 was $14,000, and was finally increased to $28,000 in 1968, an aggregate increase of 100 percent.

The highest salary provided by law for the career postal field service was $13,270 in 1949 and was finally increased to $27,900 in 1968, an aggregate increase of 110.8 percent.

These figures do not tell the whole story. The salary of the President now $100,000, is only 400 percent above the salary received by George Washington. The salary of the Vice President in 1789 was $5,000; today the salary of the Vice President is $43,000, an increase of 860 percent, percentagewise more than twice the increase Congress has seen fit to give the President of the United States. The last increase given to the President of the United States prior to 1949 was in 1909. Numerous increases were made between that date and 1949 for all other officers and employees of the Government.

It seems to me, Mr. Speaker, that the importance of the office of the President of the United States, the esteem in which the American people hold the office, regardless of politics or personalities, and the fact that so much time has elapsed between presidential salary increases, all argue strongly for the bill now being considered under suspension of the rules. I therefore urge my colleagues to vote to suspend the rules and pass this legislation in this House today.

Mr. GROSS. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, since there has been no hearing whatever on this proposed legislation, I want to take time to ask some questions of the sponsors of the bill, who I assume are prepared to provide answers. Since this bill provides for a 100-percent increase in salary for the next President, I would like to ask what will be the percentage increase recommended for other officials in the executive branch, the legislative branch, and the judicial branch of the Government? Since we are being called upon here today to approve a 100-percent increase for the President, I would like to know what the proposed salary increase for officials in the three branches of the Government will be percentagewise.

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

Mr. GROSS. I am glad to yield to the gentleman from Oklahoma.

Mr. ALBERT. I am not able to answer that question. The report of the President has not come up to the Congress, and his report can be acted upon by the Congress only when it does come up.

Mr. GROSS. Does the gentleman not think that this proposed action will be setting a precedent—a bill to provide a 100-percent increase for the President, without any knowledge of what is to be done with respect to other officers of the Government? And what about the Vice President?

Mr. ALBERT. If the gentleman will yield further, I believe an increase for the President of the United States is more overdue than an increase for any other officer of the Government. The President has had only three increases since George Washington's time.

Mr. GROSS. Beyond salary what other emoluments go to the office of the President of the United States?

Mr. ALBERT. Will the gentleman yield?

Mr. GROSS. I am glad to yield to the gentleman from Oklahoma.

Mr. ALBERT. There is, of course, a $50,000 expense allowance which was authorized by law in 1949.

Mr. GROSS. If the gentleman will pardon me for interrupting, that is tax-free and spent upon the accounting of the President alone; it that correct?

Mr. ALBERT. The gentleman is incorrect. It is subject to taxation. If it is not spent, then it reverts, as I understand, to the Treasury. But the President must account for it in his list of expenditures. And may I say to the gentleman this—and I believe this is significant—that every President, so far as I have been able to determine, in the last several years has gone into his own pocket to help pay the expenses of the operation of his office. Most of the Presidents, at least starting with Herbert Hoover, have had independent wealth and independent income. Two of them, I believe, did not—Harry Truman and Dwight Eisenhower. I think it is well known—at least I have been told this on pretty good authority—that Mr. Truman left the White House broke, and so have other great Presidents in our history. I believe General Grant was one of those.

I do not think the gentleman wants the President of the United States to go into his salary to help pay the necessary operating expenses of his office, and that is what all Presidents have had to do.

Mr. GROSS. I will say to the gentleman that I am deeply concerned about a 100-percent increase for the President when I have had no word of any kind—well, yes, I have had word indirectly that the President-elect takes a dim view of a 100-percent pay increase.

Can the gentleman cite me any evidence that the President-elect, the man who will first benefit from this, has asked for a 100-percent increase in pay?

Mr. ALBERT. This was initiated by Members of Congress and not by the President of the United States. We have not asked for a recommendation either by the present President or by the incoming President.

Mr. GROSS. What retirement pay is provided for former Presidents, and do they make a contribution while in office to their retirement?

Mr. ALBERT. The retirement allowance, as I understand it, is $25,000 per year.

There are members of the Post Office and Civil Service Committee here who know more about that subject than I, but there are other officers of the Government in the military and in the courts who do not make any contribution to their retirement.

Mr. GROSS. I am well aware of that, but I just want to establish the fact that Presidents are paid $25,000 a year when they leave office as a retirement, and they pay nothing toward that retirement. What I am trying to establish is the fact that as of now we do pretty well by the Presidents of the United States. I cannot think of one—and does the gentleman know of any President in the last quarter century who is in want, a former President who is in want?

Mr. ALBERT. I would be ashamed of the Congress if there were any President in want, and the gentleman would be too.

Mr. GROSS. So would I, but tell me if there is one who is in want.

Mr. ALBERT. Not that I know of.

Mr. GROSS. That is what I thought.

Now tell me about the pay of the Vice President. Why is he not included in this bill?

Mr. ALBERT. I tried to make that clear. The gentleman knows that the pay of a President of the United States in the first place cannot be increased during his tenure, so it has to be done before January 20. The pay of the Vice President can be increased at any time, and the pay of the Vice President has been increased since the pay of the President has been increased.

Mr. GROSS. So we get no information here today, as we open the door to a 100-percent increase in pay for the President, about the executive, congressional, and judicial pay increase bill and what it will provide when the budget message comes to the Congress, and recommended by the present President of the United States?

Mr. ALBERT. We have no way of knowing that.

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

Mr. GROSS. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, I can tell the gentleman we have some upper limits. I am sure the gentleman has read the report of the Commission on executive, legislative, and judicial salaries. Under the law, the figures the President sends up cannot be more than that, so I can provide the gentleman with the comfort that they cannot exceed those upper limits.

I can also tell the gentleman, from the committee that deals with the pay and with legislation the gentleman has referred to, that the Vice President and a few other officers, including the majority leader and the minority leader, were omitted from that structure, so if this bill goes through and if the salary plan that is coming up later this week provides for increases for Members of Congress, I am going to sponsor legislation to give proportionate increases to the Vice President and to those who were omitted from this salary scheme.

Mr. GROSS. If the outlandish Commission report is recommended to the Congress by President Johnson and the automatic pay increase goes into effect on July 1, the military will get a raise along with the raise for civilian employees of the Federal Government. Would the gentleman think these increases would amount to an estimated outlay on the part of the taxpayers of approximately $3 billion, or what price tag would the gentleman care to put on the pay increases that are proposed?

Mr. UDALL. Mr. Speaker, the best figures I have are in the neighborhood of those the gentleman is talking about. If the third phase of the 1967 Salary Act goes into effect as we intended, and if the military get comparable increases, and some of the things we are talking about today go into effect, it would cost the Federal payroll in the neighborhood of $3 billion.

Mr. GROSS. Where would the gentleman propose or suggest the Government would get the money?

Mr. UDALL. I would suggest we go to the U.S. Treasury and get it where we got it before, so we can be fair to the Federal employees and to the military.

Mr. GROSS. Or borrow the money and pay interest on it?

Mr. UDALL. If need be. But I am tired of Federal employees and the military bearing the fight against inflation. We say to those people, "You run the fight against inflation. The other people do not have to bear their fair share."

Mr. GROSS. Did the gentleman hear any complaint on the part of any one of the numerous candidates for President last year, complaining about the salary which would be paid? Did any candidate say that the salary was too low?

Mr. UDALL. If the gentleman will yield further; of course, they did not say this. It would have been unbecoming of anyone to say it.

Mr. GROSS. Why?

Mr. UDALL. No presidential candidate is going to say, "Fellows, I am running for this job; please raise my salary." I think it is up to us to do it in a dignified and proper way for them, and it ought to be done for the new President.

Mr. GROSS. It seems to me I did hear and read statements proposing a program or programs of austerity and frugality in the spending of the taxpayers' money by the new administration.

It seems to me I did hear statements made in the campaign that inflation would have to be slowed down and stopped.

To save my life, I do not understand how Congress can increase an executive's salary 100 percent and yet talk about austerity and frugality, especially when we know that a huge pay bill is in the offing and will be offered to Congress in the near future.

I do not understand the reasoning back of this move today, and especially when no one, so far as I know, who could possibly benefit, has asked for this increase.

Mr. UDALL. Mr. Speaker, will the gentleman yield further?

Mr. GROSS. I yield to the gentleman from Arizona.

Mr. UDALL. Let me say a couple of things.

It pains me to see my beloved friend attacking the President of his own party, not even in office yet. He said during the campaign he was going to accelerate the pay increases for the Federal employees, that there was a lag and he deplored this and he was going to take action to help us speed it up.

Out of this $100,000 increase, between $65,000 and $70,000 will be turned right back around, to come back to the Treasury as taxes on the President's salary, so we are talking here about $30,000 to $35,000. That is all in this bill.

Mr. HAYS. Mr. Speaker, will the gentlemen yield?

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

Mr. HAYS. In line with what the gentleman said about nobody asking for the increase, the last time congressional salaries were raised I remember very distinctly a number of Members made speeches against it, and some of them very vehemently. Does the gentleman know of any instance of their not taking the increase after it was passed?

Mr. GROSS. No, no more than I would know of any reason why, if they put a bridge across the Ohio River leading from Ohio to another State, I should not drive across that bridge even though I might have opposed the building of it.

Mr. HAYS. Mr. Speaker, will the gentleman yield further?

Mr. GROSS. I yield.

Mr. HAYS. I would not use the bridge if I had made a speech saying I would rather swim.

Mr. GROSS. Of course, the gentleman from Iowa made no such statement, and the gentleman from Ohio well knows it.

Mr. UDALL. Mr. Speaker, will the gentleman yield to me on that point?

Mr. GROSS. I yield to the gentleman from Arizona.

Mr. UDALL. I prepared a form 4 years ago when we had the congressional pay bill up, under which a Member of this House could irrevocably refuse to take any increase. I just want to tell the Membership—and I thank the gentleman for yielding—I will have those forms available.

Mr. GROSS. I believe the gentleman announced that the last time a pay increase bill was before the House; did he not?

Mr. UDALL. I did not hear the gentleman.

Mr. GROSS. I believe you announced that the last time out; did you not?

Mr. UDALL. I did. I try to be helpful.

Mr. GROSS. There is nothing new or novel about the suggestion of the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. I will have these forms available, if the Members feel strongly they do not want this increased pay, or are not worth it. I will have these forms available.

Mr. GROSS. That is fine, but we happen to be dealing today with a 100-percent increase for the next President of the United States, not for Members of the Congress. We will cross that bridge when we get to it.

Mr. Speaker, I urge the defeat of this bill, and reserve the remainder of my time.

Mr. ALBERT. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan, the distinguished minority leader.

Mr. GERALD R. FORD. Mr. Speaker, I appreciate the yielding of the time by the distinguished majority leader.

I compliment him for taking the initiative in advocating this legislation for a President not of his own party. I think this is indicative of the fine character and forthrightness of the gentleman from Oklahoma.

I think we all recognize that the Presidency is the biggest and the toughest job in this country and perhaps in the world. The President of the United States in the next 4 years will be dealing with budgets ranging from $180 billion to $200 billion a year. Today when the new President takes over he will become Commander in Chief of a military force of approximately 3.6 million men and women on active duty. At the same time he will be the ranking civilian in the executive branch where the total civilian employment is approximately 2.7 million.

Now, several years ago, rightly or wrongly, the Congress adopted the principle of comparability with industry in fixing the salaries of Federal Government officials and employees. I feel very strongly that the President stands immeasurably taller and carries far, far heavier responsibilities than the head of any large U.S. corporate organization in the United States. Yet by almost any standard his salary is smaller.

Mr. WAGGONNER. Mr. Speaker, will the gentleman yield to me at that point?

Mr. GERALD R. FORD. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. I thank the gentleman for yielding.

Mr. Speaker, I think it would be an absolute impossibility for us to legislate comparability in pay for the President of the United States with any other job which exists on the face of this earth today. As far as I am concerned, the President of the United States, no matter who he is, is the most important man in the world to me and to every other American. There is no such thing as legislating comparability for him. This might seem like a rather sizable increase today, but I will tell you one thing: It is very little as far as I am concerned in taking care of the needs of the President of the United States. I am prepared to support this or any other proposal that we can bring on today which will give the President of the United States at least a fraction of what he deserves. It makes no difference to me who the President is or what his party is in making this decision.

Mr. GERALD R. FORD. Mr. Speaker, I am very grateful for the observations

and comments of the gentleman from Louisiana.

Let me continue with one or two additional observations.

While the salaries of Federal Government officials, employees, and other elected officeholders have been adjusted in recent years, the President's salary has not been adjusted upward since 1949. I wonder how many other Americans today, those who serve in this body, those who work in this body, or those who are otherwise employed in the United States, would feel that they had been done right by if their salaries should have been held at the 1949 level, particularly since the cost of living from 1949 to date has advanced approximately 50 percent from then to the present time. Whether we like it or not, undoubtedly the cost of living will increase anywhere from 2 to 3 percent in each of the years for the next 4 years.

Perhaps some may argue, Mr. Speaker, that the President's salary should not be increased. Obviously we have one and maybe others who feel that way. The quarrel, if there is one, might be over the size of the increase. I personally feel the size of the increase can be fully justified on the basis of these points:

First, the President's salary has not been increased or adjusted upward since 1949. And, it is absolutely certain that if we do not act between now and January 20 it will not be adjusted upward for the next 4 years.

Certainly, the office of the President should be compensated monetarily at a figure at least comparable to that of the head of any reasonably comparable corporate organization. Quite frankly, I know of none that has so many people involved, that spends so much money, that has such vast responsibilities on a worldwide basis.

Third, the compensation of the office of the President should be sufficiently large to allow for adjustments of salaries of other high-ranking Federal elective and appointed officials and the top Federal classified employees.

The SPEAKER. The time of the gentleman from Michigan has expired.

Mr. GERALD R. FORD. Will the gentleman from Oklahoma yield to me 3 additional minutes?

Mr. ALBERT. I yield the gentleman 3 additional minutes.

Mr. GERALD R. FORD. So I say if the adjustments at this time were not made of the size proposed, then the comparability plan would have to be abandoned for the spread between the salaries of the President and that of other high-ranking officials would have to be unreasonably narrowed.

The proposed adjustment in the President's salary and those which will be recommended for other high Federal officials will have no appreciable impact upon the Federal budget.

In conclusion, I think it must be kept in mind that while other Americans have been receiving pay adjustments annually, or more frequently, a great number of top appointed and elective officials have not. Therefore, any adjustments in their pay will represent adjustments that span a number of years and must be viewed in that light.

Therefore, Mr. Speaker, I urge approval of the resolution which has been offered by the distinguished gentleman from Oklahoma (Mr. ALBERT).

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

Mr. GERALD R. FORD. I yield to the gentleman from Pennsylvania.

Mr. CORBETT. I thank the gentleman from Michigan for yielding.

I simply wish to support the gentleman's remarks with the facts that Members of Congress since 1949 have had their salaries increased 100 percent. The top salary for postal employees has gone up 110.8 percent and the salary for the top classified workers has gone up 100 percent, exactly the same figures as are proposed here for the President.

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

Mr. GERALD R. FORD. I yield to the gentleman from North Carolina.

Mr. JONAS. I understood the gentleman from Arizona (Mr. UDALL) during the debate to make the point that the Federal taxes on this increase would amount to around $35,000; is that correct?

Mr. UDALL. No, no.

Mr. ALBERT. Mr. Speaker, will the gentleman yield to me at that point?

Mr. GERALD R. FORD. Yes; I shall be glad to yield to the gentleman from Oklahoma.

Mr. ALBERT. I do not have the figures here, but for a person with no dependents the take-home pay would be only $98,818. With one dependent it would be $99,246.

Mr. JONAS. We hear a lot these days about take-home pay. I think it is very important that we have the facts directly set forth in the RECORD.

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

Mr. GERALD R. FORD. I yield to the gentleman from Arkansas.

Mr. MILLS. I am sure that my good friend has made clear what he is talking about and that is what is left after Federal taxes. I can assure the gentleman that his figures are correct, based upon the salary alone. What we are talking about is $98,818 or $99,246 for the President after Federal taxes out of a $200,000 salary.

Mr. JONAS. And, that does not take into consideration New York State or New York City income taxes, both of which have to be paid out of the 50 percent that is left?

Mr. MILLS. That is correct.

Mr. ALBERT. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York (Mr. DULSKI).

Mr. DULSKI. Mr. Speaker, I have cosponsored H.R. 10, together with our distinguished majority and minority leaders, the Honorable CARL ALBERT and the Honorable GERALD R. FORD, and the ranking minority member of the Post Office and Civil Service Committee, the Honorable ROBERT CORBETT.

We took this action in order that the House may have an opportunity to consider an increase in compensation for the President before President-elect Nixon takes office on January 20, 1969.

The bill has been referred to the Committee on Post Office and Civil Service. But, as everyone knows, the committee has not yet been organized and there will be no opportunity for committee consideration of the proposal before January 20.

Article II, section 1, clause 6, of the Constitution, provides that the President shall receive a compensation for his services "which shall neither be increased nor diminished during the period for which he shall have been elected."

A 4-year term of office for the President is fixed by title 3, United States Code, section 101, and the term "in all cases, commences on the 20th day of January next succeeding the day on which the votes of the electorates have been given."

Section 102 of title 3, United States Code, now fixes the compensation of a President in the amount of $100,000 a year. This rate was last adjusted by the act of January 19, 1949, and became effective at noon on January 20, 1949, when President Truman took office.

On January 20 of this year, a new presidential term will begin. The prohibition of the Constitution against changing a President's compensation during his term of office makes it of the utmost importance that this legislation be considered under the unusual procedure which we are following here today.

Unless the compensation of the President is adjusted before January 20, the Constitution would prevent this act from becoming operative for the duration of Mr. Nixon's term of office.

In any sensibly operated organization—whether public or private—the rate of pay for the top-ranking position should reflect its responsibility.

It is impossible, of course, to provide a salary for the President of the United States to fully compensate him for the heavy responsibility he bears. His is the most difficult, demanding, and important office the world has ever known. There is no comparable position anywhere else.

On the other hand, it is the responsibility of the Congress to provide a rate of compensation for our President that is in at least some degree commensurate with the responsibilities for the position he holds.

Mr. Speaker, favorable consideration of H.R. 10 will result in only the fifth increase in compensation for the President of the United States since the beginning of our country.

The President's compensation was fixed at $25,000 in 1789, at $50,000 in 1873; at $75,000 in 1909, and at $100,000 in 1949.

These five increases compare with nine increases for the Vice President, 10 increases for members of the Cabinet, and 11 increases for the top judges of our judiciary system during the same period of time.

Mr. Speaker, as I indicated at the outside, this legislation has the nonpartisan support of the leaders of the House of Representatives. I urge your favorable consideration of the proposal here today.

The SPEAKER. The question is on the motion of the gentleman from Oklahoma

that the House suspend the rules and pass the bill H.R. 10.

The question was taken.

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

The SPEAKER. The Chair will count.

Two hundred and twenty-one Members are present, a quorum.

For what purpose does the gentleman from Iowa rise?

Mr. GROSS. Mr. Speaker, on that question I demand the yeas and nays.

The yeas and nays were refused.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RECEPTION FOR PRESIDENT

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute.)

Mr. GERALD R. FORD. Mr. Speaker, I have asked for this time to ask the distinguished majority leader, are we having the reception for the President at the present time?

Mr. ALBERT. I appreciate the gentleman making the inquiry. We are having the reception and we hope to get over there within the next 5 minutes.

Mr. GERALD R. FORD. I thank my colleague very much and I hope that everybody comes to greet the President and say goodbye and wish him the very best.

CHAIRMAN DULSKI PROPOSES BROAD POSTAL REFORM

(Mr. DULSKI asked and was given permission to extend his remarks in the body of the RECORD and to include extraneous matter.)

Mr. DULSKI. Mr. Speaker, one of the most critical issues—and probably the most urgent—facing us as we begin this 91st Congress, is what we should do about the U.S. Post Office Department.

The postal service has a more direct, personal, and day-to-day effect on more Americans than does any other function of our Government.

And, more and more, Americans are demonstrating every day to each of us that they are deeply and seriously concerned with the condition of our postal communications system, and the grave problems confronting it.

Additionally, at this time there is unprecedented agreement of opinion among postal officials, as well as independent authorities, on the urgent need for sweeping reforms in postal policies and operations.

In my judgment—a judgment shared, I believe by most Members of this House—there is urgent need for prompt legislative action to preserve and strengthen our vast, sprawling, and heavily overburdened postal complex.

Certainly, all presently available information indicates that the U.S. Post Office is in serious trouble, and these troubles cannot necessarily be blamed entirely upon the postal system itself.

As now constituted, the Post Office Department does not have the means to do the job it has been assigned. Indeed, it cannot be expected to continue—let alone to exceed—the present level of postal service in the face of the tremendously increased mail volume.

DEPARTMENT IS HANDICAPPED

The Department is handicapped by numerous legislative, budgetary, financial, and personnel policy restrictions that have accumulated over the years and are virtually self-defeating.

These restrictions foreclose to any Postmaster General most of the modern management and business practices which should be available to him if he is to carry out his responsibilities to provide efficient and economical service.

Another damaging handicap under which the Department is forced to operate is its extreme vulnerability to constant, yet unwise, interference from all types of political and personal pressures which adversely affect both postal employment and operating policies.

Mr. Speaker, a great number of solutions for the many postal difficulties have been proposed over the years. Most have been offered in good faith and have been the result of very careful study. Many have been piecemeal, others more sweeping.

Probably the foremost recommendation—at least the one now being given widespread publicity—is that recently made by the President's Commission on Postal Organization, usually known as the Kappel Commission. This recommendation is to turn the postal service over to an independent nonprofit corporation.

For the past several weeks I have devoted a great amount of time and attention to the Kappel Commission's report, as well as to the wealth of valuable information and evidence which the supporting documents present to highlight the many postal problems and their causes.

The report is certainly a most thoroughly comprehensive and analytical document. It is a credit to the outstanding citizens who prepared and presented it.

I strongly concur with the Commission's findings that postal reform is an immediate necessity in the public interest. I also agree that no private organization or firm would be willing to take over what is described as essentially a bankrupt postal system.

THREE BASIC CHANGES NEEDED

My own studies, and my close association with postal problems over the past decade, convince me that there are really three basic changes required in the present Post Office Department to permit it to do the job that needs to be done.

First, we must give to top management the authority it needs to operate consistent with its responsibilities. The weakness of the present administrative setup is that management is severely and unjustly hampered in its effort to administer the Department under the law in a businesslike way,

Second, we must modernize employee-management relations to fit today's operations, and

Third, we must provide the Department with updated business-type financing.

In the area of financing—probably the most critical problem needing attention—there are two areas which require immediate action.

We should have a system of financing that allows the Department reasonable flexibility in the use of the revenues which it generates. Under the present outmoded system all receipts must be funneled to the U.S. Treasury, and then the Department is subject to all kinds of crippling appropriation restrictions on the use of these revenues for its own operations.

