H.R. 4755. A bill for the relief of Peter Karonis; to the Committee on the Judiciary.

H.R. 4756. A bill for the relief of Zaven O. Kodjayan; to the Committee on the Judiciary.

H.R. 4757. A bill for the relief of Weronika Marek; to the Committee on the Judiciary.

H.R. 4758. A bill for the relief of Guiseppe Vitale; to the Committee on the Judiciary.

H.R. 4759. A bill for the relief of Salvatore Vitale; to the Committee on the Judiciary.

By Mr. ROONEY of New York:

H.R. 4760. A bill for the relief of Rafael Antonio Pappa, his wife, Clotielde Consuelo Teresa Burastero de Pappa, and their children, Alejandra Andrea, Gabriela Araceli, Sergio Javier, and Fabian Rafael Pappa; to the Committee on the Judiciary.

By Mr. ST. ONGE:

H.R. 4761. A bill for the relief of Dennis J. Relyea; to the Committee on the Judiciary.

By Mr. SANDMAN:

H.R. 4762. A bill for the relief of Charles J. Culligan; to the Committee on the Judiciary.

H.R. 4763. A bill for the relief of Filippo D'Agostino; to the Committee on the Judiciary.

H.R. 4764. A bill for the relief of Mario Errera; to the Committee on the Judiciary.

H.R. 4765. A bill for the relief of Vita Fodera; to the Committee on the Judiciary.

H.R. 4766. A bill for the relief of Eugene P. Horton, Remilda Horton, and James Horton; to the Committee on the Judiciary.

H.R. 4767. A bill for the relief of Dr. Somsak Pappawuiat; to the Committee on the Judiciary.

H.R. 4768. A bill for the relief of Cecilia Pelaez; to the Committee on the Judiciary.

H.R. 4769. A bill for the relief of Francesco Somma; to the Committee on the Judiciary.

H.R. 4770. A bill for the relief of Basile and Palagia Stavroupoulos; to the Committee on the Judiciary.

H.R. 4771. A bill for the relief of Ioannis Stoubos; to the Committee on the Judiciary.

H.R. 4772. A bill for the relief of Giuseppe Trimarchi; to the Committee on the Judiciary.

By Mr. SCHEUER:

H.R. 4773. A bill for the relief of Eihau Malik and his wife Claire; to the Committee on the Judiciary.

H.R. 4774. A bill for the relief of Tomasa Rivera; to the Committee on the Judiciary.

By Mr. SMITH of Iowa:

H.R. 4775. A bill for the relief of Giuseppe Andreano; to the Committee on the Judiciary.

H.R. 4776. A bill for the relief of Salvatore Cusimano; to the Committee on the Judiciary.

H.R. 4777. A bill for the relief of Guido Fenu; to the Committee on the Judiciary.

H.R. 4778. A bill for the relief of Dr. Violeta Poblacion; to the Committee on the Judiciary.

By Mr. THOMPSON of New Jersey:

H.R. 4779. A bill for the relief of Giuseppa Cordaro; to the Committee on the Judiciary.

By Mr. VANDER JAGT:

H.R. 4780. A bill for the relief of Shirouych Makaremi; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

35. By the SPEAKER: Petition of Henry Stoner, Portland, Oreg., relative to the Armed Forces; to the Committee on Armed Services.

36. Also, petition of Gordon Levon Dollar, Springfield, Mo., relative to redress of grievances; to the Committee on the Judiciary.

37. Also, petition of Benjamin L. Ehrlich, Chicago, Ill., relative to redress of grievances; to the Committee on the Judiciary.

38. Also, petition of Charles B. Lucas, Oxon Hill, Md., relative to redress of grievances; to the Committee on the Judiciary.

39. Also, petition of William B. Coleman, Jacksonville, Fla., relative to the Committee on Un-American Activities; to the Committee on Rules.

SENATE—*Monday, January 27, 1969*

(Legislative day of Friday, January 10, 1969)

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

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Everliving God, unto whom in all ages men have lifted up their hearts in prayer, grant to all of us in this place a sense of the sacredness of every task, that while we work we may worship, while we think we may pray, while we speak we may witness for Thee, that serving here we may serve our Nation and serving our Nation we may serve all mankind. Receive now, O Lord, the dedication of our lives which we offer to Thee this day.

In Thy holy name. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Friday, January 24, 1969, be approved.