In addition, it is essential for efficient management that the Department be allowed to finance both construction of its own buildings and the acquisition of necessary operating equipment. It is also essential that the Department be able to support in full the all-important research and development work that can permit the Department to meet the needs of the ever-changing, but always-increasing, flow of mail.

However, Mr. Speaker, based on the record at this time, and on my own careful analysis of the problem, I am not yet prepared to conclude that the only remedy for the ills of the postal service is to replace the Post Office Department with a nonprofit, Government-backed corporation as the Kappel Commission has proposed.

MAJOR REFORMS ESSENTIAL

I am certainly willing to agree that major changes—perhaps even radical changes—are needed in our historic postal policies and practices.

But there must be great care taken that the cure is not worse than the illness. I think a real possibility exists that this could occur were such a drastic changeover to be made, that is, a conversion from an executive department to a nonprofit corporation.

As I indicated, I have spent the major part of my time since the close of the 90th Congress in studying our postal system. I have carefully reviewed the Kappel Commission's report and its detailed supporting documents, along with the history of the creation and operation of a number of Federal corporations.

It appears abundantly clear to me that there are both advantages and disadvantages in the use of the corporate device to carry out a governmental mission.

The creation of a corporation generally is warranted only, first, when a program or activity is necessary in the public interest; second, when no one except the Government can or should undertake it; and third, when the customary and normal organizational structure of the Government is not suited to its accomplishment.

Of those three tests, only the first—necessity in the public interest—applies to the postal service.

The Post Office Department and its 700,000 employees have been doing—and are doing—a remarkably effective job when we consider the burdens imposed on them. They stand ready, willing, and able to do an even better job if the Congress will only grant adequate relief from the serious handicaps that now exist.

REFORM—NOT REPLACEMENT

In short, Mr. Speaker, my studies indicate that every major postal reform that a nonprofit corporation might achieve can be done more quickly and effectively within the present framework of Government. Most important, I am convinced these can be done without the inevitable disruption and turmoil involved in a changeover to a corporation.

For these reasons, and to provide a responsible alternative to the corporation proposal for the Congress to consider, on the opening day of the 91st Congress last Friday, I introduced a comprehensive postal reform bill, H.R. 4.

My bill would reorganize and greatly strengthen the postal service, but continue it as a regular Government department with the Postmaster General as a member of the President's Cabinet.

I sincerely feel that my bill will do everything that is claimed for a corporate entity—and all within the framework of the historic philosophy and the fundamental principles of our Government.

It would preserve the traditional character of the postal service as a direct duty of the Government—a duty to be carried out by placing responsibility on an executive department, and giving the department the authority and flexibility it must have to carry out that responsibility.

Mr. Speaker, the Kappel Commission report contains five recommendations which it claims would achieve the goal of "postal excellence."

It is my belief that the provisions of my bill would not only accomplish most of the recommendations of the Kappel Commission, but that the bill, if enacted, would also really achieve our common goal of "postal excellence."

H.R. 4 VERSUS KAPPEL PLAN

I would like at this point to outline briefly the major provisions of my bill as they relate to the five Kappel Commission's recommendations.

The first recommendation of the Commission is "that a postal corporation owned entirely by the Federal Government be chartered by Congress to operate the postal service of the United States on a self-supporting basis."

The Postmaster General already has full management responsibility, but he lacks a necessary measure of authority and flexibility of operations.

My bill retains the Post Office as an executive department headed by the Postmaster General, but—for the first time in history—it would grant a measure of authority and flexibility that is equal to his level of responsibility.

Thus, it would enable the Postmaster General and his Department to do every necessary thing that a corporation could do.

Under H.R. 4, the Department would have the objective of supporting itself from its revenues, with the exception of public service allowances, which would continue to be subject to congressional scrutiny and appropriation.

The Department would be enabled to use its own revenues to pay its own expenses free of present overly restrictive budgetary and appropriation limitations.

PERIODIC RATE ADJUSTMENTS

Provision is also made for periodic semiautomatic postal rate adjustments through a quadrennial commission whose recommendations would be submitted to the President once every 4 years. The President would use the Commission's recommendations as the basis for his formal rate proposals to Congress.

The President's proposals would take effect as law in 120 days unless either the House or the Senate voted changes, in part or in full.

The second Kappel Commission recommendation is:

The Corporation take immediate steps to improve the quality and kinds of service offered, the means by which service is provided and the physical conditions under which postal employees work.

My bill provides a strong foundation for modernization of postal plant and equipment. It establishes a new Postal Modernization Authority, a body corporate headed by the Postmaster General.

The Authority would act as a holding company for all property and equipment, with authority, first, to issue, finance, and retire bonds secured by the property; second, to conduct a vigorous research and development program; and third, to lease needed property and equipment to the Post Office Department on a cost-recovery basis.

The Postal Modernization Authority would be subject to the Government Corporation Control Act.

LABOR-MANAGEMENT RELATIONS

My bill also contains a complete labor-management relations program which embodies all of the essential policies, principles, practices, and procedures that have been adopted in modern, progressive private enterprise.

It includes provisions for, first, compulsory arbitration; second, settlement of disputes in disagreement by an independent Labor-Management Relations Panel; and third, clear-cut standards and guidelines for both management and labor in the field of employee-management relations.

The third Kappel Commission recommendation is:

All appointments to, and promotions within the postal system be made on a nonpolitical basis.

Title II of my bill, H.R. 4, prohibits all kinds of political recommendations, influence, and interference in the appointment of postmasters, and also extends this prohibition to all other types of undesirable pressure or influence from any other source.

The fourth recommendation of the Kappel Commission is:

Present postal employees be transferred, with their accrued Civil Service benefits, to a new career service within the Postal Corporation.

The labor-management provisions of H.R. 4 are considered to be the critical improvement that is needed. They will work effectively to update the postal personnel system and make it fully responsive to the needs of both management and the public.

The fifth and last recommendation of the Kappel Commission is:

The Board of Directors, after hearings by expert Rate Commissioners, establish postal rates, subject to veto by concurrent resolution of the Congress.

QUADRENNIAL COMMISSION

As pointed out earlier, H.R. 4 provides for periodic review and adjustment of postal rates by a Quadrennial Commission for the purpose of returning cost, exclusive of public service.

It also provides a semiautomatic procedure for proposed rate adjustments to take effect as law without the necessity of extensive, frustrating, and often bitter consideration of the complexities of postal rates before congressional committees.

Mr. Speaker, the bill I have introduced, H.R. 4, is most comprehensive. It very carefully goes to what I consider to be the heart of the Post Office Department's problems today. Even more important, it will let the Department be responsive to the problems of tomorrow and, indeed, the years ahead.

I intend to schedule prompt hearings by my committee on the entire subject of postal reorganization because I am convinced that the Department can be expected to do its increasingly difficult job of handling the mail only if we give to management the necessary administrative tools.

Mr. Speaker, as a part of my remarks, I am including a summary of my bill by title:

SUMMARY OF H.R. 4, POSTAL REFORM ACT OF 1969

H.R. 4 is an omnibus postal reform bill directed to the correction of major deficiencies in legislative and operating policies and procedures which tend to adversely affect the postal service of the United States.

The bill is divided into eight titles.

TITLE I—GENERAL POLICY STATEMENT

Title I of the bill sets forth findings of the Congress with respect to the present condition of the postal service, the prospect for its efficient and economical operation, the causes of its difficulties, and the basic principles upon which remedial measures can be effected.

TITLE II—APPOINTMENT OF POSTMASTERS

Title II of H.R. 4 removes one of the most criticized practices that burden the postal establishment—the archaic procedure of political and personal patronage appointments of postmasters.

Each of the 32,000 post offices is managed and administered by a postmaster who, as the law now stands, may be selected either politically or by personal choice of one or a few individuals having little or no direct responsibility in postal affairs. Yet, the postmaster is perhaps the most important postal management figure—the focal point of a service that vitally concerns the public. There is no other practice in our postal institution that has more of an irritant and has bred more criticism than political and other patronage choices in the appointment of postmasters.

Title II of H.R. 4 provides sweeping reform in this area. It absolutely prohibits any written or oral recommendation for appointment of a postmaster by any Member of Congress, any elected official of a State or local government, or any official of a partisan political organization.

Of equal importance, the bill also prohibits any such recommendation by any other

person or organization, subject to only two necessary exceptions.

The first exception permits the Postmaster General to consult appropriate postal management and administrative officials as to the qualifications and ability of a postal employee who is being considered for promotion to fill a vacant postmastership.

The second exception permits authorized government representatives to inquire as to an applicant's loyalty and suitability, and to solicit from a former employer of an applicant a judgment as to the applicant's qualifications and ability.

Any person who applies, or is being considered, for a position of postmaster will be disqualified if he knowingly requests any of the prohibited recommendations.

If any prohibiting recommendation is received by a Federal official, it must be rejected with a notice that it violates this title.

The existing residence requirements for postmasters are continued.

TITLE III—POSTAL TRANSPORTATION

Title III will modernize postal transportation laws and provide the Postmaster General greater flexibility in the procurement of transportation of mail by railway, airplane, and motor vehicle.

This title will authorize the Postmaster General to obtain transportation services for mail from regulated motor carriers and freight forwarders on exactly the same basis as he now does from the railways.

The Postmaster General will be authorized to negotiate rates of compensation with scheduled air carriers as well as railways.

The requirement that certain airport-to-post office transportation be performed by Government vehicles will be repealed.

The residence requirement for star route contractors will be repealed.

The bill will establish authority for the Postmaster General to enter into mail transportation contracts which require the use of more than one mode of transportation.

The proposed revision will extend the statutory obligation of railway common carriers to transport mail and provide related services at rates prescribed by the Interstate Commerce Commission, to the two important segments of the transportation industry not now covered by any corresponding obligation—the regulated motor carriers and freight forwarders.

TITLE IV—MODERNIZATION OF POSTAL FACILITIES

Title IV of H.R. 4 is directed to what has been described as the most glaring deficiency in our entire postal operation—the failure to provide modern and efficient plant and facilities for the gigantic postal operation.

As explained in Title I, the present structure of legislative, budgetary, and procedural limitations constitute a veritable straitjacket on the Postmaster General in terms of acquiring, developing and improving the facilities he and his team use in moving the mails.

Title IV creates a complete Postal Modernization Authority, a body corporate, to act, in effect, as a development and holding company, controlled by the Postmaster General, for all buildings, facilities, equipment, and machinery needed in postal operations.

All property of the Post Office Department and substantially all of the responsibilities and authorities of the existing Bureau of Facilities and the Bureau of Research and Engineering are turned over to the Postal Modernization Authority.

The Authority is authorized to acquire, hold, develop, and perfect buildings and equipment suited to postal needs, to issue and retire bonds for those purposes, and to lease needed buildings and equipment to the Postmaster General at rentals which will return the Authority's total costs.

This holding company structure will remove the obstructive handicap of a penny-wise, pound-foolish policy that for many years has deprived the Post Office Department of adequate facilities and imposed the impossible burden of providing up-to-date mail service with horse-and-buggy facilities.

The Postal Modernization Authority is the first of three major financial remedies provided by H.R. 4.

TITLE V—COMMISSION ON POSTAL FINANCE

Title V of H.R. 4 removes a stumbling block that has contributed in untold measure to the unfortunate image of the Post Office Department as a losing and inefficient Government function.

The revenue received for handling the ever-increasing volume of mail is controlled by a structure of postal rates, charges, and fees rigidly prescribed, for the most part, by the Congress.

Experience proves that every effort to obtain increased postal revenue, by whatever Postmaster General may be in office, is an undertaking of almost frightening magnitude.

Each official proposal on general postal rate adjustments is met immediately by an opposing hue and cry from the general public and large users of the mails.

The consideration by Congressional committees of such proposals is characterized by long, trying, and bitterly controversial hearings. Members are subjected to exorbitant demands and all kinds of pressures.

The legislative changes that result in many instances are characterized more by personal preferences, bias, and prejudice than by the best interests of the Government and the postal service.

Title V of the bill removes the initial and formative stages of rate adjustment proceedings to a more suitable forum—a quadrennial Commission on Postal Finance—but leaves the ultimate decision on proposed rate adjustments to the Congress through the exercise of a veto power over proposals originated by the Commission.

This title creates a Commission on Postal Finance that will exist for an 18-month period every 4 years. Five members of the Commission will be appointed by the President, 3 by the President Pro Tem of the Senate, and 3 by the Speaker of the House.

The Commission is required to study and review all postal rates, charges, and fees on all classes and kinds of mail, as well as requirements and conditions of mailability as in effect when the Commission is appointed.

The Commission will hold hearings and consider the views and the interests of the Government and of mail users, and then present to the President its recommendations for such adjustments as, in its judgment, are necessary to return the total costs and expenses incurred by the postal establishment—on an across-the-board basis—after excluding the public service allowance provided for by law.

The Commission is authorized, among its other powers, to review and to recommend needed changes in the public service allowance, in the structure and operation of the Postal Modernization Authority, established by Title IV of H.R. 4, and the cost ascertainment system of the Post Office Department.

The President, in turn, is called on to transmit to the Congress his recommendations, based on his review of the Commission's proposals, for adjustments in postal rates, charges, and fees.

If within 120 days after transmittal of the President's recommendations no differing statute has been enacted, and neither the House nor the Senate has disapproved any or all parts of the recommendation by bill or resolution, the President's recommendations automatically take effect as law.

TITLE VI—POST OFFICE DEPARTMENT REVOLVING FUND

Title VI of H.R. 4 represents the third part in the total financial breakthrough provided by the Dulski bill. It supplements the first two—the Postal Modernization Authority and the quadrennial Commission on Postal Finance.

This title makes a true and effective revolving fund available to the Postmaster General, through which he is authorized to receive and to use all postal revenues to operate the postal service, free of the present unrealistic and obstructive budgetary and appropriation limitations and restrictions.

The operation and administration of this revolving fund will be subject to effective fiscal control through internal accounting and auditing procedures and audit by the General Accounting Office. It represents a long-overdue changeover to responsible business practice, without which the present outmoded practices have severely handicapped the Post Office Department in terms of availability of its revenues to pay for its operations.

TITLE VII—EMPLOYEE-MANAGEMENT RELATIONS

Title VII of H.R. 4 responds vigorously and effectively to the severe and worsening problems of the postal establishment in the field of employee relations.

Every authoritative study of postal affairs in recent years has stressed the problem of employee morale and the unsatisfactory condition of employment in the Postal Field Service.

The recent report of the President's Commission on Postal Organization, under the Chairmanship of Frederick R. Kappel, placed emphasis on employee-management relations second only to its primary recommendation that the Post Office Department be turned over to a Government corporation.

Title VII establishes a clearly defined, workable, and highly desirable charter for a new and dynamic postal employee-management relations program.

It lays down the fundamental principle that free and friendly consultation between employee unions and management will contribute to better postal service; that employees are entitled to be heard by management on matters affecting them; and that strong and democratically administered employee organizations are to be encouraged in the Postal Establishment.

This title provides for compulsory arbitration of differing viewpoints, for orderly and effective settlement of appeals and grievances, and for the establishment of an independent, full-time Postal Labor-Management Relations Panel vested with authority to render final and conclusive decisions on disputes between employees and management.

It also spells out a clear policy for the granting of exclusive recognition to postal employee organizations, based on identification of crafts for employees and separate consideration of supervisors' organizations, together with codes of proper conduct for both management and employees.

The rights of both employee and management representatives to present their cases, to testify and be heard, and to question and cross-examine witnesses—without fear of intimidation or reprisal—are guaranteed.

This title of the bill, in the judgment of the sponsor, is the most important advance in the field of postal management that has yet been developed. It maintains the traditional policy of the great postal employee unions that they do not ask, and do not want, the right to strike.

TITLE VIII—MISCELLANEOUS AND EFFECTIVE DATES

Title VIII of H.R. 4 establishes the position of Executive Assistant for Employee Relations, with stature equal to that of the present Executive Assistant to the Postmaster General, to act as a personal adviser to the Postmaster General in the executive field of employee relations. The Executive Assistant

for Employee Relations will not be subject to supervision, control, or any interference on the part of any other officer or employee of the Post Office Department.

The establishment and use of this new executive position is needed to implement, at the very top level in the Department the broad new employee-management relations program provided for by Title VII.

EFFECTIVE DATES

The date of enactment will be the effective date for:

Title I—Congressional findings with respect to postal reform,

Title IV—Modernization of Postal Facilities,

Title V—Commission on Postal Finance, and

Title VIII—Miscellaneous provisions and the effective dates.

Title VII—Employee-Management Relations, will become effective on the first day of the second month which begins after the date of enactment.

Title II—Appointment of postmasters, will become effective on the first day of the third month which begins after the date of enactment.

Title III—Postal Transportation, will become effective on the first day of the sixth month which begins after the date of enactment.

Title VI—Post Office Department Operations Fund, will become effective on the first day of the first fiscal year which begins after the date of enactment.

NEW LEGISLATION NEEDED FOR CLEANER WATER

(Mr. VANIK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. VANIK. Mr. Speaker, I am today introducing the Federal Water Pollution Control Act of 1969. This legislation, which improves and expands past water pollution control laws and provides for new protection in the area of oil spillage and mine acid leakage, was passed by the other Chamber on July 10, 1968, and by this Chamber on October 7, 1968. The Senate agreed to House amendments on October 11. But confusion and inaction in the closing hours of the 90th Congress, coupled with heavy lobbying pressures against the bill by certain special interests, prevented the measure from being enacted into law.

Our Nation is faced with a continuing water pollution crisis. The dimension of the problem is outlined in an article in the November issue of McCall's magazine by Dr. David Peter Sachs, a former Clevelander, entitled "Drink at Your Own Risk." The article includes a table, now dated by changing conditions and water levels, listing numerous communities, by State, where the drinking water is not satisfactory, is a potential hazard to health, and is not checked frequently enough. It is to our shame that in our rich Nation all our citizens are not guaranteed safe drinking water.

As the Nation grows, the demands for clean water grow. A report released yesterday on projected powerplant needs, both thermal and nuclear, expresses great concern that we will not be able to construct these huge power facilities without destroying more rivers, more wildlife, more of our irreplaceable, unspoiled natural resources.

To provide clean water for all Americans, to plan for the future, we must legislate now. We must be willing to supply funds. This is the purpose of the legislation which I am reintroducing today.

Most significantly, the Water Pollution Control Act of 1969 provides a new form of assistance to localities in the construction of water treatment facilities. To make the present Federal grant appropriations for such facilities go further, the Federal Government would be authorized to enter into 30-year contracts with localities during which it would contribute the present Federal share of such project costs. Although significant funds have been authorized to help build such treatment facilities, usually less than a third of the authorization has been appropriated. These appropriations have been inadequate to meet the need. The use of grants will enable badly needed projects to be started immediately, rather than waiting for full appropriation.

Another section of this legislation is of particular significance to the Cleveland area and the entire Great Lakes region. This bill provides for contracts or grants for research and development of new methods to prevent pollution and control its effects in lakes. Other sections provide assistance in controlling acid and other mine water pollution.

A portion of the legislation would allow grants to assist in providing improvements in existing treatment facilities through the addition of the latest and most technically advanced treatment devices.

The legislation provides for a new section of pollution control law providing clearly defined controls over the condition of wastes dumped in American waters by ships and boats. In addition, fines and liabilities are set for the negligent spillage of oils and other hazardous polluting matter from vessels while in American waters. Hopefully, this section will prevent a *Torrey Canyon* disaster in the waters of our Nation. It will make provision for cleaning up from such disasters, if they do occur, as well as fixing the blame and liability for such damage to our public, natural resources.

Mr. Speaker, full hearings have been held on this bill. Both Chambers approved it last year. It is my hope that this legislation can be acted upon in the next several months and that some of its more critical provisions may become effective in the new fiscal year beginning July 1. The need for this legislation has already been clearly established. It is essential for our future generations.

ADAM CLAYTON POWELL

(Mr. STRATTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. STRATTON. Mr. Speaker, I take this time to comment briefly on the votes I cast on Friday, January 3, with regard to the seating of ADAM CLAYTON POWELL.

Two years ago when this issue was first presented to the House, I voted not to seat Mr. POWELL. I did so for one very compelling reason; namely, that Mr. POWELL's deliberate decision to remain outside of New York State rather than submit himself to the jurisdiction of the New York State courts had meant that he was not a resident of the State from which he was elected, and therefore failed to meet one of the three basic constitutional qualifications for membership.

Since the Constitution also provides that the House itself shall be the final judge as to whether Members-elect do or do not meet the qualifications of House membership, a determination by the House on these grounds could not have been challenged in any other place.

Many of may colleagues, I am frank to say, did not concur at the time in this reasoning with regard to Mr. POWELL; but I might point out that had the House followed my lead on this point 2 years ago we would not now be faced with a suit in behalf of Mr. POWELL's seating in the U.S. Supreme Court.

On last Friday, when the question of Mr. POWELL's seating came before this new 91st Congress, the situation that had existed in January 1967 no longer obtained. Mr. POWELL had in the interval made his peace with the courts of New York State, had returned freely and frequently to New York State, and had met all of his obligations in New York—except a pending 90-day jail sentence which is temporarily being deferred by the State courts, as I understand it.

In short, Mr. POWELL had fully removed the previous cloud from his residency qualification. For that reason I believed the gentleman from New York had a right to be seated and I supported and voted for that right last Friday.

I did feel, however, that because of the very serious questions with regard to Mr. POWELL's conduct in the 88th and the 89th Congresses reported to the House by a special committee in January 1967, we ought not to act to seat Mr. POWELL without taking some official recognition of the charges that led a majority of the House to vote to exclude him 2 years ago. The original Celler seating resolution made no mention of any possible House review of these very grave charges once Mr. POWELL was seated, and therefore I opposed the "previous question" motion, that action which would have made it impossible to offer to the original Celler seating resolution any amendments dealing with the serious charges against Mr. POWELL.

When the move to block amendments to the Celler seating resolution failed I would myself have favored amending the original resolution to refer the question of possible disciplinary action arising from these charges to an appropriate committee of the House. I mentioned that possible amendment briefly on the floor during the debate.

As it turned out, the parliamentary situation never made it possible for that amendment to be offered. Instead I supported the substitute finally offered by Congressman CELLER to seat Mr. POWELL and fix a penalty of $25,000 against him because of the findings made by the special committee in January 1967.

LEGISLATION TO REMOVE ONE-BANK EXEMPTION

(Mr. BENNETT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BENNETT. Mr. Speaker, on the first day of the 91st Congress, I introduced a bill to close the loopholes in the Bank Holding Company Act of 1956, which allows one-bank holding companies and labor unions to own banks.

I believe the exemptions in the Banking Act of 1956 should be removed, and my legislation, drafted and approved by the Federal Reserve Board, would accomplish this. The principle adopted by Congress in the 1933 Banking Act, that it was against the public interest for banks and nonbanking businesses to be controlled by the same ownership, should be upheld.

It is disturbing to read reports that banks are going into nonbanking businesses. I believe in the words of Federal Reserve Board Chairman William McChesney Martin, who said recently:

> This is a real can of worms. It can affect the whole capitalistic system in the U.S. The line between banking and commerce should not be erased.