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

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session,

The VICE PRESIDENT laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

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

WAIVER OF CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

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

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a brief period be allowed for the transaction of routine morning business, with statements therein limited to 3 minutes.

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

MAN IN THE NEWS: SENATOR FRED HARRIS

Mr. MANSFIELD. Mr. President, some days ago, the Democratic National Committee met and selected a new national chairman. The man selected was one of our colleagues, FRED HARRIS, the senior Senator from Okahoma.

I am delighted with his appointment, because if anyone can occupy a position in the Senate and do an outstanding job as the national chairman for our party as well, it is Senator HARRIS. I assure him that he will have the full cooperation and understanding of the Senate leadership in the efforts he undertakes to strengthen the party, to invigorate it, and to bring about a better understanding with the younger people of this Nation.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the transcript of the first TV appearance by Senator HARRIS as national chairman, on "Face the Nation," January 19, 1969, as well as an article about Senator HARRIS and his lovely wife, LaDonna, entitled "Man in the News: FRED HARRIS Riding Herd on Democrats," published in the New York Post of Saturday, January 25, 1969.

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

[From the New York Post, Jan. 25, 1969]

MAN IN THE NEWS: FRED HARRIS RIDING HERD ON DEMOCRATS

(By Warren Hoge)

WASHINGTON.—Only one thing was missing in the Humphrey command headquarters in Minneapolis' Leamington Hotel early election night.

The three television sets were in place. Telephones linked the suite with key lieutenants. The co-chairman of the Democratic Presidential nominee's campaign, Minnesota Sen. Walter Mondale, and his aides were there and a burly friend of the Senator's chauffeur stood at the door to keep out unwanted guests.

Still awaited was the other half of the campaign leadership, Sen. Fred Harris of Oklahoma.

Suddenly there was a commotion in the hallway. A short, somewhat overweight young man with shiny black hair parted razor-straight down the middle was trying to convince the bouncer that he was a U.S. Senator. It wasn't until Mondale came to the door and vouched for him that Sen. Harris was admitted.

In addition to being co-chairman of Humphrey's campaign, Harris had also been an activist member of the Kerner Commission on Civil Disorders and a frequently mentioned possibility for the Democratic Vice Presidential nomination.

Now, at 38, he is the chairman of the Democratic National Committee.

If all that wasn't immediately apparent to the doorkeeper that night, it's understandable.

Harris is a shirtsleeves and feet-on-the-desk type, a man with no time or taste for

the excessive formality of traditional Senatorial demeanor.

While others suited up for convention strategy conferences in Chicago last August, Harris came out in turtlenecks, slacks and loafers. On other mornings, he often used to stroll over to the McLean, Va. home of his neighbor and friend, the late Robert Kennedy, dressed in bathrobe and slippers.

His 37-year-old wife LaDonna, who is half-Indian, and he prefer picnics and backyard cookouts to the Capital's entertainment institution—the candle-lit dinner party.

Behind this easy-going style lurk a drive and an ambition second to none in Washington. A look at his quest for the National Committee chairmanship and his first acts in office yield a telling view of the Harris method.

First, he cleared his credentials with the headliners in the party—Humphrey, Sens. Muskie, Kennedy, Mansfield and McGovern and House Speaker McCormack. (He couldn't get through to Eugene McCarthy.)

Then he personally telephoned all 110 members of the National Committee to see if they had any questions about his qualifications for the job or his plans for the party.

The day after his Jan. 14 election by the committee, Harris summoned all the committee employes and made it clear that his own earnestness was to be the model of the performance he expected from each of them.

He told them he wanted on his desk the next day a memo from each listing past experiences, present duties, attitudes about the current thrust of the committee's work, suggestions for the future and any complaints about their jobs.

He ordered them to memorize the names of all 110 committee members and of all Democratic Representatives, Senators and Governors. If any of these officials writes the committee, Harris directed, an answer should be in the mail within 24 hours.

And he demanded a promise from the staff that none of them would get involved in the jockeying for the party's 1972 Presidential nomination.

With that warning, he intended to dispel the fears of some who saw in his selection a bid to hold the party for Humphrey until 1972. "That's just not true," Harris said when asked in an interview about those allegations. "I want the party to keep open the options for anybody to run for President."

A second source of concern among some Democrats was a feeling that as a Senator he would not be able to devote the time needed to rebuild the sagging party structure and to pay off the $8 million debt incurred for the 1968 Presidential race.