Legislation which I sponsored and supported and was passed in 1966, stripped four other exemptions from the law for: long-term trusts, registered investment companies, nonprofit, charitable, religious, and educational institutions, and companies with at least 80 percent of their assets in agriculture. We need to act on the remaining two exemptions in the 91st Congress.

Specifically, my 1969 bill would amend the exemption rule in the 1956 act, which states "each of two or more banks" to "any bank" and do away with the provision for "labor, agricultural, or horticultural organizations." The 1956 act prohibits corporations controlling more than 25 percent of two or more banks from engaging in anything but banking. The present law does not cover companies owning only one bank; and where State law allows branch banking, this nullifies the purpose of the Federal law. The recent trend is for commercial banks to reorganize into one-bank holding companies. Today, there are over 700 of these companies, about 200 more than in 1966, and 600 more than in 1956 when the Banking Act was passed. Twenty-two of the Nation's largest banks have organized the Association of Corporate Owners of One Banks to push further into the conglomerate banking-non-banking field.

The two remaining exemptions now in the law represent possible conflicts of interest and monopoly and are not in the public interest. There is the chance that banks would bail out failing companies they have an interest in to the detriment of depositors of the bank; they might refuse to extend credit to a competitor of one of its subsidiaries or require borrowers to trade with one of its firms.

THE BLACK SECESSION MOVEMENT

(Mr. RARICK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RARICK. Mr. Speaker, I have been besieged with inquiries from Americans alarmed by news promoting a threatened program designed to give five States to black nationalists for establishment of a separate black nation to be called New Africa.

The idea is so repulsive to most Americans it would be easy to discount any such plot as the mutterings of extremist crackpots and to ignore the inquiries. For certainly no American would tolerate for one instant any idea of chopping up the United States. Likewise, no pro-American leader would consider negotiating such a sinister threat to destroy our Nation.

My inquiry at the State Department as to the existence of a written ultimatum to negotiate such a purpose revealed that on May 29, 1968, such a written demand from an organization calling itself "the Republic of New Africa" was received and does exist.

Any reply from the State Department or negotiations to this date are unknown. A copy of the ultimatum follows my remarks.

Further inquiry revealed that the September 12, 1968, Jet magazine outlined similar demands and indicated petitions were being circulated for recognition of the separate movement for presentation to the United Nations.

Political Affairs—the theoretical magazine of the Communist Party of the U.S.A.—in the November 1968 issue carried a detailed paper accredited to Claude Lightfoot, entitled, "The Right of Black America To Create a Nation," identified as material discussed at the Special Convention of the Communist Party, U.S.A., held in July 1968, and to be further discussed at the next Communist Party convention in April of 1969. The Lightfoot article also follows my comment.

The Esquire magazine for January 1969 permitted its pages to be used as a revolutionary rag to carry anti-South material by Robert Sherill, which amplifies the Communist Party line set forth in the Lightfoot article.

Esquire sought to dignify the subversive plot by printing pictures of the president and officers. Esquire, in selling this copy of its magazine, went so far as to place a flier on the cover reading: "Exclusive Report—The Black Plan To Take Over Louisiana and Four Other States."

I believe these reports are startling enough to merit notice, not only to my constituents, but to my colleagues as well.

The conclusion can be but publicized treason and sedition against the American people along with demands against the U.S. State Department to negotiate for peaceful settlement and petitions—as if from an established government—to the United Nations.

The real danger and threat to our national security comes from those who are the guiding intelligence and supplying the financial aid.

The Attorney General of the United States is most certainly aware of this conspiracy to peacefully overthrow a portion of our Nation. There have been no arrests, no investigations nor any reassurances to our people. Nor has the U.S. State Department denied any negotiations or communications with this satyagraha.

Meanwhile the communications media continues to build a "hate the South" image and continues to work progressively toward programs within the dialog of the Political Affairs memo.

The American people want to know what, if anything, has been done to protect the sovereignty of the Union and protect them from this openly publicized threat against our lives and property?

I consider these acts outrageous.

Mr. Speaker, I include the following documents with my remarks: New Republic note to the U.S. State Department; Jet for September 12, 1968; Political Affairs, November 1968; and Esquire magazine, January 1968.

The material follows:

THE REPUBLIC OF NEW AFRICA,
May 29, 1968.

Hon. DEAN RUSK,
Department of State, The United States of America, Washington, D.C.

GREETINGS: This note is to advise you of the willingness of the Republic of New Africa to enter immediately into negotiations with the United States of America for the purpose of settling the long-standing grievances between our two peoples and correcting long-standing wrongs.

The wrongs to which we refer are those, of course, which attended the slavery of black people in this country and the oppression of black people, since slavery, which continues to our own day. The grievances relate to the failure of the United States to enter into any bilateral agreements with black people, either before or after the Civil War, which reflect free consent and true mutuality. Black people were never accorded the choices of free people once the United States had ceased, theoretically its enslavement of black people, and this constitutes a fatal defect in the attempt to impose U.S. citizenship upon blacks in America.

The existence of the Republic of New Africa poses a realistic settlement for these grievances and wrongs. We offer new hope for your country as for ours. We wish to see an end to war in the streets. We wish to lift from your country, from your people, the poorest, most depressed segment of the population, and, with them, work out our own destiny, on what has been the poorest states in your union (Mississippi, Louisiana, Alabama, Georgia, and South Carolina), making a separate, free, and independent black nation.

Our discussions should involve land and all those questions connected with the prompt transfer of sovereignty in black areas from the United States to the Republic of New Africa. They must also involve reparations. We suggest that a settlement of not less than $10,000 per black person be accepted as a basis for discussion. We do assure you that the Republic of New Africa remains ready instantly to open good faith negotiations, at a time and under conditions to be mutually agreed. We urge your acceptance of this invitation for talks in the name of peace, justice, and decency.

MILTON R. HENRY,
First Vice President.

[From Jet magazine, Sept. 12, 1968]

PETITION DRIVE ON FOR BLACK REPUBLIC

U.S. blacks working to acquire five states as home for a separate black nation began a drive to get ghetto dwellers to sign petitions, asking payment to blacks for past injustices, and for recognition of the newly formed Republic of New Africa. Representatives aim at getting signatures of one-half of

1 percent of persons over 16 years who live in the ghettos of 10 major cities. The petitions call for the U.S. to pay $10,000 for each person in the new state—$6,000 to the Republic and $4,000 to the person. Minister of Information Brother Imari (Richard B. Henry) told JET the petitions will be presented to the UN General Assembly because the U.S. has veto power in the Security Council, which ordinarily would handle it.

[From Political Affairs, Nov. 11, 1968]

THE RIGHT OF BLACK AMERICA TO CREATE A NATION*

(By Claude Lightfoot)

The Special National Convention of the CPUSA, held last July, deferred discussion of the question of self-determination for black America to the next regular convention, to be held in April 1969. In preparation for such a discussion, this article is presented. The views set forth are my own and should in no way be considered official. Hopefully, this article will stimulate the kind of discussion which will result in a document that will reflect a collective effort.

In view of a long background of vacillation in the handling of the slogan of self-determination within the Party, it is imperative that we present this question today in a way that will stand the test of time. We must avoid dotting i's and crossing t's in respect to future developments. Marxism-Leninism does not equip us to do that. At best it enables us to perceive what is new, what is aborning, and to indicate the direction in which things are moving. It also enables us to foresee the possibilities inherent in a given trend. But it does not enable us to blueprint the exact form that trend may take.

In this discussion, therefore, we must combat a dogmatic, mechanical presentation of the matter. We must likewise strive to avoid being overwhelmed by the present state of affairs and acting as if it will prevail forever. With these yardsticks in focus, we shall discuss:

1. The historical background of the Communist Party's handling of the slogan of self-determination.

2. A more precise definition of the national character of the black people's movement, especially as it exists today.

3. Some proposals as to how this matter should be formulated in our draft program.

4. The main prerequisites for a black nation in the United States.

HISTORICAL BACKGROUND

In 1930 the Communist Party adopted a resolution on the Negro question in the United States. It was an historic landmark in determining scientifically the character of black people and their struggles. Prior to the appearance of this resolution most organizations and individuals, both black and white, had approached this question in a piecemeal fashion. Hardly any organization had presented a definitive treatment, either in the community as a whole or in the radical sector.

In fact, the radical predecessors of the Communist Party paid little or no attention to the problems confronting black America. They took the position that the Negro question was a class question and that the problems of the black worker would be solved in the same way as those of the white worker. In taking this position they betrayed strong influences of white chauvinism. Such an approach could only lead to passivity in the face of a continuous onslaught of racist ideology which singled out black people for special exploitation and persecution.

The 1930 resolution had three main features. 1st, we inscribed on our banner the goal of full economic, political and social equality for black America. We were the first political party to take this stand. A 2nd feature was the characterization we made of the special forms of oppression peculiar to black people on the American scene. 3rd, we declared that these special features of black persecution, coupled with such historical developments as slavery, had resulted in the development of a black nation in the Black Belt of the South.

The Party arrived at this conclusion on the basis of the Marxist criteria of nationhood. The essence of these is: A nation is a historically evolved, stable community of people having a common territory, a common language and a common economic life, reflected in a common psychological makeup or culture. Using these yardsticks, it was concluded that in the Black Belt black people had all the requisites of a nation, and therefore the right of self-determination applied to them. We called for equal rights for black people everywhere and self-determination in the Black Belt.

This position placed the CPUSA in the vanguard of all Americans.

The first two aspects of the struggle as defined in the resolution—the fight for equality and the special demands made necessary by the special forms of persecution—have stood up through the succeeding years and can be considered as firmly established. In regard to self-determination, our position has fluctuated several times.

This tendency to fluctuate shows that while there was some validity in the concept, our approach has been based on some faulty premises. We need, therefore, to examine the history of our application of this slogan to see what errors we made in our various analyses.

After declaring its position in 1930 the Communist Party proceeded to organize struggles based on the concept of equality and elaborated a series of special demands covering every aspect of oppression and superexploitation of black America. The Party sparked a new historic wave of struggles which shook the very foundations of the whole system of jim-crow segregation and discrimination. It was during this period that it came to be known as the party of the Negro people.

During this time almost all movements of a nationalist character faded into the background, and interracial efforts dominated the scene. There were many black forces who hailed the role of the Communist Party in fostering unity and raising the special demands of the Negro people. But they rejected the idea of nationhood in the Black Belt and the slogan of self-determination. The ruling circles contributed to this rejection by distorting the slogan, by convincing many people that such a proposition would be jim-crow in reverse. Consequently after several years of effort during which little or no consciousness of nationhood was manifested, and no significant response to the slogan of self-determination, the Party began to abandon it.

Earl Browder, then general secretary of the Communist Party, went as far as to declare that the black people had already exercised their right of self-determination and had chosen the path of integration into the American nation. But, at the close of World War II, when American Communists took stock of the Browder era in which opportunist positions had been taken on many questions of principle, it also took a new look at the question of self-determination. In 1946 the National Committee decided once again to raise the slogan of self-determination in the Black Belt.

There were those who raised serious doubts about the advisability of doing so. Some based their doubts on the fact that black America had indicated no consciousness of nationhood or self-determination. This led to a deeper probing into the status of the black nation.

As a consequence several Party leaders argued that the Negro people constituted a young nation, a nation which had not become full-blown and had not developed consciousness of itself as such. This came closer to defining the national character of the Negro people than did the previous position which treated the question as if a full-blown nation already existed within the Black Belt. Based on this new analysis we restored the slogan of self-determination.

Between 1946 and 1959, we witnessed an accelerated growth of struggles designed to establish first-class citizenship for black Americans. Simultaneously, there was a tremendous shift of population from the rural areas of the South into the urban regions of both the South and the North. The black population of the United States became widely dispersed and was no longer a substantial majority in any section of the country.

Moreover, the continuous wave of migrations also led to great changes in the class composition of the black community. It brought about the growth of the Negro workers as the dominant section of the population rather than the sharecroppers and farmers who had been the main class force in the Black Belt counties.

It was these developments which contributed to the decision of the 1959 National Convention once again to withdraw the slogan of self-determination. Involved in this withdrawal was the view that the nation had been uprooted, that it no longer had territorial unity and that the working-class aspect of the problem was becoming increasingly its dominant feature.

THE NEW NATIONAL CONSCIOUSNESS

Paradoxically, after we reversed our position forces began to emerge which did reflect a consciousness of the necessity of nationhood. This was evident especially in a significant trend toward support of the policies of Elijah Muhammad and Malcolm X of the black Muslim movement.

Currently there is a mass trend toward support of nationalist forms of development, though it is an uneven one. There are those who call for control over their communities while remaining within the general commonwealth. At present they do not seek physical separation beyond making their communities power bases from which to operate in the general community. There is also a growing trend toward a program of separation and the building of a black nation in the South. In fact, many of the counties which formerly represented the area we called the Black Belt have been singled out by some as the future homeland of black America.

In order to determine what our present position should be, we must unravel the reasons for this contradiction.

At the time we adopted the resolution discarding the slogan of self-determination it was realized by most comrades that the resolution left some matters unexplained. This was expressed in the following paragraph:

"To conclude that the Negro people in the United States are not a nation is not to say that the Negro question in our country is not a national question. It is indeed a national question. The question is, however, a national question of what type, with what distinguishing characteristics, calling for what strategic concept of its solution."

Those of us who authored this resolution definitely felt that the concept of nationhood had been undermined. Nevertheless, we were conscious of the fact that the Negro people as a national minority differed from other national groups in the United States,

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* This article and that which follows open discussion on two of the questions in relation to the draft program which were singled out for particular discussion by the Special Convention last July. Others will appear in the December issue. Comment on these articles or other discussion articles on these subjects is invited.

though we did not elaborate on these differences. In retrospect, it is my judgment that from the very beginning our Party made an error when it applied the right of self-determination to the Black Belt rather than to the black people as a people, for in so doing we reduced the matter of self-determination to an artificial geographical consideration.

Of course, the concept of common territory is one of the fundamental features of a nation and without it there is no nation. But what we failed to understand was that while the Negro people in the Black Belt did not constitute a full-blown or even a young nation, the background and conditions of life of the black people, whether on the southern plantation or in the urban ghettos, are breeding grounds for national aspirations.

These tendencies, therefore, have not been merely an expression in some geographical area. Indeed, the most significant movement which reflected the aspirations for nationhood did not begin in the Black Belt, nor did organizations espousing such views gain their greatest strength in this area.

Perhaps the most graphic illustration of this was the emergence of the Garvey movement in the 1930's. This movement was one of the clearest expressions of black people's strivings for nationhood. Because of the utopian and sometimes reactionary character of parts of the Garvey program, our Party failed to discern in it the essential urge for a black nation somewhere on this globe. Everything about the Garvey movement took the form of a struggle to create such a nation. It specifically proclaimed as its goal a black nation in Africa, to be centered mainly around Liberia.

In preparation for such a goal the movement made efforts to build its own economy in this country. It took on many paramilitary aspects of a nation with its uniformed soldiers and its nursing corps. The titles it conferred on its leaders and many other things would be regarded as characteristic of a nation. At its height this movement attracted several million people. Clearly it was not itself a nation, but it did reflect the aspiration to nationhood of a sizable segment of the black community.

NATIONS AND NATIONAL GROUPS

However, it is clear that black people in the Black Belt area of the South had begun in embryo form to develop some of the prerequisites of a nation.

It was a people which had evolved through a historical process.

The slave system as it operated in the United States subjected black people here to forms of persecution that have no parallel with the persecution of any other people in the world, including other black people. There was also a common territory, a common language which manifested itself in a psychological make-up. But the weakest link in the chain was the economic aspect.

Modern type nations grew and were nurtured in the womb of a feudal system. But they were established in the context of the growth of capitalism. It was the economic factor, namely, the emergence of a bourgeois class which, in order to meet competition, organized the nation. In the words of J. Stalin, "The bourgeoisie learns its nationalism in the struggle for the market."

The evolving black nation in the United States was mainly of a semi-feudal nature. There was no significant bourgeois class in this development. There was no market to be sealed off. Even to this day there is no real basis for the growth of a substantial black bourgeoisie that can compete with the dominant economic interests in the land. Here and there a struggle for services in the ghettos develops between black and white capitalists, but such competition is a minor factor. The ghettos have no resources and produce very little of what is consumed within them.

In these circumstances capitalism, which by virtue of history and its own economic needs has set black America apart from the rest of the nation, has created the preconditions for the emergence of a separate nation, but at the same time has acted as a barrier to its further growth and development. The economic needs of capitalism which dispersed black people all over the United States represent a case in point.

If the black people did not and do not constitute a separate nation in the Black Belt, the question arises: to what stage, to what level, has black America evolved?

It seems to me that they fall in the category of what has been defined as a national group or community. This is a category which was the forerunner of the modern nations.

History shows that before the modern nations came on the scene, they were preceded by groupings of people that laid the basis for the emergence of national states.

For example, ancient Gaul gave birth to three nations, France, Belgium and Switzerland. At one time the Danes and the Norwegians were one people but evolved into two separate nations. Similarly, the Arabs as a national community evolved into several separate nations.

But even if black people fall in the aforementioned category, the slogan of self-determination would still apply. Marxists have always considered in their programs not only nations that are full-blown but also peoples that are in the process of becoming nations. The Soviet Union after the October Revolution not only proclaimed the right of the oppressed nations to self-determination; it also created the material conditions whereby national groups which had not yet developed nationhood could become nations.

In his book, *The Principle of National Self-Determination in Soviet Foreign Policy*, (Foreign Languages Publishing House, Moscow), G. Starushenko says: ". . . a national group is an historically constituted, relatively stable community of people which precedes the formation of a nation. A national group* forms on the basis of three elements of a nation which is in the process of formation and development—common language, common territory and common psychological makeup, which manifests itself in a common culture.

"In settling the question of the right of nations to self-determination, the concept 'national group' is of vast import, if only because many colonial peoples have not yet developed into nations. That is why we say 'self-determination of peoples and nations,' and assume that in this case the concept 'people' includes the concept 'national group.'" (P. 18.)

On the basis of this understanding the USSR *created* the conditions for scores of formerly oppressed nationalities to form themselves into nations. On this point Starushenko says:

"Since the formation of the national community usually ends in the creation of a nation, the backwardness of certain peoples—a backwardness which manifests itself in their failure to consolidate into nations—cannot be made a pretext for depriving them of the right to decide their own destiny, whatever the colonialists and their learned advocates may say. All the more so, since this backwardness is the result of the colonial oppression and exploitation of these peoples. Consequently, *it would be quite proper to speak of the self-determination not only of nations, but also of the national groups which have not yet succeeded in developing into nations.* Once freed from the foreign yoke, these peoples will be able to accelerate the process of their formation into national communities and then, depending on the prevailing conditions, into bourgeois or socialist nations." (Pp. 31–32. Emphasis added.)

Starushenko says further: "A national group can develop into a nation even if its territory is not completely united." (P. 20.)

If the Negro question in the United States is viewed from the angle of a national group with aspirations for nationhood, it follows that the right of self-determination applies to black Americans independently of whether there is territorial unity in the Black Belt or elsewhere. In my view it was wrong from the beginning to have restricted the use of this slogan on the basis of a territorial approach. It was not territorial unity which formed the basis for Pakistan's emergence as a nation; it was mainly religion. And certainly the Jewish people the world over joined to help form an emerging nation in Israel, yet nowhere else do they constitute a nation.

In the light of historical experience, therefore, it was wrong to decide the question of self-determination for the black people in the United States only on the basis of whether territorial unity still reflected the status of the majority of them. Even when the slogan of self-determination for the Black Belt was raised, its authors had to disregard territorial problems arising out of artificial boundaries of states. The Black Belt represented an economic and social unit but not a political unit. The counties composing it were parts of different, artificially created states.

By the same logic, the ghettos across the land may be viewed in a similar way, even though they will never reflect complete political units. But their very existence and the conditions of life within them have served to propel forward the desires for nationhood.

PROGRAMMATIC FORMULATION OF THE QUESTION

Since my view is that self-determination must be applied to the people as a whole and not to a territorial unit, the problem arises of how we should formulate this point in the draft program.

If it is possible to err in overlooking the national character of the Negro question, it is also possible to err in placing the desire for national development as the all-dominating question in black America.

There has at no time been complete unity on aspiration for nationhood and all that flows from it, as against integration into every aspect of American life on the basis of equality. Even in the heyday of the Garvey movement the trend toward national aspiration, albeit a significant one, did not represent the majority of the black community. I believe that if a poll were taken of black America today we would still find this to be the case. Our draft program, therefore, must reflect the desires and aspirations of all the Negro people.

It should be formulated as follows:

"We stand for full economic, political and social equality for black America. Toward that end we call for changes in all American institutions and the creation of guarantees that will make the black minority equals in a majority white society."

This should be the central thrust of our Party. In addition, we should call for a plebiscite of all black Americans on whether they want to remain in the general commonwealth or to establish another nation within the continental United States. If this plebiscite should reveal that there is a significant number, even though a minority, who desire such a path, we Communists must say that we will have no hesitation in helping to establish such a nation, and that we will work to place at its disposal such resources and assistance as would make of it a prosperous community. Thus, the slogan of self-determination today means the struggle for the right of black America to form a nation if it elects to do so.

* It should be noted that in this country the term "national group" is used to refer to groups of people with a common national background who are in the process of being absorbed into the American nation, rather than to groups in the process of becoming nations.

In putting this position forward, we should make it clear that we Communists are internationalists and that our conception of the world of tomorrow envisions, not the breaking up of mankind into small units, but a world in which national distinction will pass into the abyss of time. We see a new world in which all people, be they black, white, red, brown or yellow, can walk this earth as brothers and sisters and as equals.

However, since we have lived for several centuries under an exploitative system in which people of some nations and races have been subjugated by others, it is necessary to create a condition in which confidence among the peoples can be established. This is the rationale behind our use of the slogan of self-determination.

How black America would react to a plebiscite only the future can tell. The response would depend on the prevailing circumstances at the moment when this would become a practical proposition. We have seen many historical variations in how people respond. We have also seen that the oscillation between separation and integration in black America has been conditioned by the response of the white community to the just demands of the Negro people.

A good example of what would be possible may be seen in Cuba. There black people form the majority of the population in Oriente, one of the major provinces of the country. At one time the Communist Party of Cuba proclaimed the right of self-determination for the black people in the Province of Oriente. But when the socialist revolution occurred, bringing with it instantly a change in the status of black people on the island, there was no demand for separate institutions of any kind with the exception of culture. Whether or not this would be the case in the United States I do not know. We must not pretend to know.

Whether or not self-determination is appropriate will be determined by black America itself. Regardless of the form in which the black people express this right, we Communists must be prepared to assist them in every possible way.

Meanwhile the Communist Party identifies itself with the aspirations of black America to exercise, to the fullest degree possible under the present system, control over its own destiny. This means that we support struggles of black people to gain a measure of control over schools, police and other institutions within the ghettos. However, we do not equate these struggles for control over community life with self-determination, although they can be important beginnings leading in the direction of a fundamental solution to the black man's problems in the United States.

NATIONHOOD AND THE FIGHT FOR SOCIALISM

Of equal importance to black America manifesting the desire for nationhood is clarity on what it will take to reach the goal. Unfortunately, mass forces and organization standard bearers of the nationalist cause do very little to illuminate the path ahead. Moreover, some pursue lines of direction and tactical approaches which undermine the very goals they claim to seek.

We live in an advanced age of science, both natural and social. And this problem of black nationhood, like all other social phenomena, must be approached scientifically. An approach which is based only on subjective desires, on mere condemnation and protest, will lead exactly nowhere.

What, then, are some fundamental prerequisites for the possibility of black America to establish a black nation within continental United States?

First and foremost is the social system which prevails in the country.

As we have already pointed out, modern nations came into existence as a consequence of the rise of capitalist society. But it does not follow that in our day capitalism can and will generate conditions for new, free and independent nations to emerge. On the contrary capitalism is the main force in today's world holding black independence for peoples and nations. The nations which were born several centuries ago and are now the leading capitalist powers, in the course of their development subjected other peoples.

There is no better example of this than the emergence of the American nation. In 1776 the thirteen colonies fought a war against Great Britain for the right of self-determination. That war was won and a new nation came on the stage of history. Today, almost two hundred years later, the American nation, based on capitalism, is the chief policeman roaming all over the world to prevent colonial peoples from exercising the right of self-determination.

If American capitalism in the pursuit of its narrow class interests cannot permit the peoples of Guatemala, of Cuba, of the Congo, of Indonesia, of the Dominican Republic, Ghana, and especially of Vietnam, to exercise their right of self determination, then how can anyone seriously talk about establishing a black nation in the United States, in the context of a capitalist society?

In our time, socialism, and the strength it exerts in the world, is the fundamental condition for oppressed nations as well as evolving nations to gain the conditions for the exercise of the right of self-determination. Its record in this regard stands up under any objective evaluation. Indeed, the billion-and-a-half peoples of Asia, Africa and Latin America owe their political independence in large part to the role of the socialist sector of the world.

There are those who seek to refute this proposition on the basis of the Warsaw Pact nations' occupation of Czechoslovakia. But this occupation was not only in the interest of preserving socialism but also in defense of the oppressed nations and peoples of this earth. The Warsaw Pact nations moved in time to prevent another Guatemala, another Congo, another Ghana. A socialist Czechoslovakia gave guns to liberate Algeria from French imperialism. It gives guns to the people of Vietnam. If the West German imperialists had succeeded in undermining socialism in Czechoslovakia, instead of Czechoslovakian guns going to Algeria and Vietnam, they would be used to keep those people or put them back under the heels of world imperialism.

This brief summary can be documented in great detail. It is, therefore, my view that the struggle for a socialist America is an important corollary of the struggle for a black nation.

From this it follows that the advocates of a black nation must identify themselves with all that is required to set up a socialist America. This means understanding the class nature of capitalist society. Above all else, it means recognizing that black people alone could never destroy capitalism and usher in a new system which would permit a reorganization of our entire society, a condition basic to carving out a black nation in continental United States. This fact surfaces the necessity for allies. The advocates of a separate black nation for tomorrow must act in concert with other forces today. Most nationlist organizations do not comprehend this basic truth, and yet, unless it is grasped, the long range goal will remain empty—"a sound and fury signifying nothing."

[From Esquire, January 1968]

WE ALSO WANT FOUR HUNDRED BILLION DOLLARS BACK PAY

(By Robert Sherrill)

One day late in May, Brother Imari, Minister of Information for the Republic of New Africa, pulled up to the United States Department of State Building in a taxi and told the driver to keep the motor going because he would be right back out. Inside, James McDermott and Charles Skippon, who introduced themselves to Imari as "special assistants to Secretary of State Dean Rusk," formally received Imari's note requesting the opening of negotiations between the United States and New Africa. The note's demands were simple but rather sizable: New Africa's officials wanted $200,000,000,000 in "damages" and they also want the U.S.A. to give up five Southern states—Louisiana, Mississippi, Alabama, Georgia, and South Carolina. McDermott and Skippon took the note politely and said they would start it through the proper diplomatic channels. Two minutes after the simple ceremony in the lobby began, Imari was back in his cab and on his way to Michigan, which is his home.

All was not exactly as it appeared. Only loosely speaking were McDermott and Skippon "special assistants" to Secretary Rusk. More accurately, they are plainclothes State Department cops—security officers—who sometimes carry pistols and who handle demonstrations, protests, and body traffic. The State Department had understood that the Republic of New Africa was sending a large group; the diplomats, envisioning a possibly riotous demonstration, alerted District of Columbia police and the Federal Bureau of Investigation, and dispatched McDermott and Skippon to grapple with the black emissaries. "You can imagine our surprise when the 'large group' turned out to be one man," says Skippon, who recalls the episode with polite contempt. He can't remember what happened to the petition. "It was turned over to the appropriate-country desk. I don't recall specifically; the bureau of African affairs, I believe, because they call themselves 'New Africa.' What they did with it, I don't recall. Well, I mean, how do you deal with a nonentity?" he asked, laughing.

But Imari (who is better known as Richard B. Henry at the Detroit Arsenal, where he works as a technical writer for the U.S. Army Tank Auto Command) and other cabinet members in the government of New Africa are not laughing, and they think Dean Rusk won't think it so funny either when his native state, Georgia, is part of their black nation.

The President of New Africa is Robert F. Williams, a former North Carolinian who fled this country one jump ahead of the sheriff (Williams says the charges were trumped up, and there are some grounds for thinking so), and he now commutes between Peking and friendly nations in Africa while awaiting his new kingdom to be set up by the faithful back home. But the real power behind the movement is Imari's brother, Milton R. Henry, a Michigan attorney who for six years served on Detroit's city council and who ran for United States Congress in 1964, losing to another Negro, John Conyers; Henry says the election was rigged. Milton Henry has taken the name Gaidi, which he says is Swahili for "guerrilla," although he doesn't mind if it is confused with "gorilla" because he admires King Kong.

First Vice-President in the illusive Republic, Henry is also chairman of the Malcomites, a society whose membership is secret but whose purpose is not. It seeks to establish the Republic of New Africa in these steps: (1) Arm the black communities of the North and West, and if whitey tries anything rough, blast hell out of him. Henry has two well-kept AR–15's—lightweight, semiautomatic, 20-cartridge rifles—in his home and frequently conducts target practice for his family and his friends. Plenty of other Malcomites, he says, are doing the same. (2) Ship about a million well-armed blacks into Mississippi, take over all of the sheriff's jobs through the ballot box, seize the government, and then move on to Alabama and repeat the process; the next three Southern states would be seized in no special order, but it would be done in the same way, by shipping in armed blacks who would first try to grab

the governments by voting and, if that didn't work, by guerrilla warfare.

Inside the loosely knit community of 23,000,000 Negroes in this country, the recently revived proposal for the creation of a separate black nation from a portion of the United States has probably more support than whites would like to think.

The nation was officially alerted in 1967 to how restless the natives of Harlem and Samtown and Bootville really are when the Conference of Black Power met in Newark, New Jersey, and passed with tumultuous cheers a resolution calling for "a national dialogue on the desirability of partitioning the U.S. into two separate and independent nations," one black, one white. Most newspapers reacted with either shock or outrage, especially when the Black Power conferees illustrated what they had in mind by physically ejecting white newsmen in a rather rough style.

In the South, of course, where black militancy moves much more slowly, one will find few Negroes who are even aware of the proposal; but in the black neighborhoods in Northern and West Coast cities, the dream is dreamed quite regularly; and among the black intelligentsia, it is considered a legitimate topic for cocktail-party debates; as often as not the argument turns not around the desirability of separation but about the means to achieve it and the geographic area to be demanded of whitey.

Robert Hutchins, director of the Center for the Study of Democratic Institutions in Santa Barbara, says ghettologists estimate that about thirty percent of the black slum-dwellers are advocates of separatism, at least in the Los Angeles area; inasmuch as fifty-seven percent of Los Angeles' blacks live at slum level, this means only about one-sixth of the Negro total, if these experts know what they're talking about, would like to leave this country and set up one of their own. But even one-sixth, if applicable to slums everywhere, comes to a million or so Negroes eager to make the break and who are—according to the timetable of New Africa's politicians-in-exile—ready right now to get things started with guns. A Columbia Broadcasting System poll last year found only six percent of the blacks ready to carve out a portion of this country or go abroad; but even that amount comes to 1,380,000, and the CBS poll was pretty middle-class. Henry called it "racial propaganda."

When the separatists quarrel, it is only over such things as how much of the U.S.A. they should take with them. Whereas the New Africans would leave out Florida as militarily indefensible, Robert S. Browne, an assistant professor of economics at Fairleigh Dickinson University whose article, "The Case for Black Separatism," is now required reading in many black campus study cells, thinks the Henry group is stingy to stop with five states; he wants to take North Carolina as well and considers it utterly "ridiculous to talk about leaving Florida isolated down there." That makes seven states. Some leaders of C.O.R.E. think a better number is thirteen—a kind of patriotic salute to the original American colonies.

It would be only natural if the proposal for seizing land were directed toward the South from a feeling of vengeance, but separatist leaders claim that their desire for Dixie is directed by logic. "Not so much because the blacks are there in large numbers, although that is part of the reason," says Browne, "but because their roots are there even if they are not physically there any longer. Most of the blacks of the North were either born in the South, or their parents were. Also, we would want a coastline, and this would put us in the closest proximity to Africa and the West Indies."

Although the new nation would expect the United States to set it up in business by paying $400,000,000,000 (since filing the letter with Rusk, the money demand has been doubled) in reparations for the black man's three hundred years in slavery and by paying off the industries and white landholders whose possessions would be seized by the New Africans, they would also try to float large loans with other nations. On this the separatists also disagree; Henry wants to borrow from Red China, but Browne prefers drawing working capital from Sweden on the grounds that "the whole thing is so shocking to most people that there is no reason to inflame them further by talking about aid from Communist China." Browne is such an impressive smoothie in his advocacy that Hutchins' philosophers in Santa Barbara had him out for three days of serious discussion. Henry's invitations come, more often, from the rougher militants who like to hear him rage against "the coercivè rapes which our sisters suffer routinely at the hands of white swine." Actually Henry is a very sophisticated fellow, widely traveled (Africa five times), a graduate of Yale Law School, and with plenty of perspective on his own life, which began in Philadelphia as one of a middle-class family of eleven, all of whom, he recalls without embarrassment, "wanted to be good Americans. My mother used to put out flags on the Fourth of July." But now his business is roasting the white pig, basted with dreams of a kingdom stretching from the expropriated lands of Judge Leander Perez on the West to Mendel Rivers' military bases on the East, where a black man's life would be legally polygamous and tuned to what he calls "the beautiful on-going drums of New Africa."

How would it be possible to effect the transfer of power, money and land from the United States to the Republic of New Africa? In the following interview, Henry attempts to explain it:

Q: Do you consider your government already in existence?

A: Certainly. We are the government for the non-self-governing blacks held captive within the United States. We meet once a week in every consulate, and we have consulates in most of the larger cities right now. New York, Baltimore, Pittsburgh, Philadelphia, Washington, Chicago, Cleveland—you name it. We're thin in the West, but we have strong consulates in Los Angeles and San Francisco. Soon we will be organizing a Congress.

Q: Are these just paper consulates?

A: They are real consulates with a consul and a vice-consul and at least two secretaries. We *should* be issuing passports but if we did the U.S. government would probably use that as an excuse to crack down on us.

Q: How do you propose shifting your government-in-exile into the Deep South and setting up a government-in-fact?

A: We have already begun the shift. We have bought a hundred acres in Mississippi. That isn't much land but it is sufficient for a base headquarters. Like the Jews moving into Israel we will start to organize along the lines of cooperative and collective farms. You have to be able to feed your people. But the collective farm does more than just provide food. It's a center where people can get together, can politic themselves and can protect themselves.

Q: How many blacks will you ship into Mississippi to take control?

A: It won't have to be many. With a small movement of people we can do it. There are less than three million people in Mississippi and the blacks are already more than forty percent; in some counties they are fifty to seventy-five percent. Having a majority isn't meaningful until the day comes when we have enough people standing at the polls with guns to protect our vote.

Q: Does that mean you intend to seize the ballot machinery by democratic methods or by force?

A: Nothing is really peaceful. We may have to use arms. We will take over Mississippi county by county. To do that, we must have the power to get our votes counted. This embraces two needs: the power to ward off economic pressure and the power to ward off physical pressure. The reason we are setting up a Black Legion is so we will get our votes counted. If you bring in enough voters to take over a county, that gives you a sheriff. If you are wise in selecting your county—particularly in the Mississippi delta—you will have a large number of blacks to build with. Then we will have a legitimate military force, legitimate under U.S. law, made up of people who can be deputized and armed. The influence we will then exercise over the whole area of Mississippi will immediately be disproportionate to the numbers under our command. If we had only four sheriffs down there, with all that can be done with deputizing, we could change the state of Mississippi. Why did the Jews go into the Palestinian area and buy land? Because it gave them a base from which they could legitimately say, "We have land and we want to change the sovereignty." That's the way we are operating already.

Q: Where are you getting your money to buy the land? And where will you get your money to ship in blacks from the North?

A: Each black citizen is asked to buy one-hundred-dollar Malcolm X land certificates. It's something he can cherish and show to his children to prove he helped set up the black nation. The average black man can afford a hundred dollars. He can afford money for everything else under the sun—he doesn't have any objection to buying the most expensive automobiles and everything else, and they wear out in three years. He sure can afford a hundred dollars to put down on his land.

Q: Will you feel you can take over the five states when you have five black governors?

A: We may not have to wait until we control these governors' offices before we make our demands as a new nation. The real question is not whether we control the governors but whether we control the land, and we can do that by controlling the sheriffs. That's the important thing: having physical control of the land. In terms of real control of the land and real confrontation—there will be other things going on in this country. It could be burned to the ground while U.S. officials are playing games with us. They could be engaged in very costly guerrilla activities. The problems in the North aren't going to be settled. We say the U.S. government will talk to us, and they will talk seriously to us about separation prior to the time we control the governors.

Q: If the government sees what you are up to and moves in to stop you, do you think you could whip the U.S. Army?

A: With the aid of nuclear weapons from our allies, such as China, sure we could. China could never help us until we could show that we were capable of a separate, independent existence. But we could show that by controlling a land mass. We could show it by the actual fact that we were there and had a majority of the people and were not subject to U.S. jurisdiction. Then China would back us with missiles. But we don't want to fight. It's better to have nice relations. We would only have to neutralize the U.S. Army, not fight it. We don't want another Vietnam, flames and napalm. Neutralizing the U.S. is the only way Castro could survive, and that's the way we would do it, too.

Q: At this point China is only a tentative hope for you to rely on. What do you have in the way of retaliatory firepower to fall back on until you can be sure of China's help?

A: We've got second-strike power right now in our guerrillas within the metropolitan areas—black men, armed. Say we started taking over Mississippi—which we are ca-

pable of doing right now—and the United States started to interfere. Well, our guerrillas all over the contry would strike. Our second-strike capability would be to prevent the United States Armed Forces from working us over, not the local forces. The local forces couldn't compete with our forces. We can handle them. The second-strike capability already exists, and all the United States has to do to find out is to make the wrong move. The guerrillas will be operative until we take possession of the physical land. Ultimately, when we have the land, we will get the missiles from around the world.

Q: What makes you think the U.S. will let you have the land when they wouldn't let the Confederacy secede?

A: It's a different situation. The South could be defeated separately, but if the whites defeat our objectives, the country will be ruined in the process. There are a sizable number of people who want self-determination, separation, land. They want that more than life itself. They can't shoot all of us. They can't shoot enough to discourage others. You see, the Revolutionary War would not have worked if that could have happened. And the war in Vietnam *isn't* doing so good. They aren't going to win in Vietnam and they can't win in the United States. We can fight from within. How are they going to get us out of here? Where would they make the guns to shoot us—in the United States? Do you think we are just going to let them keep on making guns? How will they transport their guns and soldiers—on railroad trains? The United States can be destroyed.

Q: Do you mean you would do all this by sabotage and guerrilla warfare?

A: Obviously. We're within the country. This country will either talk to the separatists today or will talk to them later. At which time perhaps this country will have lost a great deal, in terms of lives and property.

Q: As for the blacks who stay behind in the United States after you separate, how do you foresee defending them from revenge?

A: I don't think that is possible, and this is one reason why most of them will come with us. It would be like Germany. Some would want to stay behind, but you get rid of ambivalence by oppression. There were some Zionists who even kind of welcomed the oppression because it helped unify the people toward the ideal of creating a nation. We've always said the white man is making more converts than we ever could. Every day the police walk through the black ghettos they make more converts than we can.

Q: When you have cut away the South as your own nation, what would happen to the industries that are already there, such as the steel companies around Birmingham?

A: We keep them. We take them and we keep them. The United tSates would pay reparations to those companies as part of our conditions for separation. The U.S. could give the companies tax credits for their losses. In those terms it wouldn't be very costly to the U.S. And of course our government would operate the plants. We don't have any hang-ups on socialism, which we call "ujaama," which is broader than socialism. It's an African conception of the organization of society. It means we have total responsibility for one another.

Q: Where will you get your technicians during the transition period?

A: If we need outside technicians, they'll be given resident visas. White people who feel they can live in the kind of society we're talking about can stay. But they'll have to be cognizant of the fact that we'll have a new kind of law. The white industrialists and technicians have too much power in Africa. I'm impressed every time I go back there—they have too —— much power in Africa. One of the things Castro did that helped his survival was to cut off the head of the industrial monster in the midst of his government. This is one of the problems in Algeria—they can't get out from under this economic thing. Those industrial guys are *powerful*.

Q: Since many of the whites who stayed on would hate your guts, wouldn't you be afraid of sabotage and guerrilla reprisals from them?

A (laughing): That kind of white would want to move. They'd say, "Those goddamned niggers." I know there'd be a lot of people calling the President a bastard. Some of us who are helping getting the thing underway may never live to see the actual fruition of the government. But the government will go on.

Q: You say that your black followers are arming themselves for the day of separation. But where is this evident? If the blacks were really arming in large numbers, seriously, wouldn't the destruction and bloodshed in the riots of recent years have been far greater than it was?

A: The blacks have been arming along defense lines so far. We are now going through the period of holding action. But most astute people see that a different pattern is developing. Everywhere you can see a frustration, the willingness on the part of black people to say the hell with it. Some black people right now are so keyed up they just want to shoot it out. They want it all right now—right now. They don't want to wait. So far there has been sparing use of the gun and the Molotov cocktail. But we are urging that every black home have a gun for self-defense against the possibility of a Treblinka.

Q: Do you have a gun?

A: Just a minute—I'll show you. (He came back with two rifles.) These are AR–15's. Like the weapon used in Vietnam except not fully automatic. It's semi. Holds a clip with twenty cartridges in it. It's beautiful on the range. Lightweight, any girl can handle it. My wife shoots. These are the kind of weapons we suggest women have so that if there be a Treblinka every block will be able to defend itself. We train regularly. This is important because most of us like myself—I was in the Air Force—the only thing I had really seen was that Army .45 and the little button on the stick. I didn't know what the machine guns looked like and it didn't worry me. I just knew that if you pressed the button, the thing went off. I bought these rifles in the last couple of years, when I realized the seriousness of the thing. It's just incredible to think that you have to prepare to defend your very existence against the possibility of annihilation.

Q: You actually think the white man might try to annihilate you?

A: Oh sure. All the whites around us are better armed than we are.

Q: What would trigger a serious white attack on the blacks in this city?

A: Anything could do it. We have people who threaten us openly. The same is true in city after city. One right-wing nut went on television and said he was going to kill me. Now suppose one of those racists made the mistake and really did that—you can't tell what might happen. There are plenty of whites, and some police are among them, who are trying to goad folks into doing something with the hope that it will help generate the garrison state. But if they trigger that, they will also help the separatist movement. Just imagine, at my age—I'm forty-nine—I've never known a minute's peace in this country. I've struggled like hell all my life just to live with people.

Q: Well, why don't you get completely away from it all by moving to Africa? You like Africa, don't you?

A: I love it. Every time I go over there I feel a peace, which is an important thing for me. For myself, I would personally like to go to Africa and say to hell with it.

Q: Your forebears came from what section of Africa?

A: Probably West Africa. That region around Ghana, the Cameroons, in that area. But we don't know where we came from—this is one of the tragedies of our past. You have a name which is in fact your name, and that is quite different from my having a name like Henry. Nobody in Africa is named Henry. Such a hell of a thing for me to be named Milton Henry. That's an *Irish* name, for god's sake. I have no ——— business—it's a ——— of a name. It means that somebody, way back, owned my parents or ——— my parents. It's a mark of shame. It would be so nice to know that maybe I did have people who were among the Ashanti in Ghana.

Q: Then why don't you load up your people and go back to your fatherland instead of heading South?

A: It's a good idea, but logistically it is very unsound because of the difficulties of moving people, furniture, mastering the culture. Anyway, could you tell me what nation we might be able to move back to? It's easier to put furniture on a truck than to get it across that ocean.

Q: What would you have in the South but a black extension of the United States?

A: My goodness. Our social life would be different. We would try to reinstitute the dance as it is in Africa. So many things. The whole business of polygamy.

Q: You say you would allow your men to have more than one wife?

A: Absolutely. It's an African custom. Here in America we can't do that, so this is one reason for not staying in the United States.

Q: Would you have party politics?

A: I don't think so. Let me explain something. In America, which is an older country, you can afford to have changes of the leadership. But it makes no difference whether you have Nixon or Humphrey.

Q: You mean you won't be voting at first?

A: No, we can't have that kind of vote at first. The persons responsible for bringing that government into existence are entitled to have some say about who is going to run that government. As your government then becomes really secure, you put into effect an increasing degree of democracy. You get your parties institutionalized like in America and then it doesn't make any difference whom you elect.

Q: How long would you foresee that first period lasting?

A: Not too long—not more than thirty or forty years. Look at Russia—they started in 1918 and they're now getting to the point where they might consider a form of elective process. We cannot permit any elective process that would overthrow the government, at the start. This voting business is something that secure governments can afford.

Q: What would you do about immigration?

A: Of course black people would certainly be allowed to come in. White people we would subject to very rigorous examination to determine whether they were really interested in a synthetic society and had goodwill toward our nation. How to test them? A lot of ways—see what they had done, what their views are. If they couldn't pass simple tests we wouldn't want to be bothered. We don't want saboteurs and provocateurs in our country. If whites didn't have any overt things against them, they would be perfectly welcome. They would not come in as citizens but on trial; if they do things to show their interest they'd be entitled to join with us. If they didn't, then they'd have to go. They'd be given resident visas, permits to come in and live for a restrictive purpose. There would be no quota—just according to our needs, absolutely according to the needs of the nation.

Q: What sort of governmental structure do you see? A Congress?

A: Oh, yes. There are a lot of good things contained in the basic idea of this government. Ghana is constitutional—many of the ideas are quite similar to those here. This country had good ideas, a good thing going if they could make it work. It works for whites. The structure, the idea of the balances—very good. It has its hang-ups.

Q: There would be poor people in your society, wouldn't there?