Harris answers this by arguing that the time he gave last year to writing a book "Alarms and Excursions," a report on his work for the Riot Commission, directing Humphrey's race and serving on the Kerner Commission he will give this year solely to the committee chairmanship.

Harris learned to work hard at an early age. Born Nov. 13, 1930, the son of a Southwestern Oklahoma farmer, he was baling hay at the age of five.

Harris' mother earned money during the Depression years of the Senator's childhood by working alternately as a domestic, field hand, chicken plucker, laundry worker, cotton picker and store clerk.

His father had been a day laborer, mule skinner, cotton picker, migrant farm worker, mechanic, bus driver, trucker, cattle buyer, owner of a custom wheat harvesting outfit and a farmer and cattleman.

As a youth, Harris maintained this eclectric tradition, doing a variety of odd jobs around town and following the wheat harvest to North Dakota nine summers in a row. At 12, he decided he had to learn a trade, and he set out to become a printer.

It was an upbringing scarred by poverty; "depending on the need or my mood," Harris now reflects, it was "either terribly deprived or richly educational."

He received both undergraduate and law degrees from the University of Oklahoma where he made his first political mark as an official of the Young Democratic Club.

He had married his high-school sweetheart, LaDonna Crawford, during his first year at the University. They spent his college years together in a trailer the school provided for married students.

LaDonna, daughter of an Irish father and a Comanche mother, was virtually raised by her Indian grandparents after her own parents were divorced.

After graduation, Harris set up a law practice in Lawton and immediately ran for the State House of Representatives. He lost. Then he ran for the state Senate. He won, taking his seat at age 25.

In January, 1963, the veteran U.S. Senator from Oklahoma, Robert Kerr, died. The state's Democratic Governor, J. Howard Edmondson, resigned and had his lieutenant governor appoint him to the vacant post in Washington.

Harris set his sights on the seat and soon began an 18-month campaign through every hamlet of the state. It took two upsets to get him to Washington. First he overturned Edmondson's bid in a three-way Democratic primary. Then he overcame monumental odds and defeated Republican Bud Wilkinson, Oklahoma University's legendary football coach and a revered man throughout the state.

That election was for the two remaining years of the Kerr-Edmondson term and then in 1966 he won the seat for a full term in his own right.

In Washington, Harris performed a remarkable tight-wire act, becoming friendly with President Johnson, Sen. Robert Kennedy and Vice President Humphrey simultaneously.

In 1967 he recommended in a Senate speech that a "Special Commission on Civil Strife" be created to probe urban riots. Soon he received a call from the White House endorsing the idea and appointing him to the panel, named the National Advisory Commission on Civil Disorders.

On the Presidential commission, Harris and Mayor Lindsay quickly became the aggressive ones. They toured ghetto areas together, and later, when the White House tried to shelve their final report, they were the two commissioners most vocal in their insistence that its recommendations be adopted as national policy.

He also pushed hard for the section ascribing much of the blame for riot-breeding situations to white racism. "Racism," he told the NAACP 1968 convention in Atlantic City, "is the number one mental problem in America.

Known as an "egghead" in college, Harris has directed his intellectual interests at the history and problems of the American Indian. Both he and his wife are amateur anthropologists and go on digging expenditions together. He is also an authority on Oklahoma's Indians. One out of four American Indians live there.

The Harrises both speak Comanche and all three of their children, Kathryn, 19, Bryon, 10 and Laura, 7, are enrolled members of the Comanche tribe. A fifth member of the family in their eyes is Mary Jackmon, a Negro woman from Lawton, who has worked for them since the Senator was an Oklahoma lawyer. Her sister, Stella, is the Senator's receptionist in his Capitol Hill office.

Their seven-room white brick house in McLean is decorated in bright colors. Many of its paintings depict Oklahoma scenes.

Married more than half their lives, they are inseparable. His first act as Democratic National Chairman was to introduce her to its members. He even took her into President Johnson's Oval office for his very first audience with the Chief Executive. She lives his life as earnestly as he does.

Though something of a celebrity in Washington and a catch for Capital hostesses now, Harris is not likely to foresake his Oklahoma habits. A Southwestern twang colors the resonant timbre of his speaking voice and that part in the middle of his hair has stayed there despite the complaints of his friends.

One day recently Harris took an early morning stroll through the feedlots with his father on the farm in Lawton. Then he boarded a plane and flew to Washington.

Later that afternoon, a friend confides, he glanced at his feet and noted proudly that he was striding the carpeted floor of the U.S. Senate with traces of Lawton manure still on his shoes.

"FACE THE NATION," CBS TELEVISION NETWORK, CBS RADIO NETWORK, JANUARY 19, 1969, WASHINGTON, D.C.

Guest: Senator Fred R. Harris (D., Okla.) Chairman, Democratic National Committee.

Reporters: John Hart, CBS news; David Broder, the Washington Post; David Schoumacher, CBS news.

Producers: Sylvia Westerman and Prentiss Childs.

MR. HART. Senator Harris, tomorrow you Democrats turn the White House over to the one man you Democrats thought could unify you. If Richard Nixon could not bring unity to your party, how do you, as the new Chairman, propose to do it?

Senator HARRIS. Well, I think the primary thing is that we have to help people become more aware of the tremendous problems which this country faces and how it is in their own self interest for us to meet those problems.

ANNOUNCER. From CBS Washington, in color, "Face the Nation," a spontaneous and unrehearsed news interview with the new Chairman of the Democratic National Committee, Senator Fred Harris, of Oklahoma. Senator Harris will be questioned by CBS News Correspondent David Schoumacher, David Broder, National Political Reporter of The Washington Post, and CBS News Correspondent John Hart.

MR. HART. Senator Harris, what will you do to offer participation to the disconnected elements of the Democratic Party?

Senator HARRIS. Well, I think, first of all, we've got to really want to do that. I do. I think that is the mandate of the party, and I said, when I accepted the election, that we wanted to make this an open party, with the widest possible participation in all its processes, and made fully democratic. And, under the mandate of the convention, I will be appointing very soon a Commission on Party Structure and Delegate Selection, which I hope will give us recommendations for step-by-step ways that may be done.

MR. BRODER. Senator, the man who led the fight for opening up the party structure at the convention, as you know, is Senator Harold Hughes, of Iowa. Are you going to let him follow through as Chairman of the commission?

Senator HARRIS. I haven't made any decisions about the chairmanship, or members, either one, because, for example, I have just mailed out, oh, I think something like four or five hundred letters to officeholders, party leaders, people who have shown an interest in this subject, and others, asking for their recommendations. I do want the widest possible participation in this party, and I want that much participation also in the selection. Harold Hughes is exactly the kind of man, it seems to me, that we will want on this commission.

MR. SCHOUMACHER. Well, if you are going to have credibility in your desire for reform, aren't you almost going to be forced to select someone that was not identified with the Humphrey campaign, someone that was

either connected with Robert Kennedy's campaign or Eugene McCarthy's?

Senator HARRIS. I think there are some good guys, you know, who were connected with the Humphrey campaign, myself, but also I—let me just say that criteria for the appointment to that commission, I think I can say very quickly—and I have said it to everybody, both before and after my election—number one, I want people who believe in the mandate. I do. I think we've got to make this party more democratic, as the convention has directed us to do it, and so people who go on that should also believe that. Secondly, I want the commission to be credible, that is, I don't want people to just look at it and say, "Oh, well, that group isn't going to do anything." Thirdly, I want it to be of people of really sound judgment, who will really work at it. For example, I come down on the side of decentralization of schools in New York City but, as we have seen, that is easier said than done. So I am not just interested in a group that will restate the principle, that is, we want a more democratic party, but people who will really work at making that come to pass. Fourthly, I want people who are representative of the various elements in the party.

Mr. HART. Senator Harris, Robert Kennedy won the Indiana primary and yet the votes of Indiana went to, let's say, Hubert Humphrey, the party establishment. Eugene McCarthy won the Pennsylvania primary and, yet, with yourself prominently involved, those votes of Pennsylvania went to the establishment, again. Do you want to see that happen again? How are you going to insure that primary votes are translated into delegate votes?

Senator HARRIS. Well, as you recall, after the Indiana primary Senator Kennedy, unfortunately, was assassinated and wasn't, therefore—their votes couldn't, therefore, later be cast for him, so the party itself had to decide what it was going to do. In Pennsylvania, I believe, Senator McCarthy ran—I don't remember whether he was unopposed altogether or not, but I do know that Hubert Humphrey was prevented from being in that primary. I think the convention has given us a mandate that we've got to follow. It is one which I believe in. And that is that in every possible way, by primaries, by open conventions, by whatever, when we select the delegates who will select our nominee in 1972, that ought to represent the popular will of the Democratic Party at that moment.