A: Yes. But poor people in my society with hope. That's a lot of difference. Everybody in my society will have hope—they really will—that one day they may be President. As one little boy said at one of the council meetings, "You know, for the first time I really have the understanding that I might be President." It's a hell of a thing to sit down in a legislative body as I did for six years on the city commission and see everybody under the sun being made mayor but you. And this is by the vote of your brother councilmen.

Q: You going to have compulsory military service?

A: Absolutely. Every man should be willing to defend the nation, every woman.

Q: Would there be unions in your nation?

A: I would be inclined to discourage them, particularly if they were along the lines of American organized labor. American organized labor is part of the institutional side of capitalism, which is undesirable. When you talk about the movement toward integration and inclusion into all the instrumentalities of government and the institutions, then you have to look further than whether we get a good job in terms of three dollars an hour. Can we get the fifteen-dollar-an-hour job—can we get the job where we really plan, and that sort of thing? The union doesn't even recommend black candidates.

Q: If you could get the fifteen-dollar job, would you like to stay in this country?

A: If this country could make the kind of modifications I'm talking about, yes. That'd be fine. I wouldn't mind staying. If they had a truly synthetic society—if I could be, as a black man, representative to an African country, and be a *black man*, not a blue-eyed black; if I had the right to rise up and modify the policies of these companies, so that General Motors would not invest in South African oppression—if I could do all that, if the political structure of this whole country were changed so that I could participate in it, then we'd have the kind of government I'm talking about having down there. But this country won't make those changes—not educationally; it persists in maintaining its myths. There's so much that has to be changed, I don't think the country is willing to do it. It'd be easier to give me five states.

Q: How is it a black man who feels as you can be friendly to a white man?

A (laughing): It's not a personal thing. It's an institutional thing. We've got an institutionalized oppression that we've got to break. We have to break those bonds. So then we can live as we would be inclined to live. With decency toward one another. We don't have any inclination to be nasty to you. It's the institutions that keep us from living.

Q: But I suppose there will be a period of transition where people won't be able to separate black faces from black institutions and white faces from white institutions?

A: That's one of the problems of our mythology. We have a mythology that is developed, that is important to the development of any movement, of course. And we move by the mythology. Eric Hoffer said you cannot build a movement without a devil, but you can build a movement without angels. And you see the essential is to build a movement. In the mythology of any movement—we're analyzing the situation—you cannot build without a devil. And the very fact you begin to talk in devil terms means that some may not comprehend the humanity of black people; some blacks will not be able to comprehend any humanity in white people. And that's unfortunate. Our problem is to build the movement. We have to paint the picture, to create the mythology, to give life to it. We have to enlarge it. There's no terms you can think up that would be any better than to say the white man is a devil. That term embraces the conception of the destruction of life.

Q: How would you go about moving out the whites who are unacceptable to you, or who don't want to stay because they don't relish a black government?

A: That's their problem. They will have forty-five states they can move to. The United States has great capacity to move men and equipment. It has moved half-a-million men into Vietnam. It will be much easier to move several million out of the South. The U.S. is the greatest country in the world for moving things.

Q: Wouldn't you feel bad about moving out a white Georgian, say, who liked Georgia?

A: I wouldn't have any worries about him. Absolutely not. He's enjoyed Georgia far too long. Besides he's had the benefit of Georgia goods off my back. Let him go up North. If he loves Georgia that much, let him live under our dominion. We're not going to intimidate him, beat him, keep him from going to the polls. Or anything like that. But if he doesn't like us, because of racial views, if he can't stand living under black people, I don't have any sympathy for him. I don't have any more sympathy for him than the government of Kenya has in encouraging those Indians to go over to London. The hell with it.

Q: Let's get down to day-to-day things. What about the Georgian who just couldn't get around the lifetime habit of using the word "nigger"?

A: That's all right—we'd educate him. We've got a good possibility with those television sets. The cultural realigning of a whole people. Everybody in our government would be subjected to a kind of propaganda. We would gear our literature, our theatre—that's why our artists would be able to make a new life in terms of developing literature and plays and all of that.

Q: This hypothetical Georgian—maybe he didn't watch TV and maybe he still went around saying nigger and he called you that, and worse things. What would happen?

A: He would be subject to governmental pressure. We're going to have a criminal code which would deal with socially indefensible acts.

Q: What if I owned a newspaper down there and editorialized against those black monsters?

A: You would be in trouble. That kind of freedom of the press cannot be justified. The Russians are right in that area. You have to think about what they're saying. When they start censuring people for putting out counterrevolutionary literature, they're right in that. You can't have people directing the minds of the young in this fashion.

Q: Some white liberals are now proposing to let you set up independent cities in the black neighborhoods that exist in our urban centers. Would you settle for that much independence?

A: A nation within a nation, helped by the major nation. Once again, that's no good. We could never have any control in that situation. The whites would have us surrounded. We would be at their mercy. They would control the food supply, the transportation, the utilities. We would still be subject to the white man.

Q: Would you accept it as an intermediate step?

A: No. We could get bogged down in that for another hundred years and eventually find we would have to get out anyway. So the thing to do is do it now. That is the only answer: get out.

[From Esquire, January 1969]

MEET THE PRESIDENT AND THE CABINET

Robert F. Williams, President of the Republic of New Africa, has not lived in the United States for more than nine years. In 1959, as leader of the N.A.A.C.P. in Monroe, North Carolina, he became convinced that Negroes in the South would be murdered before they were allowed equal rights or voting privileges, and he organized an armed self-defense group. Shortly afterward, a clash between freedom riders and white citizens occurred in Monroe. An elderly white couple was held at Williams' home until the authorities met his demands for medical treatment for the beaten freedom riders. Williams, warned of a lynching, escaped with his wife during the night-long battle between police, National Guardsmen and armed Negroes. They left the country when they learned they were among the group being sought by the F.B.I. on abduction charges. For the past nine years Williams has lived in Cuba and China. His statement, which follows, was issued from his present headquarters in Tanzania: "I envisage a Democratic socialist economy wherein the exploitation of man by man will be abolished. Racial oppression will also be abolished. The concept of the Republic of New Africa is not a segregationist concept, but rather one of self-determination for an oppressed people. It represents a rallying point for progressive and constructive Black Nationalism. Some doubting Thomases and white-folks-loving Uncle Toms are loud and shrill in proclaiming the idea as fanatical and utopian. This is definitely not the case, and I feel as certain now of the ultimate acceptance of the idea as I did when I advocated a policy of meeting violence with violence during the height of the era of nonviolence. America is at the crossroads. The black man is becoming consciously revolutionary. He has as much chance of succeeding as the American Revolutionaries in 1775. As people of conscience who are in sympathy with the oppressed peoples of the world, our self-respect and human dignity dictate that we separate from racist America. Our survival demands it and the concept of the Republic of New Africa is our point of rally."

Queen Mother Moore, Minister Without Portfolio: "At age seventy, after fifty years in the liberation struggle for my people, I am considered by many as the mother of the black revolution. I'm also the founder of the reparations movement. In my remaining years, my role will be educational and agitational: to keep before our youth the vision of Mother Africa and to forge stronger links with the continent, that like us, has been raped by the West."

Raymond E. Willis, Minister of Finance: "In essence, I'm a comptroller, with control over finances. Eventually, we'll have to mint coin and have our own currency. My Ministry will also receive and distribute reparations. The tentative figure we have decided upon is that every person is entitled to $10,000 for past wrongs and damages. Of this $4,000 will go to the individual and the other $6,000 will go to the Republic of New Africa."

Baba Oseijeman Adefunmi, Minister of Culture and Education: "My prime commission is to see that false and alien ideas and institutions are discarded. For fifteen years, a process of re-Africanization has been going on. Manifestations of this have been the taking of African names and learning African languages. We must become a completely separate nation mentally, spiritually, politically, even in ways of marriage and burials."

Brother Imari, Minister of Information: "I have two main objectives: (1) at present, engineering consent among all black people living in the U.S. We aim to take consent from the U.S. and give it to the R.N.A.; and (2) creation of an atmosphere of support and toleration of the Republic among the

white as well as the black population of the U.S. and the world. Our strategic purpose is to neutralize the negative attitudes of the U.S."

Betty Shabazz, Second Vice-President: "Included in my jurisdiction is the Office of Citizenship, which will accept applications for R.N.A. citizenship and will administer the oath of allegiance: 'For the fruition of black power, for the triumph of black nationhood, I pledge to the Republic of New Africa and to the building of a better people and a better world, my total devotion, my total resources, and the total power of my mortal life.'"

John Franklin, Minister of Justice: "Before appropriate international tribunals, we shall submit these propositions: The U.S. is exercising an illegal trusteeship over us; is imposing systematic tyranny; has failed to incorporate us into the U.S. as citizens; and reparations are due us as a result of past and continuing oppressions. The responsibilities of my portfolio include formulation of a legal system and prosecution of spies."

Milton R. Henry, First Vice-President: "In the United States, I'm the executive officer of the government, subject to the direction of our exiled president. My job is to give life to the government and to concretize it, while carrying out the orders of the legislature and the Cabinet. When we gain sovereignty, we'll be better off than the so-called underdeveloped nations. Our electrical system, roads, factories, harbors are all in."

Obaboa Alowo, Treasurer: "My concern is bookkeeping: debits and credits. For example, in a single year, 1850, fifty million bales of cotton were produced by slave labor. At a price of $5 per bale, and six percent annual compound interest from 1850 to 1960, it adds up to an indebtedness of $12,800,000,000 owed the Republic. Slave labor also built, then rebuilt the White House in 1837. The descendants of each slave are entitled to $882,000."

Wilbur Grattan Sr., Deputy Minister of State and Foreign Affairs: "Our colonized nation existed before the establishment of our government, and those five states are ours. At present, this territory is subjugated. Even before we gain sovereignty over our occupied nation, my Ministry serves as guardian over all persons who sympathize with the Republic. Our first task is to negotiate treaties of understanding and establish diplomatic relations."

Mwesi Chui, Deputy Minister of Defense: "Our function is to protect ministers, citizens and property. Our Ministry has approval for expansion of the Black Legion, and establishment of an officer's candidate school. We will raise an army, a police force and, if needed, an air force and navy. If necessary, we'll train abroad, then return with aircraft and missiles. We're preparing, defensively, for the war that will surely take place."

[From Esquire, January 1969]

WHITEY'S REACTION

(By Robert Sherrill)

Actually if one wipes from his mind the emotionalisms of blacks-and-whites together and just takes the proposal of a separate black state on the basis of logic, it isn't ridiculous at all. Since 1950 Indians have received $246,760,764.61 in reparations from the federal government in 261 claims and the government still has 343 claims to process, which means that the 600,000 heirs of the semitransient redskins who lived on our portion of the continent as the U.S. expanded will probably wind up with a half a billion dollars for losing "their" land. The Negroes not only lost their African lands but were forced to work for nothing for a couple of centuries. So far 50,000,000 acres have been turned over for the use of our 600,000 Indians; if the 23,000,000 Negroes received a comparable handout, they would get *sixty-three* states the size of Mississippi.

As for the business of untangling their citizenship, the Henry group is asking that the federal government be only as cavalier in freeing them of citizenship as it has been in imposing citizenship. Henry complains, "The Fourteenth Amendment was designed to unilaterally impose citizenship upon the black man. He was not asked whether he wished to become a citizen, or whether he wished to be sent back to Africa, or whether he wished some portion of land here on this continent where he could set up his own government."

Logistically, the Henry demands hold up just as well. An official in the State Department's African affairs division who has watched a dozen new nations come into being (he would like to keep his job a little longer so asks anonymity) checked over the pros and cons of New Africa's chances of survival, if it ever got started, and conceded: "If you left aside the internal political obstacles of cutting themselves off, certainly the South could be made into a very workable nation. Because you're starting with everything. You've got what we call the infrastructure—you've got the roads, the factories, the stores—they're *there* (unlike Niger, for example, where they're not) and if nobody levels them, they are going to stay there. If you have a class of people who can't keep them up (as you have in many African nations) the stuff is going to deteriorate. Your roads will have potholes. But we have educated Negroes in this country, so there's no reason for things to go to hell."

Whitey's more normal responses to the separatists range from Mississippi's ex-Governor Ross Barnett ("You know what any good Southerner thinks about *that* scheme") to the rigidly Constitutional brotherhood of Senate Majority Leader Mike Mansfield ("Oh, no, no, no. This is one nation, united, indivisible—and that's *it*").

Masters of framing negative responses in friendly ways, Southern politicians show all kinds of ingenuity, but none more so than Congressman James Buchanan of Birmingham, who says he would be lonely if he had to live without Negroes: "Terrible. Certainly not. Not one of the fifty states would I give. Why, growing up in the Deep South, I have been in every kind of situation since I was born—I've worked with and under Negroes on the farm, I've worked with and under the command of one in the Navy. Every college I attended was integrated. Every day I have contact with colored people. Why, I wouldn't know how to act in anything but a biracial situation."

South Carolina Governor Robert McNair prefers to dismiss it all as the complaining of a small group of soreheads ("There's always a small percentage of people who don't like things as they are") who should be satisfied with job training and welfare instead of demanding exorbitant reparations.

The standard, shocked response will open with a demurrer on the grounds that separation would "admit defeat" or would be a violation of the American dream, and closes on a more candid note, implying that Negroes are too dumb or too poor to run their own country and, anyway, it's all a warmed-over Communist plot. Governor Lester Maddox, who chased Negroes from his Atlanta restaurant with an ax handle and a pistol but doesn't want them to leave the country, expresses this position perfectly: "Two separate countries would multiply our troubles and solve none of them for any race. It would be destructive of the American civilization and the American form of government, so we don't want that.

"Now, listen. We do know that beginning in the year 1912, Communists themselves devised this plan. That's right: 1912. That was when they had their first platform for the United States. But during World War I these documents were captured. It plainly shows the part of the Southern states that would be taken over for a Soviet America for the Negro citizens."

In this reaction he is joined by Congressman Edwin Willis of Louisiana, chairman of the House Un-American Activities Committee, who has his dates, if not his other details, better in hand: "Oh sure, we know what they're trying. We've been investigating these riots and things, you know, and we know where this stuff is coming from. It's a Communist idea. They been pushing it forty years. The Communists thought up this idea in 1928 and it keeps popping up again and again." H.U.A.C.'s chief investigator, Donald Appell, supports Willis by vague allusion: "I got to know Milton in '52 when he was a lawyer representing a man accused of being a Communist Party member." But whereas Willis dismisses the separate nation as "cockeyed," Appell is more cautious: "I think we make a great mistake if we play down movements like this. They attract like minds. The Klan has a membership of 15,000 to 18,000, but only a few hundred Klansmen are needed to instill so much fear into a community that it won't police itself. These militant blacks could have the same effect."

The Communist Party, U.S.A. proposal of 1928 that causes so much confusion was not a separate black republic but "self-determination for the Black Belt," meaning in this instance a ragged strip of some 145 counties from Virginia to Texas in which Negroes constituted the majority of the population and wanted a majority of the courthouse offices.

One reason the Communist Party proposal was distorted, and why the idea is judged as nothing more than an alien Communist plot by some people, is that they are unfamiliar with some of the oldest and strongest of the underground Negro yearnings, says Dr. Herbert Aptheker, national director of the American Institute for Marxist Studies. "When Oklahoma was organized out of Indian territory there was a big discussion in Negro newspapers of that day pushing the idea of setting aside the state as a home for the black population. If white people don't know that, and if they don't know that there are about 25 towns and cities in Oklahoma that are all black today, then the whole idea just naturally hits them as some sort of a bolt out of the blue." (Apthecker is one who thinks it an impractical proposal.)

Paul ("Stand Tall with Paul") Johnson, Governor of Mississippi during its most hectic modern period, 1964–67, says that if *he* were still governor, what with his black spies and state police army, the threatened invasion could be coped with, although he's not so sure that Governor John Bell Williams is ready.

Since it is possible to import enough Negroes to take over the state through legal elections, I asked Johnson how this struck him.

"Well, of course, I think it would be a foolhardy undertaking. Because in the first place, it looks like they really don't need to ship any nigras because the white people don't go to the polls themselves anyway."

Asked if he thought Mississippi is equipped to handle the sort of guerrilla warfare the New Republic of Africa is planning, Johnson replied:

"Frankly, I don't know. When I was in office we were. We had a fine state police force that was trained for this sort of thing. We used a great many colored people in our investigative work. We would have known about it when this crowd came in to buy their 100-acre base. Like when our colored investigators told us about those white girls from other parts of the country who came down here and slept in these Freedom Houses with colored boys and went back home with children."

In the event Mississippi were taken over by New Africa he would prefer to stay where he is.

"I would stay," he said. "I surely would. For one thing, I own a great deal of property

here. It's not hard to make a real fine living for your family and loved ones. To put it bluntly, it would depend on whether I could stomach it."

Johnson's reaction would be considered promising by the separatists; at least he doesn't scoff. Roy Harris of Augusta, Georgia, whose presidency of the local Citizens Council of America places him in a high pantheon of segregationists, is another who treats the proposal seriously. I told Harris that Negroes want Georgia as part of their kingdom.

"Uh huh. Uh uh," he said. "Well, we're in favor of giving them New York and New Jersey."

Would he go along with the proposal if they would settle for New York and New Jersey?

"Truth of the matter is, the idea is sound. But how you going to accomplish it after you've got this far along and have this many roots planted? To get people to up and walk off and leave a territory is going to be difficult to do. Theoretically, it's a good idea, though. Course, you know it was old Tom Jefferson, I believe—I don't know if it was original with him but he advocated it for a long time—who wanted to pick some of these African countries and send them over there. Lincoln wanted to, too. And you know they picked this little old what's-its-name, that little republic down there, what's-its-name—Liberia—and sent a few down there. The ancestors of the President of Liberia came from Augusta, Georgia. I don't say that with pride but as a matter of fact. Separate Negro towns might be another solution. I think they ought to have their own council, own mayor, own police force. I don't think there's any objection to it. I think it's got to come."

Would Harris be in favor of turning over to them such black neighborhoods as Harlem?

"Yeah, they've taken it anyway. Give it to them. That's smarter than taking three of our Southern states. You couldn't force the Negroes to move in here. If you undertook a resettlement plan in the South, you'd still have them in Harlem, Washington, Philadelphia and Chicago just like you've got them now.

"Now, you take Atlanta. They never had more than 200,000 Negroes in Atlanta in all its history. And if you count the Puerto Ricans as colored, you get a million and a half and more in New York City alone. You've got right at a million in Chicago and more than half a million in Philadelphia. There is more Negro wealth in Atlanta than there is in New York, Chicago, and Philadelphia put together. And the reason is that when old Sherman burned Atlanta, they had to start all over. And they built a white section and a Negro section. All of them—black and white—being broke, they worked on this together . . . this is 'ours' and this is 'yours.'

"They could work out the same arrangement today if the government helped the Negroes buy Harlem just like the government helps people buy farms.

"I don't know if it would be desirable for *everything* to be separate. You got some niggers in New York that like to go to grand opera. Not many. Now, that's an extreme example, but what I'm fixing to say is you probably can't have separate facilities of every kind. You don't want to have separate opera houses. There's somethings you've got to do together. Let those few Negroes who like grand opera come in and sit with you on opera night. That's right. . . . Now, we can't say the Negroes are going to take Ford and the white folks G.M.C., or vice versa. Now, you can't go to that extreme."

There is, in fact, usually little difference in the response of liberals and reactionaries. The position of Majority Leader Mansfield is no different in one regard from that held by Marvin Griffin, who served in 1968 as Wallace's temporary vice-presidential running mate. "Now, I'll tell you," says Griffin, "1861 to 1865 my folks down here tried to stake out a piece of real estate of our own and we got hell beat out of us, and they changed our point of view somewhat. If white folks got so mad at the blacks they decided to give them a piece of real estate and tell them to go off by themselves, we'd be going backwards. Anyway, whose land are these Negroes going to take—mine or yours?"

"I'm afraid," I said, "they have their eye on your land."

"Yeah, well, I guess they do at that. The strange thing about that thinking is, we got some mighty good Negro farmers down here in our section who own their own land. They're good citizens and they're doing a good job, and particularly so since they can get some federal help on their programs.

"The Negro down here who is in farming or in business, he ain't getting any help from his Negro neighbors who ain't working. He gets all his help from his white neighbors and from the U.S.A. Most of it comes from his neighbors who are white. I don't think he would be willing to trade off what he's got now. He won't swap his birthright for a mess of potash."

"You mean pottage?" I asked.

"I mean potash. That wouldn't be soup, that would be *potash*. If they just insist on separating, though what's the matter with these emerging nations? I understand they are looking for citizens."

That bit about the blacks benefiting by living next to whites is fairly common argument aganist separatism, but it seldom is proffered this opposite way; whites benefit so much economically from the blacks that they can't afford to let them go. Of course, *this* has in fact been so over the last several centuries. James Martin, the most powerful Republican in Alabama (and thereby, next to George Wallace, perhaps the most powerful politician in the state) offers the same benevolent reason for vetoing the idea of separation "Negroes draw strength from the white community. Negroes do better when they are dispersed than they do when they are concentrated, economically and socially too, because when they are together they get frustrated from their own failures. I'm in the oil business and I just got through setting up a Negro in a service station. He is energetic and all that, but he needed our guidance. On his own, I'm doubtful that he could have done it." And if the blacks insist on trying to break free of this helpfulness. Martin has an answer: shoot them. "There would be another civil war. There are enough people in the South who would mobilize and fight against it. We'll form another Confederate army. I would bear arms. I'm not about to leave the South. You don't hear of Southerners moving north."

I asked if he would be willing to give them part of the inner cities.

"I don't believe in giving anybody land anywhere."

The most effective defender the separatists have found among whites so far is W. H. Ferry, a vice-president of the Fund for the Republic Inc., a well-known money-raiser for liberal causes, and a Fellow of the Center for the Study of Democratic Institutions in Santa Barbara, California. His writings on the theme that racial integration in this country is impossible have won for Ferry the supreme accolade from Professor Browne ("I think he must be part black") and the supreme outrage of most liberals, who look upon him as a traitor.

While he concedes that a separate nation "in the long run may prove to be the only way out," he is sticking with the idea of separate cities right now. He has proposed that boundaries be set up around the natural enclaves of black residents in urban centers, and that this be theirs: power to tax, power to police, power to educate, everything, in little colonies.

Ferry's forcefulness as an advocate rests to some degree on his Swiftian ability to lean over the abyss of grotesqueries without falling in, and doing it so gracefully that his followers are never quite sure when he is being sardonic and when he is not. Of his city colonies, he says: "Neither white city nor black colony will be permitted to erect Berlin walls, but frontier zones will be clearly marked. . . . There will be no bar to whites taking up residence in the colonies, where they will be subject to colonial rule. Thus black colonists will be free to whistle at white women; deny normal services to whites and overcharge them when services are provided; expect their police to treat all whites as suspicious persons and mistreat them accordingly; and deny whites access to clubs and rest rooms. All such matters will be arranged under a Reciprocal Indignities Understanding that will be attached to the original Statute of Colonization."