Mr. BRODER. Senator, there are some people who would take it one step further and just get rid of the national convention and let the people choose the candidate directly. How do you feel about that?

Senator HARRIS. I don't know. I have misgivings about a primary because of the tremendous money that would be involved for everybody to have to run in every state. I think the primaries serve a very useful purpose, the ones we already have, and perhaps others that will be added, because I think it gives the party a chance to see whether or not a man can really appeal to the people themselves. I am not sure that we will want to throw it out altogether and go to a direct primary. There have been suggestions for that, and that will be considered in the Congress itself. But I would hope that this commission, which I will appoint, under the convention mandate, will consider that as well as other suggestions.

Mr. HART. Senator Harris, you speak of wanting credibility for your reform commission; what about the committee itself, which met this week and, in rhetoric at least, condemned the Georgia party for selecting rather than electing its officials, and then went ahead and seated those selected, autocratically selected officials? Is there a credibility problem there?

Senator HARRIS. Let me just say, first, that that was decided, of course, before I was elected. It was a committee which was appointed by my predecessor, as chairman, but it was a rather good committee, I thought. Mayor Doorley, of Providence, Rhode Island, was the Chairman, a young, bright Democratic leader, I think one of our better young Democratic leaders in the country. The way I understood it—I was not present when the Credentials Committee report was made, that was, as I say, before I was elected—as I understand it, there are some legal problems about the Georgia law, and so forth. But I talked afterwards to the two, the committeeman and woman, who were seated, and they promised me they would go back to Georgia and try to comply with what is the obvious requirement of the convention. And we are going to try to see that that is done.

Mr. SCHOUMACHER. We are just about swimming in committees and commissions and councils, let's talk about the Democratic National Policy Council.

Senator HARRIS. Right.

Mr. SCHOUMACHER. How much success are you going to have with that idea of a legislative advisory committee, a policy advisory committee with the opposition, apparently, of Senator Mansfield, the majority leader?

Senator HARRIS. Let me say first that, when I called Senator Mansfield and asked him about whether or not he would approve of my selection as Chairman of the Democratic Party, he said, "I am enthusiastic about it," and, he said, "You can quote me." And when I called Speaker McCormack about it, interestingly enough, he mentioned the same word. He said, "I am enthusiastic about it, and you can quote me." I also had a very good visit with Senator Kennedy in advance, and he gave me his pledge of approval and support. Carl Albert, of Oklahoma, the majority leader in the House, urged me to take this and, obviously, I am in close working relationship with him. I was for the Democratic Policy Council because I want this to be a party which is the loyal opposition. I don't agree with Benjamin Disraeli that the business of the opposition is to oppose. I think that we shouldn't oppose just for the sake of opposition, but we have a responsibility which we can't evade on the great moral issues of our time—peace, race and poverty—and I think we have got to speak out and help lead this country, and especially is that so because now we are also in control of the House and Senate, despite the fact that the Republicans elected their man to the White House.

Mr. BRODER. Well, Senator——

Senator HARRIS. Well, that is why I wanted the Policy Committee and I think, therefore, it is an asset to be in the Senate, to enjoy the close working relationship with those leaders, and I believe we can avoid the kind of split we had, as I understand it, back during the Eisenhower administration, between the Democratic National Committee, on the one hand, and the Congress, on the other.

Mr. BRODER. You don't expect Senator Mansfield and Speaker McCormack to join this policy council, do you?

Senator HARRIS. I don't know. I just really hadn't thought about that. The words of the resolution call for the appointment of congressional leaders, party leaders, officials around the country of stature, and so forth, and I would hope that people that we could put on this council and who would head up task forces under it, would be Cabinet quality people, the kind of people who would really work at staying abreast of these issues and the kind of people who could be called before committees to testify on the matters as they come up and offer constructive alternatives.

Mr. SCHOUMACHER. Will Hubert Humphrey be the chairman of this council?

Senator HARRIS. I don't know. We really haven't discussed that. I haven't thought about it at all, and I would want to—you know, I haven't really thought about who will be on any of these, and I don't intend to until we have had an opportunity to receive the recommendations from people all over the country, which I have solicited.

Mr. HART. Senator, could we talk about specific plans that you have in mind for involving these disaffected sections of the party——

Senator HARRIS. Yes.

Mr. HART. —at the grass roots?

Senator HARRIS. Well, first of all, I intend to appoint a youth commission, a youth participation commission very soon, and that is a matter which I have been very much interested in. I introduced last year a bill called the Youth Participation Act, to involve young people in decision-making in government at all levels, and it is a bill which I worked out in conjunction with a lot of really bright kids all over this country. There is a chapter in the book I wrote last year, "Alarms and Hopes," on this very subject, the subject of youth, and their alienation and their feeling that there isn't sufficient outlets for their energies and ideas and idealism, and I think that is right. I think we need to take them in. Well, first of all, we are going to believe in taking them in. This task force is going to go out looking for ways that they can participate in the decision-making processes of the party itself, participate—

Mr. HART. Do you have any ideas on that, at this point, on how they can participate?

Senator HARRIS. I think, for example, that all these commissions and committees I appoint ought to have some of these really bright young kids on them, and that is what I intend to do, to just start right off with that kind of participation. Furthermore, I am asking——

Mr. SCHOUMACHER. Are these going to be Young Democrat kind of bright young kids or are these going to be bright young kids?

Senator HARRIS. Bright young kids and bright Young Democrats also.

Mr. SCHOUMACHER. Which is going to get me a lot of letters from the Young Democrats.

Senator HARRIS. Well, what we are going to have to do, also, is go out and say that you are not going to have to sign in blood that you will vote for every one of our nominees or say that you are going to dedicate the rest of your life to politics, in order to be able to participate in our party and to participate in the issues, discussion of the issues. But one more thing, which I am really very excited about, is this: I want the Democratic Party to offer an opportunity to young people, to women, to everybody, a chance not just to say something about social ills but to do something about them. I want to see us offer technical assistance, encouragement, stimulation for people to begin tutoring programs and programs like that, to do something right now in a non-Federal, private way, even though we are not in the White House.

Mr. Hart, Senator, we have some questions on that and we will ask you those in a moment.

Mr. HART. Senator Harris, you are talking about a government in exile, a shadow government. How are you going to operate these ambitious programs for involving all of these varied people, in great numbers, and pay off $10 to $12 to $15 million, and get your $1.5 to $2 million a year just to run the committee, and fund these other activities?

Senator HARRIS. Well, I think they are really compatible. I think that, for example, if you are just a party doing nothing but raising money, you find money much harder to raise. What I want to do is to have so many activities going, that are really worthwhile, on the issues and on doing things and on allowing everybody to take part in it, speaking out on the things that we think are really

vital to the future of this country, that we will be a party that people will want to participate in. Some will want to participate with money, if they have it; some will want to participate with time, and some with both. But we are going to try to broaden the base of the financial contributors in this party, and I think we will be able to do that, if we are doing things.

Mr. HART. Well, let me re-ask that question: You are in debt. You owe a lot of money. How are you going to do these other things?

Senator HARRIS. We will just do them, because I think people want those sort of things to be done by this party. And, in addition to that, of course, our contributors know that if they—that is, the people that we presently owe—that if they demanded their money this very moment, of course, we just wouldn't be able to do anything at all, and we would have a far harder time raising the money. Now, they have been very, very good and very forbearing about being willing to take their money over some period, and we are going to have a great many activities on fund-raising, but that is not going to be our only activity.

Mr. SCHOUMACHER. Senator, the conservatives in Congress generally expect a liberal legislative program to be submitted this year. Will there be one?

Senator HARRIS. Submitted by the President, do you mean, or——

Mr. SCHOUMACHER. Not only by the President, but I am speaking of by liberal Democrats.

Senator HARRIS. Well, we have—our platform adopted in Chicago, I think, on domestic issues, particularly, is a very good platform. For example, it endorses the findings and recommendations of the Kerner Commission. And I will be hopeful that bills will be introduced to help carry out that platform. Our platform of 1964 virtually is enacted now, and I think even though we are not in the White House we are in control of the Congress and we have a very serious responsibility to try to carry out this platform we adopted in Chicago.

Mr. SCHOUMACHER. How much in control of the Congress are you? Hasn't the Conservative Republican-Southern Democrat coalition taken back over, particularly in view of this latest rules fight that you lost?

Senator HARRIS. Well, men are still individuals and each has his own responsibility, to discharge his responsibility as he sees fit, and so we haven't any kind of whip over anybody. The Democratic National Committee couldn't possibly dominate the Congress, if it wanted to, and the Congress shouldn't dominate the Democratic National Committee. But I think we can work far closer together than we have in the past, and I think the country will benefit from it.