The only thing unusual about Ferry's plans for black-town independence is that it comes from a white liberal. Among urban Negro intellectuals the idea is old hat. At last fall's National Conference on Black Power in Philadelphia, the proposal winning overwhelming support among the four thousand delegates called for taking over the black towns of the country—right now—with the creation of a black urban army to defend their colonies.

The concept of these little black colonies within cities has won the unexpected support of two impressive social observers, one publicly and one privately. The public support came from George F. Kennan, former U.S. Ambassador to Russia who now collects his thoughts in the solemn confines of the Institute for Advanced Study at Princeton. Speaking to a Williamsburg, Virginia, audience made up of politicians and first families who loved it, Kennan came right out and said: "Is it realistic to suppose that the American Negro is going to find his dignity and his comfort of body and mind by the effort to participate and to compete as an individual in a political and social system he neither understands nor respects and for which he is ill-prepared?

"Will it not be necessary to permit him to have, as a number of his leaders are now demanding, a local political community of his own through which he can express himself collectively and in which he can gain both authority and responsibility?"

But this confessional of just another establishment hunky was not nearly so startling as something that happened in a private meeting in New York. After Ferry wrote his "Farewell to Integration," a meeting of the founders of the Santa Barbara Center was held in New York. The founders were distressed. The Center's membership is wealthy, liberal, mostly Jewish, with old and friendly ties to the standard Negro organizations such as the N.A.A.C.P. and the Urban League. They have been spending, and spending generously, to promote integration for years. And here was Ferry seemingly undercutting everything they had stood for. So they called a meeting—about a hundred showed up—and set up a debate between Ferry and Roger Wilkins, who, as Director of Community Relations Service for the Department of Justice, is in charge of its racial integration work. Wilkins is a Negro, of course; he is a nephew of Roy Wilkins, of the N.A.A.C.P. Ferry and Wilkins had never met, and, in fact, Wilkins was not familiar with Ferry's proposals. Ferry spoke first. When it came Wilkins' turn, he stepped up and began to sow devastation in the ranks. "If you came here expecting a debate," he said, "you're going to be sadly disappointed. All I can add to what he has just said is amen. American institutions just have not worked for poor black people. The schools don't work. The trade unions don't work. The police don't work. American institutions not only ill-serve black people, they hurt them.

"I think Mr. Ferry's notion, at least for the time being, of two kinds of interdependent

societies is right. You're not going to integrate Harlem. You're not going to integrate Watts. You're not going to integrate Twelfth Street. What we need is *not* integration," he said, "but a transfer of power. But I have severe doubts about whether we as a society have enough humanity left to succeed."

Even when pushed to its most generously illogical extremes, the Ferry colony plan is greeted by the Henry group as a very dangerous counter-proposal, however, because even if the blacks held the central city colonies, the surrounding whites would still control the transportation system, water supply, and food supply. The blacks would be occupying an isolated fortress, straight out of *Beau Geste*.

But in other aspects, Ferry knows just what the militant blacks are worrying about and why they are studying Southern road maps between target practice.

"I don't think either my plan or the separate-nation idea is looking to the immediate future. My own judgment is that we're going to have something that is recognizably a race war, a civil war, and we're going to have it within a year. As for whether or not apartheid comes out of it, that would depend on how many whites are killed. If just black people are killed, it won't count, but if a lot of whites are killed it's going to count like crazy. The next one I think is going to be a blinder. Please don't say Ferry predicts the next civil war will break out at eight a.m. on May 22. But I will say in 1969, and probably around May or June."

CENSUS REFORM NEEDED NOW

(Mr. BETTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BETTS. Mr. Speaker, plans for the 1970 decennial census are essentially final, according to the Census Bureau, and the 62 million forms needed to canvas every household in America will go to the printer shortly. The long questionnaire contains 67 subjects and some 120 questions, all mandatory with refusal to answer any one bringing a citizen face to face with criminal penalties of a $100 fine, 60 days in jail, or both. Census Bureau officials have ruled out any change in the form so Congress must assert its initiative to revise and reform these plans before April 1, 1970, which is Census Day U.S.A.

On June 19, 1967, I introduced a bill limiting the mandatory questions to subjects essential to making a count of the people and providing that all other subjects would remain on the same form but no criminal penalties would attach if a person refused to answer one or more questions. Interest in census reform exceeded my expectations to the point that over 100 of my colleagues cosponsored similar bills or gave public support to this effort. Thousands of citizens wrote to their Congressmen and editorials and news articles have circulated widely throughout the country. Editorial writers and citizens alike were nearly unanimous in urging:

First, the restoration of a right to privacy by abolishing the harassing penalties from sensitive and overly personal questions;

Second, a reduction in the size and scope of the census in favor of alternative sources of data and other methods of gathering such information; and

Third, greater efforts to prevent a vast undercount in 1970 which may result if the present exceedingly long and complex questionnaire is used.

Let me review each of these points.

Personal privacy is invaded when sensitive facts are extracted from an individual against his will. I believe privacy to be not simply the absence of information about people, rather it is the control persons have over facts about themselves. The intrusion takes place with the compulsion to divulge personal data, not in the handling of such facts by the Government. Privacy is respected, however, under voluntary procedures where people are asked rather than told they must comply with a census questionnaire. My interpretation of privacy is not related to the confidentiality of information collected and stored at the Census Bureau with which I have no quarrel.

The Census Bureau recognizes their need for a favorable public attitude by the citizens who must supply the facts they seek. Public cooperation will be measurably improved if persons are asked rather than told to answer questions. The Census Bureau, State governments, the entire market research and educational communities obtain valid statistics and opinion data through voluntary questionnaires. It is high time people were asked to cooperate, not harassed and threatened with punishment if they resist a question or two on this 67-item inquiry.

The 1970 census form requires the following categories of information be submitted by every person receiving the long form:

First, income, dollar by dollar, from all sources including public assistance, alimony, unemployment and disability insurance, pensions, and investments.

Second, the value of property or amount of rent paid;

Third, educational, marital, employment, and military history;

Fourth, with whom bathroom and kitchen facilities are shared;

Fifth, a long list of household items including dishwasher, television, radios, automobiles, and second home; and

Sixth, where each person and his parents were born.

The constitutional intent of the census, to enumerate the population for the purpose of apportioning of the U.S. House of Representatives, has been vastly distorted by being loaded down with so many sundry questions. I see no justification to impose a mandatory requirement on answering all such inquiries having no direct relationship with the essential function of the decennial census.

Mr. Speaker, by probing into the many aspects of this issue for nearly 2 years I have become more convinced that Congress must limit Census Bureau authority in a very real sense to protect the Bureau from itself. The Census Bureau, so far as I can learn, is a totally statistical user oriented agency. They contend they serve the public from whom billions of statistics are extracted but in reality the public is exploited for greedy factfinders in Government and private business. Let me illustrate this form of bias. Advisory committees and regional conferences operate to help the Census Director determine what questions to ask. To my disappointment, no representative of a single citizens group, civil liberties, patriotic or other people oriented organization took part in these proceedings. Thus, when alternative channels of gathering some of this information are suggested such as from other Government agencies, the response from the Census Bureau and their statistic-user advisers is totally negative. Suggestions of more limited samplings or deferring some questions to other surveys are rejected with equal firmness. A proposal just to test a part-mandatory, part-voluntary census plan met a similar cold reception at the Census Bureau.

The task of counting about 206 million Americans will cost more than $200 million and require 150,000 censustakers. A new technique, the mail-out/mail-back questionnaire, will be sent to approximately 60 percent of the Nation's households. The cost of counting each person is not unreasonably high, about $1, but should a significant number of people remain uncounted because they do not have the eighth-grade education to read the complex form, object to some of the overly personal questions or the harassment of penalties, the cost of the 1970 census will skyrocket. Consider this: 5.6 million people were missed in 1960 but if the mail return from the most recent pretest city, Trenton, N.J., forms a national trend, the number of those not counted will be staggering. In Trenton, only 65 percent of the people returned their forms, which if projected nationwide would mean that upward of 70 million might not be counted in the first tabulation. The apportionment of Congress, the State legislatures, and distribution of billions of dollars in Federal aid depend on an early and accurate population. We cannot afford to "discover" a few million more Americans 5 years after the census is conducted.

We in the Congress must ask ourselves this pointed question: Is it not more important to count people instead of toilets and TV sets if a choice is to be made? Of course, we must give the priority attention to the headcount. There is a need to maximize the number of people enumerated, regardless of how many minuscule facts we learn about them. Congress faces not only the issue of assuring personal privacy for our countrymen but also to see that a successful census is designed and implemented. During the 90th Congress much concern arose and late in the session the Senate passed a bill repealing the jail sentence penalty on all questions. The House probably would have acted similarly if time had permitted. I believe the jail sentence provision must be repealed and the $100 fine limited to cover only a few essential questions. Mr. Speaker, I have therefore introduced legislation to accomplish this and urge early hearing on this vital matter.

CONGRESSIONAL REFORM AND REORGANIZATION NEEDED NOW

(Mr. HALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HALL. Mr. Speaker, today the gentleman from New Hampshire (Mr. CLEVELAND) and I are again introducing the version passed in the other body of the Legislative Reorganization Act of 1967. This legislation was the result of extensive work carried out by the Joint Committee on the Organization of Congress and related agencies, on which I had the pleasure to serve. The committee was created by resolution in the 89th Congress and conducted many weeks of hearings. It was continued throughout the 90th Congress.

After the expenditure of thousands of tax dollars and weeks of debate, the other body passed the so-called reorganization bill on March 7, 1967, by an overwhelming vote of 75 to 9. The legislation then came to the House where it was bottled up in the Rules Committee throughout the remainder of the 90th Congress.

Mr. Speaker, I am not in complete agreement with all the provisions of the version passed by the other body, but I am willing to trust the Members of the House of Representatives to work their will on this or any other similar measure. Along with others I have included supplemental views. I am fully aware that many amendments would be offered, that many provisions would be vigorously debated, and that the final product would not completely please all Members. However, on one thing there is probably complete agreement; a modernization of the congressional branch is required. We have not brought ourselves up to date since the last congressional reform of 1946. I certainly do not have to inform the Members of vast changes that have taken place in these last 23 years.

Finally, there has been much discussion that Congress is inefficient and it has been alleged—for political and other purposes—that we are an obsolete branch of Government. I do not believe this, nor do a vast majority of the American public. However, the burden is now upon us to prove that we are a coequal branch, and that we can and do meet our constitutional responsibilities. The burden can be met by acting upon congressional reform, and thus only faith in the people's branch of Government can be maintained.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. WATSON (at the request of Mr. GERALD R. FORD), for today, on account of illness.

Mr. PRICE of Texas (at the request of Mr. GERALD R. FORD) on account of illness.

Mr. BURKE of Florida (at the request of Mr. CRAMER), for the remainder of this week, on account of a death in his family.

Mr. FOUNTAIN (at the request of Mr. LENNON), for an indefinite period, on account of death in his immediate family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. CAHILL (at the request of Mr. PETTIS), for 15 minutes, on January 7; and to revise and extend his remarks and include extraneous matter.

EXTENSIONS OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. PETTIS) and to include extraneous matter:)

Mr. WINN.
Mr. BURKE of Florida.
Mr. POFF.
Mr. HARSHA.
Mr. MINSHALL.
Mr. MCDONALD of Michigan.
Mr. LANGEN.
Mr. WYMAN.
Mr. COLLINS in six instances.

(The following Members (at the request of Mr. LOWENSTEIN) and to include extraneous matter:)

Mr. PUCINSKI in 12 instances.
Mr. CULVER.
Mr. HUNGATE in 10 instances.
Mr. DANIELS of New Jersey in two instances.
Mr. RARICK in two instances.
Mr. CELLER.
Mr. GILBERT.
Mr. ROSENTHAL in three instances.
Mr. PODELL in two instances.
Mr. JOHNSON of California in two instances.
Mr. REUSS in six instances.
Mr. MURPHY of New York.
Mr. VANIK in two instances.
Mr. MOLLOHAN in five instances.
Mr. MOORHEAD in three instances.
Mr. OTTINGER in two instances.
Mr. PICKLE in four instances.
Mr. BROWN of California.
Mr. TUNNEY in six instances.
Mr. FEIGHAN in four instances.
Mr. FASCELL in two instances.

ADJOURNMENT

Mr. LOWENSTEIN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 54 minutes p.m.), the House adjourned until tomorrow, Tuesday, January 7, 1969, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

146. A letter from the Deputy Secretary of Defense, transmitting a draft of proposed legislation to amend section 427(b) of title 37, United States Code, to provide that a family separation allowance shall be paid to a member of a uniformed service even though the member does not maintain a residence or household for his dependents, subject to his management and control; to the Committee on Armed Services.

147. A letter from the Deputy Secretary of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to authorize the Secretary of a military department or the head of a defense agency to sell production equipment to contractors and subcontractors; to the Committee on Armed Services.

148. A letter from the Deputy Assistant Secretary of Defense (Properties and Installation), transmitting a report of the location, nature, and estimated cost of certain facilities projects proposed to be undertaken for the Air Force Reserve, pursuant to the provisions of 10 U.S.C. 2233a(1); to the Committee on Armed Services.

149. A letter from the Secretary of the Army, transmitting a draft of proposed legislation to amend title 37, United States Code, to authorize travel, transportation, and education allowances to certain members of the uniformed services for dependents' schooling, and for other purposes; to the Committee on Armed Services.

150. A letter from the Secretary of the Army, transmitting a draft of proposed legislation to authorize the commandant of the U.S. Army Command and General Staff College to award the degree of master of military art and science; to the Committee on Armed Services.

151. A letter from the Comptroller General of the United States, transmitting a report on cost evaluation for movement of household goods between the United States and Germany, Department of Defense; to the Committee on Government Operations.

152. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to authorize appropriations of the Department of Commerce to be available until expended or for periods in excess of 1 year; to the Committee on Interstate and Foreign Commerce.

153. A letter from the Secretary of Health, Education, and Welfare, transmitting the report of the Department's Consumer Protection and Environmental Health Service regarding the implementation and administration of the Fair Packaging and Labeling Act by the Food and Drug Administration, for fiscal year 1968, pursuant to the provisions of section 8 of Public Law 89–755; to the Committee on Interstate and Foreign Commerce.

154. A letter from the Secretary of the Army, transmitting a draft of proposed legislation to amend title 5, United States Code, to authorize civilians employed by the Department of Defense to administer oaths while conducting official investigations; to the Committee on the Judiciary.

155. A letter from the Secretary of the Army, transmitting a draft of proposed legislation to discontinue the annual report of Congress as to the administrative settlement of personal property claims of military personnel and civilian employees; to the Committee on the Judiciary.

156. A letter from the Director of Personnel, Department of Commerce, transmitting a report of scientific and professional positions established in the Department, pursuant to the provisions of 5 U.S.C. 3104(c); to the Committee on Post Office and Civil Service.

157. A letter from the Deputy Secretary of Defense, transmitting a draft of proposed legislation to amend the Atomic Energy Act of 1954, as amended; to the Joint Committee on Atomic Energy.

158. A letter from the Chairman, Atomic Energy Commission, transmitting a draft of proposed legislation to amend the Atomic Energy Act of 1954, as amended, and for other purposes; to the Joint Committee on Atomic Energy.

159. Communication from the President of the United States, transmitting a report relative to the availability of studies and proposals developed by the Treasury Department concerning a comprehensive reform of the Internal Revenue Code (H. Doc. No. 91–35); to the Committee on Ways and Means and ordered to be printed.

160. A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to amend section 815 of title 10, United States Code, to authorize the Secretaries of the military departments to extend increased nonjudicial punishment powers to

certain officers; to the Committee on Armed Services.

161. A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to amend title 10, United States Code, to permit naval flight officers to be eligible to command certain naval activities, and for other purposes; to the Committee on Armed Services.

162. A letter from the Acting Secretary of Commerce, transmitting a draft of proposed legislation to authorize the Secretary of Commerce to employ aliens in a scientific or technical capacity; to the Committee on Interstate and Foreign Commerce.

163. A letter from the Chairman, Securities and Exchange Commission, transmitting the 34th annual report of the Commission for fiscal year 1968, pursuant to the provisions of applicable statutory requirements; to the Committee on Interstate and Foreign Commerce.

164. A letter from the Librarian of Congress, transmitting a report on positions in the Legislative Reference Service of the Library of Congress in grades GS–16, GS–17, and GS–18, provided for by 5 U.S.C. 5108(b)(1), pursuant to the provisions of 5 U.S.C. 5114; to the Committee on Post Office and Civil Service.

165. A letter from the Librarian of Congress, transmitting a report on positions in the Library of Congress in grades GS–16, GS–17, and GS–18, provided for by 5 U.S.C. 5108(b)(2), pursuant to the provisions of 5 U.S.C. 5114; to the Committee on Post Office and Civil Service.

166. A letter from the Administrator, General Services Administration, transmitting a prospectus proposing acquisition of facilities to house the Geological Survey, Department of the Interior, by leasing a building to be constructed on Government-owned land at Reston, Va., pursuant to the provisions of Public Law 90–550 (82 Stat. 994); to the Committee on Public Works.

167. A letter from the Secretary of Health, Education, and Welfare, transmitting a report of the Advisory Council on Health Insurance for the Disabled, pursuant to the provisions of section 140 of the Social Security Amendments of 1967; to the Committee on Ways and Means.

168. A letter from the Comptroller General of the United States, transmitting a report of the review of certain aspects of the administration of the Neighborhood Youth Corps program in Los Angeles County, Calif., Department of Labor; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. THOMPSON of New Jersey: Joint Committee on the Disposition of Executive Papers. House Report No. 91–1. Report on the disposition of certain papers of sundry executive departments. Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BATTIN:

H.R. 2055. A bill to amend the Agricultural Adjustment Act of 1938, as amended, to permit advance payments to wheat producers; to the Committee on Agriculture.

H.R. 2056. A bill to provide compensation to the Crow Tribe of Indians, Montana, for certain lands, for the validation of titles to those lands, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 2057. A bill relating to the income tax treatment of advertising revenues derived by a tax-exempt organization from its publication of a trade journal or other periodical; to the Committee on Ways and Means.

H.R. 2058. A bill to amend section 4063 of the Internal Revenue Code of 1954; to the Committee on Ways and Means.

H.R. 2059. A bill to grant minerals, including oil and gas, on certain lands in the Crow Indian Reservation, Montana, to certain Indians, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 2060. A bill to amend title 13, United States Code, to limit the categories of questions required to be answered under penalty of law in the decennial censuses of population, unemployment, and housing, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 2061. A bill to amend the Internal Revenue Code of 1954 regarding credits and payments in the case of certain use of gasoline and lubricating oil; to the Committee on Ways and Means.

By Mr. BATTIN (for himself, Mr. BROTZMAN, Mr. SEBELIUS, Mr. SHRIVER, Mr. SKUBITZ, Mr. MIZE, Mr. WINN, Mr. DENNEY, Mr. MARTIN, Mr. LUJAN, Mr. FOREMAN, Mr. ANDREWS, of North Dakota, Mr. KLEPPE, Mr. BELCHER, Mr. CAMP, Mr. BERRY, Mr. PRICE of Texas, and Mr. WOLD):

H.R. 2062. A bill to amend section 16 of the Soil Conservation and Domestic Allotment Act, as amended, to extend the Great Plains Conservation Program; to the Committee on Agriculture.

By Mr. BOGGS:

H.R. 2063. A bill to provide increases in annuities granted under the Panama Canal Construction Service Annuity Act of May 29, 1944, and thereafter to provide cost-of-living increases in such annuities; to the Committee on Merchant Marine and Fisheries.

H.R. 2064. A bill to amend the River and Harbor Act of 1945; to the Committee on Public Works.

By Mr. BURKE of Florida:

H.R. 2065. A bill to provide training and employment opportunities for those individuals whose lack of skills and education acts as a barrier to their employment at or above the Federal minimum wage, by means of subsidies to employers on a decreasing scale in order to compensate such employers for the risk of hiring the poor and unskilled in their local communities; to the Committee on Education and Labor.

H.R. 2066. A bill to provide that the U.S. District Court for the Southern District of Florida shall also be held at Fort Lauderdale; to the Committee on the Judiciary.

H.R. 2067. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax to employers for the expenses of providing job training programs; to the Committee on Ways and Means.

H.R. 2068. A bill to amend title II of the Social Security Act to permit an individual receiving benefits thereunder to earn outside income without losing any of such benefits; to the Committee on Ways and Means.

By Mr. BURKE of Massachusetts:

H.R. 2069. A bill to amend the Internal Revenue Code of 1954 to provide that the full amount of any annuity received under the Civil Service Retirement Act shall be excluded from gross income; to the Committee on Ways and Means.

By Mr. CABELL:

H.R. 2070. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. EILBERG:

H.R. 2071. A bill to incorporate the Catholic War Veterans of the United States of America; to the Committee on the Judiciary.

By Mr. EVERETT:

H.R. 2072. A bill to amend section 123(c) of title 28, United States Code, so as to transfer Haywood County from the western to the eastern division of the western district of Tennessee; to the Committee on the Judiciary.

By Mr. GETTYS:

H.R. 2073. A bill to amend the act of July 18, 1958, to provide for the expansion of Cowpens National Battleground Site; to the Committee on Interior and Insular Affairs.

By Mr. GREEN of Pennsylvania:

H.R. 2074. A bill to amend title VII of the Housing and Urban Development Act of 1965 to authorize financial assistance for the provision of street lighting facilities in aid of the prevention or reduction of crime; to the Commission on Banking and Currency.

H.R. 2075. A bill to amend title 13, United States Code, to provide for a mid-decade census of population, unemployment, and housing in the year 1975 and every 10 years thereafter; to the Committee on Post Office and Civil Service.

H.R. 2076. A bill relating to withholding, for purposes of the income tax imposed by certain cities, on the compensation of Federal employees; to the Committee on Ways and Means.

By Mr. HAWKINS:

H.R. 2077. A bill to more effectively prohibit discrimination in employment because of race, color, religion, sex, or national origin, and for other purposes; to the Committee on Education and Labor.

H.R. 2078. A bill to amend title XVIII of the Social Security Act to provide payment for chiropractors' services under the program of supplementary medical insurance benefits for the aged; to the Committee on Ways and Means.

By Mr. HELSTOSKI:

H.R. 2079. A bill to strengthen and improve the Older Americans Act of 1965; to the Committee on Education and Labor.

H.R. 2080. A bill to provide additional protection for the rights of participants in private pension plans, to establish minimum standards for vesting and funding of private pension plans, to provide an insurance program guaranteeing plan termination protection, and for other purposes; to the Committee on Education and Labor.

H.R. 2081. A bill to provide Federal leadership and grants to the States for developing and implementing State programs for youth camp safety standards; to the Committee on Education and Labor.

H.R. 2082. A bill to establish a Department of Peace, and for other purposes; to the Committee on Government Operations.

H.R. 2083. A bill to provide for the disclosure of certain information relating to certain public opinion polls; to the Committee on House Administration.

H.R. 2084. A bill to strengthen and clarify the law prohibiting the introduction, or manufacture for introduction, of switchblade knives into interstate commerce; to the Committee on Interstate and Foreign Commerce.

H.R. 2085. A bill to amend title II of the Social Security Act to permit the payment of benefits to a married couple on their combined earnings record where that method of computation produces a higher combined benefit; to the Committee on Ways and Means.

By Mr. HOSMER:

H.R. 2086. A bill to amend title 10, United States Code, to equalize the retirement pay of members of the uniformed services of equal rank and years of service, and for other purposes; to the Committee on Armed Services.

H.R. 2087. A bill to amend title 38, United States Code, to provide survivor benefits for military career personnel; to the Committee on Veterans' Affairs.

H.R. 2088. A bill to amend title 38 of the United States Code so as to provide that pub-

lic or private retirement, annuity, or endowment payments (including monthly social Security insurance benefits) shall not be included in computing annual income for the purpose of determining eligibility for a pension under chapter 15 of that title; to the Committee on Veterans' Affairs.

H.R. 2089. A bill to promote the general welfare, foreign policy, and national security of the United States; to the Committee on Ways and Means.

By Mr. KARTH:

H.R. 2090. A bill to guarantee productive employment opportunities for those who are unemployed or underemployed; to the Committee on Education and Labor.

By Mr. KING:

H.R. 2091. A bill to modify the reporting requirement and establish additional income exclusions relating to pension for veterans and their widows, to liberalize the bar to payment of benefits to remarried widows of veterans, to liberalize the oath requirement for hospitalization of veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. McCLURE:

H.R. 2092. A bill to amend the Tariff Schedules of the United States with respect to the rate of duty on honey and honey products and to impose import limitations on honey and honey products; to the Committee on Ways and Means.

H.R. 2093. A bill to amend the Tariff Schedules of the United States with respect to the rate of duty on whole skins of mink, whether or not dressed; to the Committee on Ways and Means.

H.R. 2094. A bill to provide for orderly trade in textile articles; to the Committee on Ways and Means.

H.R. 2095. A bill to revise the quota-control system on the importation of certain meat and meat products; to the Committee on Ways and Means.

H.R. 2096. A bill to regulate imports of milk and dairy products, and for other purposes; to the Committee on Ways and Means.

By Mr. MAILLIARD:

H.R. 2097. A bill to establish the Fort Point National Historic Site in San Francisco, Calif., and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MATSUNAGA:

H.R. 2098. A bill to exempt a member of the Armed Forces from service in a combat zone when such member is the sole surviving son of a family, and for other purposes; to the Committee on Armed Services.

By Mr. DERWINSKI:

H.R. 2099. A bill to provide that the United States shall make no payments or contributions to the United Nations for furnishing assistance to Communist countries; to the Committee on Foreign Affairs.

By Mr. MATSUNAGA:

H.R. 2100. A bill for the establishment of a Civilian Aviation Academy; to the Committee on Interstate and Foreign Commerce.

H.R. 2101. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 2102. A bill to amend the Public Health Service Act to provide special assistance for the improvement of laboratory animal research facilities; to establish standards for the humane care, handling, and treatment of laboratory animals in departments, agencies, and instrumentalities of the United States and by recipients of grants, awards, and contracts from the United States; to encourage the study and improvement of the care, handling, and treatment and the development of methods for minimizing pain and discomfort of laboratory animals used in biomedical activities; and to otherwise assure humane care, handling, and treatment of laboratory animals, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 2103. A bill to establish an Academy of Criminal Justice and to provide for the establishment of such other Academies of Criminal Justice as the Congress may hereafter authorize; to the Committee on the Judiciary.

H.R. 2104. A bill to provide for the compensation of persons injured by certain criminal acts; to the Committee on the Judiciary.

H.R. 2105. A bill authorizing veterans' benefits for persons who served in the Local Security Patrol Force of Guam during World War II; to the Committee on Veterans' Affairs.

By Mr. MURPHY of New York:

H.R. 2106. A bill to amend the Foreign Assistance Act of 1961 so as to provide for reductions in aid to countries in which property of the United States is damaged or destroyed by mob action; to the Committee on Foreign Affairs.

H.R. 2107. A bill to prohibit transportation in interstate or foreign commerce of articles to or from the United States aboard certain foreign vessels, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 2108. A bill to amend the Merchant Marine Act, 1920, to prohibit transportation of articles to or from the United States aboard certain foreign vessels, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 2109. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for certain expenses of higher education; to the Committee on Ways and Means.

H.R. 2110. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for income tax purposes of certain expenses incurred by the taxpayer for the education of a dependent; to the Committee on Ways and Means.

H.R. 2111. A bill to amend title XVIII of the Social Security Act to provide payment for chiropractors' services under the program of supplementary medical insurance benefits for the aged; to the Committee on Ways and Means.

H.R. 2112. A bill to amend title V of the Social Security Act so as to extend and improve the Federal-State program of child-welfare services; to the Committee on Ways and Means.

By Mr. O'KONSKI:

H.R. 2113. A bill to amend section 303 of the Communications Act of 1934 to require that radios be capable of receiving both AM and FM broadcasts; to the Committee on Interstate and Foreign Commerce.

By Mr. OTTINGER:

H.R. 2114. A bill to establish an emergency program of direct Federal assistance in the form of direct grants and loans to certain hospitals in critical need of new facilities in order to meet increasing demands for service; to the Committee on Interstate and Foreign Commerce.

By Mr. PATMAN:

H.R. 2115. A bill to establish a Government corporation to assist in the expansion of the capital market for municipal securities while decreasing the cost of such capital to municipalities; to the Committee on Banking and Currency.

By Mr. PODELL:

H.R. 2116. A bill to clarify the liability of national banks for sales taxes and use taxes; to the Committee on Banking and Currency.

By Mr. POLLOCK:

H.R. 2117. A bill to amend the act providing for the admission of the State of Alaska into the Union in order to extend the time for the filing of applications for the selection of certain lands by such State; to the Committee on Interior and Insular Affairs.

By Mr. RODINO (for himself and Mr. EILBERG):

H.R. 2118. A bill to provide for the redistribution of unused quota numbers; to the Committee on the Judiciary.

By Mr. ROYBAL:

H.R. 2119. A bill to amend the Public Health Service Act to provide for a comprehensive review of the medical, technical, social, and legal problems and opportunities which the Nation faces as a result of medical progress toward making transplantation of organs, and the use of artificial organs, a practical alternative in the treatment of disease; and to amend the Public Health Service Act to provide assistance to certain non-Federal institutions, agencies, and organizations for the establishment and operation of regional and community programs for patients with kidney disease and for the conduct of training related to such programs; to the Committee on Interstate and Foreign Commerce.

By Mr. SAYLOR:

H.R. 2120. A bill to make Flag Day a legal public holiday; to the Committee on the Judiciary.

H.R. 2121. A bill to amend title 5, United States Code, to provide for the mandatory separation from Government service of all officers and employees thereof at the age of 70 years; to the Committee on Post Office and Civil Service.

H.R. 2122. A bill to amend title 38 of the United States Code to provide that any 5-year level premium term plan policy of national service life insurance shall be deemed paid when premiums paid in, less dividends, equal the amount of the policy; to the Committee on Veterans' Affairs.

H.R. 2123. A bill to amend section 4001 of title 38, United States Code, to prescribe qualifications for members of the Board of Veterans' Appeals, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 2124. A bill to amend the Antidumping Act, 1921; to the Committee on Ways and Means.

By Mr. SCHADEBERG:

H.R. 2125. A bill to amend the Internal Revenue Code of 1954 to allow an income tax credit for tuition expenses of the taxpayer or his spouse or a dependent at an institution of higher education; to the Committee on Ways and Means.

H.R. 2126. A bill to establish a program of dairy import regulation; to the Committee on Ways and Means.

H.R. 2127. A bill to amend section 22 of the Agricultural Adjustment Act of 1933, as amended; to the Committee on Ways and Means.

H.R. 2128. A bill to amend the Internal Revenue Code of 1954 to allow teachers to deduct from gross income the expenses incurred in pursuing courses for academic credit and degrees at institutions of higher education and including certain travel; to the Committee on Ways and Means.

By Mr. STAFFORD (for himself and Mr. CLEVELAND):

H.R. 2129. A bill to consent to the New Hampshire-Vermont interstate school compact; to the Committee on the Judiciary.

By Mr. STRATTON:

H.R. 2130. A bill to amend the Agricultural Marketing Agreement Act of 1937 with respect to the procedure for amending orders; to the Committee on Agriculture.

H.R. 2131. A bill to amend title 10 of the United States Code to require that the daily ration of members of the Army and Air Force contain at least as much butter as the daily ration prescribed for members of the Navy; to the Committee on Armed Services.

H.R. 2132. A bill to amend the Federal Property and Administrative Services Act of 1949 to permit donations of surplus property to municipalities and to volunteer firefighting organizations, and for other purposes; to the Committee on Government Operations.

H.R. 2133. A bill to transfer functions under various laws relating to the provision of financial assistance for water facilities to the Secretary of Housing and Urban Development and to transfer functions under various laws relating to the provision of financial assist-

ance for sewerage facilities to the Secretary of the Interior; to the Committee on Government Operations.

H.R. 2134. A bill to establish and develop the Chesapeake and Ohio Canal National Historical Park, and for other purposes; to the Commitee on Interior and Insular Affairs.

H.R. 2135. A bill to prohibit deceptive packaging or display of nondairy products resembling milk; to the Committee on Interstate and Foreign Commerce.

H.R. 2136. A bill to provide for orderly trade in textile articles; to the Committee on Ways and Means.

H.R. 2137. A bill to amend the Internal Revenue Code of 1954 to provide a 30-percent credit against the individual income tax for amounts paid as tuition or fees to certain public and private institutions of higher education; to the Committee on Ways and Means.

H.R. 2138. A bill to regulate imports of milk and dairy products, and for other purposes; to the Committee on Ways and Means.

By Mr. GREEN of Pennsylvania (for himself and Mr. Tunney):

H.R. 2139. A bill to amend title 5, United State Code, to facilitate the collection of statistics with respect to the incidence of crime and to provide for the establishment of a National Crime Statistics Center, and for other purposes; to the Committee on the Judiciary.

H.R. 2140. A bill to amend title 38 of the United States Code in order to establish in the Veterans' Administration a national veterans' cemetery system consisting of all cemeteries of the United States in which veterans of any war or conflict are or may be buried; to the Committee on Veterans' Affairs.

H.R. 2141. A bill to establish a Small Tax Division within the Tax Court of the United States; to the Committee on Ways and Means.

H.R. 2142. A bill to amend the Internal Revenue Code of 1954 to raise needed additional revenues by tax reform; to the Committee on Ways and Means.

By Mr. WYATT:

H.R. 2143. A bill to amend title II of the Social Security Act to increase the amount of outside earnings permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

By Mr. BERRY:

H.R. 2144. A bill to amend the Internal Revenue Code of 1954 to allow an incentive tax credit for a part of the cost of constructing or otherwise providing facilities for the control of water or air pollution, and to permit the amortization of such cost within a period of from 1 to 5 years; to the Committee on Ways and Means.

By Mr. BURKE of Massachusetts (for himself, Mr. DENT, Mr. CEDERBERG, Mr. FULTON of Pennsylvania, Mr. FULTON of Tennessee, Mr. GILBERT, Mr. KLUCZYNSKI, Mr. MINISH, Mr. MURPHY of Illinois, Mr. NIX, Mr. WHALLEY, Mr. CAHILL, Mr. TEAGUE of California, Mr. BINGHAM, Mr. DADDARIO, Mr. MOSS, Mr. ST. ONGE, Mr. HELSTOSKI, Mr. O'NEILL of Massachusetts, Mr. FISHER, Mr. ESHLEMAN, Mr. PATMAN, Mr. ADAIR, Mr. MCCLORY, and Mr. QUIE):

H.R. 2145. A bill to expand the definition of deductible moving expenses incurred by an employee; to the Committee on Ways and Means.

By Mr. BURKE of Massachusetts (for himself, Mr. SISK, Mr. SHRIVER, Mr. MCCARTHY, Mr. EILBERG, Mr. UTT, and Mr. HANLEY):

H.R. 2146. A bill to expand the definition of deductible moving expenses incurred by an employee; to the Committee on Ways and Means.

By Mr. CAHILL:

H.R. 2147. A bill to amend title 10 of the United States Code to prohibit contracting for the construction of vessels for the U.S. Navy at places outside of the United States; to the Committee on Armed Services.

H.R. 2148. A bill for the establishment of a commission to study and appraise the organization and operation of the executive and legislative branches of the Government; to the Committee on Government Operations.

H.R. 2149. A bill for the establishment of the Commission on the Organization of the Executive Branch of the Government; to the Committee on Government Operations.

H.R. 2150. A bill to amend the Federal Trade Commission Act to authorize injunctive relief with respect to violations of section 5, and to make certain practices a misdemeanor; to the Committee on Interstate and Foreign Commerce.

H.R. 2151. A bill to establish an emergency program of direct Federal assistance in the form of direct grants and loans to certain hospitals in critical need of new facilities in order to meet increasing demands for service; to the Committee on Interstate and Foreign Commerce.

H.R. 2152. A bill to provide for the investigative detention and search of persons suspected of involvement in, or knowledge of, Federal crimes; to the Committee on the Judiciary.

H.R. 2153. A bill to incorporate the Catholic War Veterans of the United States of America; to the Committee on the Judiciary.

H.R. 2154. A bill to prohibit the investment of income derived from certain criminal activities in any business enterprise affecting interstate or foreign commerce, and for other purposes; to the Committee on the Judiciary.

H.R. 2155. A bill to give the President authority to alleviate or to remove the threat to navigation, safety, marine resources, or the coastal economy posed by certain releases of fluids or other substances carried in oceangoing vessels; to the Committee on Merchant Marine and Fisheries.

H.R. 2156. A bill to give the President authority to alleviate or to remove the threat to navigation, safety, marine resources, or the coastal economy posed by certain releases of fluids or other substances carried in oceangoing vessels, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 2157. A bill to provide the Coast Guard with authority to conduct research and development for the purpose of dealing with the release of harmful fluids carried in vessels; to the Committee on Merchant Marine and Fisheries.

H.R. 2158. A bill to amend the Rules of the House of Representatives to create a standing committee to be known as the Committee on Urban Affairs; to the Committee on Rules.

H.R. 2159. A bill to amend title 38 of the United States Code to provide for the expansion of the Veterans' Administration cemetery system to insure all veterans of burial facilities in a national cemetery; to the Committee on Veterans' Affairs.

H.R. 2160. A bill to provide that the Secretary of the Army shall acquire additional land for the Beverly National Cemetery, New Jersey; to the Committee on Veterans' Affairs.

H.R. 2161. A bill to provide for the construction of a new Veterans' Administration hospital in southern New Jersey; to the Committee on Veterans' Affairs.

H.R. 2162. A bill to permit the burial in national cemeteries of mothers and fathers of deceased servicemen or veterans who died leaving no spouse or minor child entitled to be buried in a national cemetery; to the Committee on Veterans' Affairs.

H.R. 2163. A bill to amend title II of the Social Security Act to provide for cost-of-living increases in the benefits payable thereunder; to the Committee on Ways and Means.

H.R. 2164. A bill to amend the Internal Revenue Code of 1954 to provide that an individual may deduct amounts paid for his higher education, or for the higher education of any of his dependents; to the Committee on Ways and Means.

By Mr. CELLER:

H.R. 2165. A bill to empower postal inspectors to serve warrants and subpenas and to make arrests without warrant for certain offenses against the United States; to the Committee on the Judiciary.

H.R. 2166. A bill to amend title 18, United States Code, to protect the people of the United States against the lawless and irresponsible use of firearms, and to assist in the prevention and solution of crime by requiring a national registration of firearms, establishing minimum licensing standards for the possession of firearms, and encouraging the enactment of effective State and local firearms laws, and for other purposes; to the Committee on the Judiciary.

H.R. 2167. A bill to correct deficiencies in the law relating to the theft and passing of postal money orders; to the Committee on the Judiciary.

H.R. 2168. A bill to amend sections 501 and 504 of title 18, United States Code, so as to strengthen the law relating to the counterfeiting of postage meter stamps or other improper uses of the metered mail system; to the Committee on the Judiciary.

H.R. 2169. A bill to assist in combating crime by creating the U.S. Corrections Service, and for other purposes; to the Committee on the Judiciary.

H.R. 2170. A bill to amend section 4 of the Clayton Act (15 U.S.C. 15), and for other purposes; to the Committee on the Judiciary.

H.R. 2171. A bill relating to national observances and holidays, and for other purposes; to the Committee on the Judiciary.

H.R. 2172. A bill to enact the Interstate Agreement on Detainers into law; to the Committee on the Judiciary.

H.R. 2173. A bill to provide cost-of-living allowances for judicial employees stationed outside the continental United States or in Alaska or Hawaii, and for other purposes; to the Committee on the Judiciary.

H.R. 2174. A bill to repeal the provisions of section 41 of the act of March 2, 1917, as amended, relating to the U.S. District Court for the District of Puerto Rico; to the Committee on the Judiciary.

H.R. 2175. A bill to amend title 18 of the United States Code to authorize the Attorney General to admit to residential community treatment centers persons who are placed on probation, released on parole, or mandatorily released; to the Committee on the Judiciary.

H.R. 2176. A bill to abolish the death penalty under all laws of the United States, and for other purposes; to the Committee on the Judiciary.

H.R. 2177. A bill to amend section 1823 of title 28, United States Code, to authorize the payment of travel expenses for certain witness service; to the Committee on the Judiciary.

H.R. 2178. A bill to authorize the Comptroller General of the United States to administratively settle tort claims arising in foreign countries; to the Committee on the Judiciary.

H.R. 2179. A bill to regulate and foster commerce among the States by providing a system for the taxation of interstate commerce; to the Committee on the Judiciary.

By Mr. DERWINSKI:

H.R. 2180. A bill to provide the U.S. payments to the United Nations shall not be used for programs contrary to the policies of the United States; to the Committee on Foreign Affairs.

By Mr. DULSKI:

H.R. 2181. A bill to amend title II of the Social Security Act to increase the amount of outside earnings permitted each year with-

out any deductions from benefits thereunder; to the Committee on Ways and Means.

By Mr. HOSMER:

H.R. 2182. A bill to clarify the liability of national banks for taxes and fees on motor vehicles; to the Committee on Banking and Currency.

By Mr. PEPPER:

H.R. 2183. A bill to amend the joint resolution of October 23, 1965, relating to National Parkinson Week; to the Committee on the Judiciary.

By Mr. VANIK:

H.R. 2184. A bill to amend the Federal Water Pollution Control Act, as amended, relating to the construction of waste treatment works, and for other purposes; to the Committee on Public Works.

By Mr. HALL (for himself and Mr. CLEVELAND):

H.R. 2185. A bill to improve the operation of the legislative branch of the Federal Government, and for other purposes; to the Committee on Rules.

By Mr. SMITH of California:

H.R. 2186. A bill to improve the operation of the legislative branch of the Federal Government, and for other purposes; to the Commission on Rules.

H.R. 2187. A bill to improve the operation of the legislative branch of the Federal Government, and for other purposes; to the Committee on Rules.

H.R. 2188. A bill Federal Regulation of Lobbying Act of 1969; to the Committee on Rules.

By Mr. BATTIN:

H.R. 2189. A bill to grant to the State of Montana the reversionary interest of the United States in certain real property; to the Committee on Interior and Insular Affairs.

H.R. 2190. A bill to repeal section 372–1 of title 25, United States Code, relating to the appointment of hearing examiners for Indian probate work, to provide tenure and status for hearing examiners performing such work, and for other purposes; to the Committee on the Judiciary.

By Mr. BROYHILL of Virginia (for himself and Mr. NELSEN):

H.R. 2191. A bill relating to the establishment of parking facilities in the District of Columbia; to the Committee on the District of Columbia.

By Mr. CÓRDOVA:

H.R. 2192. A bill to authorize the transportation of passengers by certain foreign vessels between Puerto Rico and Port Everglades, Fla., to the Committee on Merchant Marine and Fisheries.

By Mr. HAMILTON:

H.R. 2193. A bill to enable citizens of the United States who change their residences to vote in presidential elections, and for other purposes; to the Committee on House Administration.

By Mr. HAWKINS:

H.R. 2194. A bill to authorize the Commissioner of the District of Columbia to administer a program to provide for the construction of parking facilities in the District of Columbia without cost to the taxpayers, and without displacing families, businesses, or taxes; to the Committee on Public Works.

By Mr. POLLOCK:

H.R. 2195. A bill to remove certain restrictions to clerk hire for Members of the House of Representatives; to the Committee on House Administration.

H.R. 2196. A bill to amend the Legislative Branch Appropriation Act, 1959, as it relates to transportation expenses of Members of the House of Representatives, and for other purposes; to the Committee on House Administration.

H.R. 2197. A bill to amend the act of August 28, 1965, as it relates to transportation expenses for employees in the office of a Member of the House of Representatives; to the Committee on House Administration.

By Mr. SIKES:

H.R. 2198. A bill to exempt from taxation certain property in the District of Columbia owned by the Reserve Officers Association of the United States; to the Committee on the District of Columbia.

By Mr. CAHILL:

H.J. Res. 178. Joint resolution to declare the policy of the United States with respect to its territorial sea; to the Committee on Foreign Affairs.

By Mr. CELLER:

H.J. Res. 179. Joint resolution proposing an amendment to the Constitution of the United States relating to the election of the President and Vice President; to the Committee on the Judiciary.

H.J. Res. 180. Joint resolution to amend the Constitution to provide for representation of the District of Columbia in the Congress; to the Committee on the Judiciary.

H.J. Res. 181. Joint resolution proposing an amendment to the Constitution of the United States relating to the election of the President and Vice President; to the Committee on the Judiciary.

By Mr. COLLIER:

H.J. Res. 182. Joint resolution proposing an amendment to the Constitution of the United States to provide for direct popular election of the President and the Vice President of the United States; to the Committee on the Judiciary.

By Mr. GRIFFIN:

H.J. Res. 183. Joint resolution proposing an amendment to the Constitution relative to qualifications of members of the Supreme Court; to the Committee on the Judiciary.

By Mr. KARTH:

H.J. Res. 184. Joint resolution proposing an amendment to the Constitution of the United States making citizens who have attained 18 years of age eligible to vote in all elections; to the Committee on the Judiciary.

By Mr. MURPHY of New York:

H.J. Res. 185. Joint resolution proposing an amendment to the Constitution of the United States to permit voluntary participation in prayer in public schools; to the Committee on the Judiciary.

By Mr. POLLOCK:

H.J. Res. 186. Joint resolution proposing an amendment to the Constitution of the United States of America providing for a 4-year term for Members of the House of Representatives; to the Committee on the Judiciary.

By Mr. REINECKE:

H.J. Res. 187. Joint resolution creating a Joint Committee To Investigate Crime; to the Committee on Rules.

By Mr. REUSS:

H.J. Res. 188. Joint resolution proposing an amendment to the Constitution of the United States relating to the election of President and Vice President; to the Committee on the Judiciary.

By Mr. STRATTON:

H.J. Res. 189. Joint resolution proposing an amendment to the Constitution of the United States relating to the election of President and Vice President; to the Committee on the Judiciary.

H.J. Res. 190. Joint resolution proposing an amendment to the Constitution of the United States relating to the right to vote of citizens who have attained the age of 18 years; to the Committee on the Judiciary.

By Mr. THOMPSON of Georgia:

H.J. Res. 191. Joint resolution proposing an amendment to the Constitution to provide for the direct election of the President and the Vice President; to the Committee on the Judiciary.

By Mr. WRIGHT:

H.J. Res. 192. Joint resolution proposing an amendment to the Constitution of the United States providing for the election of President and Vice President; to the Committee on the Judiciary.

By Mr. LONG of Maryland:

H. Con. Res. 63. Concurrent resolution relating to the seizure of U.S. vessels and to the highjacking of U.S. aircraft; to the Committee on Foreign Affairs.

By Mr. CAHILL:

H. Res. 87. Resolution creating a select committee to conduct an investigation and study of all aspects of crime in the United States; to the Committee on Rules.

By Mr. HAWKINS:

H. Res. 88. Resolution to amend rules X, XI, and XIII of the Rules of the House of Representatives; to the Committee on Rules.

By Mr. ICHORD (for himself, Mr. ASHBROOK, and Mr. DEL CLAWSON):

H. Res. 89. Resolution to amend the Rules of the House of Representatives to change the name of the Committee on Un-American Activities, and for other purposes; to the Committee on Rules.

By Mr. REINECKE:

H. Res. 90. Resolution creating a select committee to conduct an investigation and study of all aspects of crime in the United States; to the Committee on Rules.

By Mr. ROYBAL:

H. Res. 91. Resolution to amend rules X, XI, and XIII of the Rules of the House of Representatives; to the Committee on Rules.

By Mr. STRATTON:

H. Res. 92. Resolution expressing the sense of the House of Representatives that the people of all Ireland should have an opportunity to express their will for union by an election under the auspices of a United Nations commission; to the Committee on Foreign Affairs.

By Mr. CELLER:

H. Res. 93. Resolution authorizing the Committee on the Judiciary to conduct studies and investigations relating to certain matters within its jurisdiction; to the Committee on Rules.

By Mr. COLMER:

H. Res. 94. Resolution providing funds for the Committee on Rules; to the Committee on House Administration.

By Mr. EVINS of Tennessee:

H. Res. 95. Resolution authorizing certain printing for the Select Committee on Small Business of the House of Representatives; to the Committee on House Administration.

By Mr. FRIEDEL:

H. Res. 96. Resolution authorizing payment of compensation for certain committee employees; to the Committee on House Administration.

By Mr. McMILLAN:

H. Res. 97. Resolution transferring all the functions, powers, and duties of the Architect of the Capitol relating to the operation and management of certain cafeterias of the House of Representatives to a House Cafeterias Commission; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BARRETT:

H.R. 2199. A bill for the relief of Agripina V. and Raul S. Gesmundo; to the Committee on the Judiciary.

H.R. 2200. A bill for the relief of Benedetto Pietrangelo; to the Committee on the Judiciary.

By Mr. BATES:

H.R. 2201. A bill for the relief of Miss Anna Ferrari; to the Committee on the Judiciary.

By Mr. BOGGS:

H.R. 2202. A bill for the relief of Mr. and Mrs. Alexis Joseph Cole; to the Committee on the Judiciary.

By Mr. BOLAND:

H.R. 2203. A bill authorizing the President of the United States to award Congressional Medals of Honor to Astronauts Frank Borman, James A. Lovell, and William A. Anders; to the Committee on Armed Services.

By Mr. BROWN of Michigan:

H.R. 2204. A bill for the relief of Dr.

Sadananda Goud and his wife, Shobha Kesaree Goud; to the Committee on the Judiciary.

By Mr. BUSH:

H.R. 2205. A bill authorizing the President of the United States to award Congressional Medals of Honor to Astronauts Frank Borman, James A. Lovell, and William A. Anders; to the Committee on Armed Services.

By Mr. CABELL:

H.R. 2206. A bill for the relief of Adela Deidad La Riva; to the Committee on the Judiciary.

By Mr. CAHILL:

H.R. 2207. A bill for the relief of Frances S. Bender; to the Committee on the Judiciary.

H.R. 2208. A bill for the relief of James Hideaki Buck; to the Committee on the Judiciary.

H.R. 2209. A bill for the relief of Carlo DeMarco; to the Committee on the Judiciary.

H.R. 2210. A bill for the relief of Charles D. Dodelin and others; to the Committee on the Judiciary.

H.R. 2211. A bill for the relief of Janina Morawska; to the Committee on the Judiciary.

H.R. 2212. A bill for the relief of Lucia Musillo; to the Committee on the Judiciary.

H.R. 2213. A bill for the relief of George A. Simons; to the Committee on the Judiciary.

By Mr. CASEY:

H.R. 2214. A bill for the relief of the Mutual Benefit Foundation to the Committee on the Judiciary.

H.R. 2215. A bill for the relief of Dr. Anil K. Sinha, Mr. Purnia Sinha, and Madhulika Sinha; to the Committee on the Judiciary.

By Mr. CELLER:

H.R. 2216. A bill for the relief of Patrick Jean Giddings; to the Committee on the Judiciary.

H.R. 2217. A bill for the relief of Joseph W. Harris; to the Committee on the Judiciary.

H.R. 2218. A bill for the relief of William John Moher; to the Committee on the Judiciary.

By Mr. CONABLE:

H.R. 2219. A bill for the relief of Francesco A. DiSalvo; to the Committee on the Judiciary.

H.R. 2220. A bill for the relief of Mrs. Maria D'Avanzo Marovelli and her minor daughter, Rosella Marovelli; to the Committee on the Judiciary.

H.R. 2221. A bill for the relief of Vinceslao Nicholas Pucci; to the Committee on the Judiciary.

By Mr. CONTE:

H.R. 2222. A bill for the relief of Arnold Gerardo Borrego-Suero; to the Committee on the Judiciary.

By Mr. DAWSON:

H.R. 2223. A bill for the relief of Monohar Ramrao Kamat; to the Committee on the Judiciary.

By Mr. EDWARDS of California:

H.R. 2224. A bill for the relief of Franklin Jacinto Antonio; to the Committee on the Judiciary.

H.R. 2225. A bill for the relief of Mrs. Esperanza Ramos Delgado; to the Committee on the Judiciary.

H.R. 2226. A bill for the relief of Anton Joseph Hanna Dyke; to the Committee on the Judiciary.

H.R. 2227. A bill for the relief of Richard W. Hoffman; to the Committee on the Judiciary.

H.R. 2228. A bill for the relief of Leonor Lacuesta Jacinto; to the Committee on the Judiciary.

H.R. 2229. A bill for the relief of Mauricio A. Jacinto; to the Committee on the Judiciary.

H.R. 2230. A bill for the relief of Alfredo Augusto Maciel; to the Committee on the Judiciary.

H.R. 2231. A bill for the relief of Mrs. Maria Elviar Maciel; to the Committee on the Judiciary.

H.R. 2232. A bill for the relief of Yot Chiu Ng; to the Committee on the Judiciary.

H.R. 2233. A bill for the relief of Carmen Maria Pena-Garcano; to the Committee on the Judiciary.

H.R. 2234. A bill for the relief of Radovan Spremo; to the Committee on the Judiciary.

H.R. 2235. A bill for the relief of Miss Saturnina Toriaga; to the Committee on the Judiciary.

H.R. 2236. A bill for the relief of Herlindo Mariscal Vasquez; to the Committee on the Judiciary.

H.R. 2237. A bill for the relief of Douglas Fu Yuan; to the Committee on the Judiciary.

By Mr. EILBERG:

H.R. 2238. A bill to provide for the relief of certain civilian employees of the Air Force; to the Committee on the Judiciary.

By Mr. FALLON:

H.R. 2239. A bill for the relief of Georgios Sentis; to the Committee on the Judiciary.

By Mr. FISH:

H.R. 2240. A bill for the relief of Wladyslaw Morgner and his wife, Anna Morgner; to the Committee on the Judiciary.

By Mr. FRELINGHUYSEN:

H.R. 2241. A bill for the relief of John T. Anderson; to the Committee on the Judiciary.

H.R. 2242. A bill for the relief of Santolo Beneduce; to the Committee on the Judiciary.

H.R. 2243. A bill for the relief of Anna Crocetto; to the Committee on the Judiciary.

H.R. 2244. A bill for the relief of Filomeno De Rosa; to the Committee on the Judiciary.

H.R. 2245. A bill for the relief of Nikolaos Fountas; to the Committee on the Judiciary.

H.R. 2246. A bill for the relief of Domenico La Forgia; to the Committee on the Judiciary.

H.R. 2247. A bill for the relief of Edward Michael Murphy and Kathleen Doris Murphy; to the Committee on the Judiciary.

H.R. 2248. A bill for the relief of Vincenza Nunziata; to the Committee on the Judiciary.

H.R. 2249. A bill for the relief of Vassilios Seretis; to the Committee on the Judiciary.

By Mrs. GREEN of Oregon:

H.R. 2250. A bill for the relief of Dr. Roman Bijan, his wife, Helena Bijan, and their minor daughters, Kristina Bijan and Maria Bijan; to the Committee on the Judiciary.

By Mr. HARVEY:

H.R. 2251. A bill for the relief of Tranquilino Cruz and his wife, Paula R. Palmiery Cruz; to the Committee on the Judiciary.

H.R. 2252. A bill for the relief of Antonio Randazzo and his wife, Bartola Peraino Randazzo; to the Committee on the Judiciary.

By Mr. HAWKINS:

H.R. 2253. A bill for the relief of Rafael F. Calaguas; to the Committee on the Judiciary.

By Mr. HICKS:

H.R. 2254. A bill for the relief of Kang, Kyung Soo; to the Committee on the Judiciary.

H.R. 2255. A bill for the relief of Moon, Dong Wook; to the Committee on the Judiciary.

By Mr. JOELSON:

H.R. 2256. A bill for the relief Mario Di Leo; to the Committee on the Judiciary.

H.R. 2257. A bill for the relief of Germain Francois; to the Committee on the Judiciary.

H.R. 2258. A bill for the relief of Erwin Miller; to the Committee on the Judiciary.

By Mr. KASTENMEIER:

H.R. 2259. A bill for the relief of Dr. Sei Byung Yoon and his wife, Sook Ihn Saw; to the Committee on the Judiciary.

H.R. 2260. A bill to confer jurisdiction on the U.S. District Court for the Western District of Wisconsin to hear, determine, and render judgment on the claim of Emma Zimmerli against the United States; to the Committee on the Judiciary.

By Mr. McCARTHY:

H.R. 2261. A bill for the relief of Francoise Bongrande; to the Committee on the Judiciary.

H.R. 2262. A bill for the relief of Mrs. Nikolija Jankovska and her minor daughter, Suzana; to the Committee on the Judiciary.

H.R. 2263. A bill for the relief of Mohamed Salah Ibraham Nigahed (Meghad); to the Committee on the Judiciary.

H.R. 2264. A bill for the relief of Alfred C. Myers, Jr.; to the Committee on the Judiciary.

H.R. 2265. A bill for the relief of Humberto A. Revollo; to the Committee on the Judiciary.

By Mr. MATSUNAGA:

H.R. 2266. A bill for the relief of Etueni Alatini Vakapuna; to the Committee on the Judiciary.

By Mr. MIZE:

H.R. 2267. A bill for the relief of Dr. and Mrs. Joao Fanganiello; to the Committee on the Judiciary.

H.R. 2268. A bill for the relief of Dr. and Mrs. Gerald Dixon Smith; to the Committee on the Judiciary.

H.R. 2269. A bill for the relief of Dong Chan Kim Willingham; to the Committee on the Judiciary.

By Mr. MESKILL:

H.R. 2270. A bill for the relief of Juan Carlos Barrios, his wife, Maria Cristina Forelius de Barrios, and their minor child, Eduardo Anibal Barrios; to the Committee on the Judiciary.

By Mr. MILLER of California:

H.R. 2271. A bill for the relief of Cho Chung Foo; to the Committee on the Judiciary.

H.R. 2272. A bill for the relief of Bogdan Kopania; to the Committee on the Judiciary.

By Mr. MOLLOHAN:

H.R. 2273. A bill for the relief of Dr. Jose Sulla Maisog and Dr. Victoria Tayengco-Maisog; to the Committee on the Judiciary.

By Mr. MORSE:

H.R. 2274. A bill for the relief of Giuseppe Cantacesso; to the Committee on the Judiciary.

By Mr. NICHOLS:

H.R. 2275. A bill for the relief of John Thomas Cosby, Jr.; to the Committee on the Judiciary.

By Mr. OTTINGER:

H.R. 2276. A bill for the relief of Miss Alda G. Paternoster; to the Committee on the Judiciary.

By Mr. PICKLE:

H.R. 2277. A bill to confer U.S. citizenship posthumously upon Pfc. Joseph Anthony Snitko; to the Committee on the Judiciary.

By Mr. POLLOCK:

H.R. 2278. A bill for the relief of Klaus Max Karli; to the Committee on the Judiciary.

H.R. 2279. A bill for the relief of Luigi Piscitelli; to the Committee on the Judiciary.

By Mr. REES:

H.R. 2280. A bill for the relief of Mr. and Mrs. Arnulfo P. Abilla; to the Committee on the Judiciary.

H.R. 2281. A bill for the relief of Rudy T. Bernaldo; to the Committee on the Judiciary.

H.R. 2282. A bill for the relief of Mr. and Mrs. Alfonso Cediel and their minor child, Liliana; to the Committee on the Judiciary.

H.R. 2283. A bill for the relief of Lourdes De Leon; to the Committee on the Judiciary.

H.R. 2284. A bill for the relief of Armand Ezerer; to the Committee on the Judiciary.

H.R. 2285. A bill for the relief of Mr. and Mrs. Mohamed Hussein Fahmi; to the Committee on the Judiciary.

H.R. 2286. A bill for the relief of Katharina Gaertner; to the Committee on the Judiciary.

H.R. 2287. A bill for the relief of Mr. and Mrs. Joseph Gershon; to the Committee on the Judiciary.

H.R. 2288. A bill for the relief of Maryvonne P. Glercarz; to the Committee on the Judiciary.

H.R. 2289. A bill for the relief of Mrs. Gianna Groves; to the Committee on the Judiciary.

H.R. 2290. A bill for the relief of Maria Halmai; to the Committee on the Judiciary.

H.R. 2291. A bill for the relief of Mr. and Mrs. Haruo Hayama; to the Committee on the Judiciary.

H.R. 2292. A bill for the relief of Miss Visitacion V. Hernandez; to the Committee on the Judiciary.

H.R. 2293. A bill for the relief of Yehoshua M. Horvitz; to the Committee on the Judiciary.

H.R. 2294. A bill for the relief of Mr. and Mrs. Andrew L. Ivots and their minor daughter, Beatrice; to the Committee on the Judiciary.

H.R. 2295. A bill for the relief of Miss Lolita J. Jaramilla; to the Committee on the Judiciary.

H.R. 2296. A bill for the relief of Sang In Kim; to the Committee on the Judiciary.

H.R. 2297. A bill for the relief of Mr. and Mrs. James Ian Mahar and their two minor children, Sean and Lisa; to the Committee on the Judiciary.

H.R. 2298. A bill for the relief of Maheshchandra B. Maheta; to the Committee on the Judiciary.

H.R. 2299. A bill for the relief of Mr. and Mrs. Rafael U. Moreno; to the Committee on the Judiciary.

H.R. 2300. A bill for the relief of Constantin Sivatjian; to the Committee on the Judiciary.

H.R. 2301. A bill for the relief of Natan Sztark; to the Committee on the Judiciary.

H.R. 2302. A bill for the relief of Mrs. Rose Thomas; to the Committee on the Judiciary.

H.R. 2303. A bill for the relief of Mrs. Tomoko Tokugawa; to the Committee on the Judiciary.

H.R. 2304. A bill for the relief of Lie Mun Tsu; to the Committee on the Judiciary.

H.R. 2305. A bill for the relief of Benita Valderama; to the Committee on the Judiciary.

H.R. 2306. A bill for the relief of Mr. and Mrs. Melanio P. Villero; to the Committee on the Judiciary.

By Mr. REINECKE:

H.R. 2307. A bill for the relief of Gerardo B. Barbero; to the Committee on the Judiciary.

H.R. 2308. A bill for the relief of Salwa Barnouty; to the Committee on the Judiciary.

H.R. 2309. A bill for the relief of Maria Jesus Berecibar; to the Committee on the Judiciary.

H.R. 2310. A bill for the relief of Mesrop Bogosoglu; to the Committee on the Judiciary.

H.R. 2311. A bill for the relief of Aurora Castell (also known as Aurora Villanueva); to the Committee on the Judiciary.

H.R. 2312. A bill for the relief of Hong Jin Chun (also known as David Chun) and his wife, Bok Lae Sue Chun; to the Committee on the Judiciary.

H.R. 2313. A bill for the relief of Mrs. Brenda Gilo Cohen; to the Committee on the Judiciary.

H.R. 2314. A bill for the relief of Nicola Di Nallo; to the Committee on the Judiciary.

H.R. 2315. A bill for the relief of Josefina Policar Abutan Fuliar; to the Committee on the Judiciary.

H.R. 2316. A bill for the relief of Maximo Gonzales-Solana; to the Committee on the Judiciary.

H.R. 2317. A bill for the relief of Shi Chang Hsu (also known as Gerald S. C. Hsu); to the Committee on the Judiciary.

H.R. 2318. A bill for the relief of Hospicio A. Lakilak; to the Committee on the Judiciary.

H.R. 2319. A bill for the relief of Man Young Lee; to the Committee on the Judiciary.

H.R. 2320. A bill for the relief of Raymond Leyba; to the Committee on the Judiciary.

H.R. 2321. A bill for the relief of Mitsuyasu Maeno (also known as Soichi Maeno), and his wife, Noriko Maeno; to the Committee on the Judiciary.

H.R. 2322. A bill for the relief of Lior Novik; to the Committee on the Judiciary.

H.R. 2323. A bill for the relief of Sina Fallahi Oskoui; to the Committee on the Judiciary.

H.R. 2324. A bill for the relief of Miss Peyravi Pary Parichehr; to the Committee on the Judiciary.

H.R. 2325. A bill for the relief of Marc Mardoche Serfaty, his wife, Hilda Serfaty, and their son, Anthony Sebastian Serfaty; to the Committee on the Judiciary.

H.R. 2326. A bill for the relief of Santuzza Simonti; to the Committee on the Judiciary.

H.R. 2327. A bill for the relief of Zuhair H. Yousif (Naeem); to the Committee on the Judiciary.

By Mr. RODINO:

H.R. 2328. A bill for the relief of Vincenzo Casale; to the Committee on the Judiciary.

H.R. 2329. A bill for the relief of Heather Doreen Warner; to the Committee on the Judiciary.

By Mr. ROONEY of New York:

H.R. 2330. A bill for the relief of Miss Maria Didio; to the Committee on the Judiciary.

H.R. 2331. A bill for the relief of Mrs. Josefina Ferrer Marasigan; to the Committee on the Judiciary.

H.R. 2332. A bill for the relief of Miss Georgina Ongpin Villacorta; to the Committee on the Judiciary.

By Mr. ROYBAL:

H.R. 2333. A bill for the relief of Norma Esther Barrosa and daughter, Andrea Claudia Coltellini; to the Committee on the Judiciary.

By Mr. SHRIVER:

H.R. 2334. A bill for the relief of Dr. Yusuf Qamar; to the Committee on the Judiciary.

By Mr. SMITH of New York:

H.R. 2335. A bill for the relief of Enrico DeMonte; to the Committee on the Judiciary.

H.R. 2336. A bill for the relief of Adela Durda; to the Committee on the Judiciary.

By Mr. STRATTON:

H.R. 2337. A bill for the relief of Erika M. J. Armstrong; to the Committee on the Judiciary.

H.R. 2338. A bill for the relief of Gerald Levine; to the Committee on the Judiciary.

By Mr. TUNNEY:

H.R. 2339. A bill to authorize the Secretary of the Interior to reinstate certain oil and gas leases; to the Committee on Interior and Insular Affairs.

H.R. 2340. A bill for the relief of Marcelle Florette Courchesne; to the Committee on the Judiciary.

H.R. 2341. A bill for the relief of Mario Frenda; to the Committee on the Judiciary.

H.R. 2342. A bill for the relief of Franco Spalvieri and his son, Marco Crescenzo Spalvieri; to the Committee on the Judiciary.

By Mr. WATSON:

H.R. 2343. A bill for the relief of Rainer Johannes Kronenfeld; to the Committee on the Judiciary.

By Mr. WINN:

H.R. 2344. A bill for the relief of Dr. and Mrs. Krishan Bajaj; to the Committee on the Judiciary.

By Mr. SAYLOR:

H. Con. Res. 64. Concurrent resolution recognizing the golf course of the Foxburg Country Club of Foxburg, Pa., as the oldest golf course in continuous use in the United States; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

28. The SPEAKER presented a petition of S. R. Abramson, M.D., Marksville, La., relative to redress of grievances; to the Committee on the Judiciary.

SENATE—*Monday, January 6, 1969*

The Senate met at 10:30 a.m., and was called to order by the Acting President pro tempore.

James W. Turpin, M.D., president and founder of Project Concern, Inc., San Diego, Calif., offered the following prayer:

Our Father, creator of an expanding universe, Lord of a shrinking planet, we acknowledge more fully Your awesome love, patience, and forgiveness.

Teach us that our world has now grown too small for anything less than brotherhood; that life has become too precious for anything less than peace; that human relations have become too critical for anything less than love.

Give us a sense of family. Make us realize that in our struggle for greatness it is not so much how deep in space we can go, but how far we can reach in solving the immediate problems of Your beloved earth's people. Help us to know that until a hollow-eyed, emaciated, pot-bellied child of the Montagnard, Ibo, or American Indian becomes "our child" we have not yet achieved our national purpose.

Give us a sense of peace. Teach us to wage peace as eagerly and enthusiastically as we have waged war. Make us to experience no real satisfaction if we win a war and lose a people. May peace become not just the static absence of fighting and dying, but the imaginative, dynamic situation where every man is at peace with himself because his family has enough.

And, Father, give us a sense of love. As the world's hungry, poor, and sick ask, "Do you understand? Is it possible that you can feel our feelings?" let this be our reply: "Love you? I am you."

While others doubt, even scoff, let us direct our vast resources toward a world where every child eats enough, every woman is adequately attended in childbirth, and every man knows the dignity of supporting his own.

May this be our glorious quest. Amen.

PRESIDENT PRO TEMPORE

The PRESIDING OFFICER (Mr. MANSFIELD in the chair). The Chair appoints the distinguished Senator from Vermont (Mr. AIKEN) to escort the newly elected President pro tempore to the desk so that he may take the oath as President pro tempore.

Mr. RUSSELL, escorted by Mr. AIKEN, advanced to the rostrum; the oath prescribed by law was administered to him by the Presiding Officer (Mr. MANSFIELD),