Mr. HART. In an administration which seems to be talking about rationalizing existing laws rather than bringing in new laws, will the Congress dominate the government over the next four years?

Senator HARRIS. Well, I hope that—you know, it is not so much a question of who dominates who—I hope we will move on these programs. For example, we are spending now about $3 billion on education. One of them—there are several kinds of programs—we have such a great indebtedness for President Johnson, who led us really to move on some of these massive kind of domestic problems we have. Well, here you just look ahead at the children coming on who were born a little time after the Korean War, and you will see that, even with present programs, that is going to cost $11 billion, just because of increased kids in school and in college, and so forth. Well, now, you can't stand still because our population is growing, urbanization continues. All of these problems are there and they are not going away and they are not getting smaller. Now, whether you are a Republican or a Democrat, you are an American first, and you have to worry about these things because America is not going to be the kind of country that you and I want it to be unless we face up to these problems courageously and unless we move to meet——

Mr. HART. Is that the tone you read in the Nixon administration, a standstill?

Senator HARRIS. Well, I don't feel responsible for the Nixon administration, you know, but I do feel responsible for offering constructive alternatives. If he doesn't offer plans to meet these problems, then it seems to me that, in conjunction with the Congress, the Democratic Party and its leaders have to offer constructive alternatives and give the people a chance to debate and discuss these things and decide them.

Mr. BRODER. Senator, what is your constructive alternative for the antipoverty program, which even President Johnson said maybe needs to be overhauled? Are you going to try to fight to save that agency as a separate agency?

Senator HARRIS. Well, I don't know about the separate agency. I personally would like to see it, because I think it is a good yardstick for other agencies which in the past sometimes sort of sat back and waited until somebody came in with a problem instead of going out looking for problems and going out giving people a chance to have a voice in a solution to their own problems, which I like. So I would like to see the agency continue, but one way or another you are going to have to continue the program because the problems are there. As a matter of fact, what I am particularly interested in is what we said in the Kerner Commission report, adopted in the Democratic Platform, and that is a very greatly increased public and private job program and job training program, because I think that is the number one thing we could do, if we were just going to do one thing, because to help people have a job and the training to do the job so that they can provide for themselves.

Mr. SCHOUMACHER. Senator, does organized labor, do labor leaders have too much influence in the Democratic Party?

Senator HARRIS. I don't think so. I think that they have an influence, just like every other group or group of individuals does. And, so far as I know, they don't have any inordinate influence.

Mr. SCHOUMACHER. Well, now, several times a week there will be a circular come out announcing some meeting of the new Democratic coalition in one state or another, several hundred, five hundred, a thousand people getting together to talk over party problems. And several weeks ago Vice President Humphrey met secretly with some labor leaders in the backwoods of Maryland to talk over party affairs. Just where really is it at in the Democratic Party?

Senator HARRIS. Well, I don't know what you're talking about, but where it's at is everybody—our party is open to everybody who believes in the democratic processes and we will offer a forum to people who believe in the democratic processes and who are Democrats who want to come in and voice their opinions and take part in our party. And, you know, if you would look at my appointment list, you will see that I meet with all types of people, and I am interested in doing that and I am going out looking for them.

Mr. SCHOUMACHER. We have, perhaps, concentrated too much on your problems to the left of the center of the Democratic Party. What about to the right, and particularly in the South? How are you going to balance these needs, as you see them, in the party and in the country, versus the defections that the Democrats are running to in the South?

Senator HARRIS. Well, let me say, first on issues, the platform in Chicago is binding on the Democratic Party. It was adopted at our convention. I support it. So on issues, such as race issues, we have a platform, and it is one which I have supported and helped draft. Insofar as participation in the party is concerned, in the southern states, it has got to be just like in any other state, and you have got to follow the political—the democratic processes, it mustn't be racist, it mustn't exclude people because of race or for any other reason. If they believe in the democratic processes, and if they are a registered Democrat, why, they have got to be allowed to take part in the democratic selection of their party officials and individually of their delegates. Now, that's the mandate of the convention. It happens to be one I believe in. Even if I didn't believe in it, I would have to carry it out because I have no alternative.

Mr. HART. Senator, you talk about politicians now, what about the voters of the South which made Richard Nixon President this time, how do you get them back?

Senator HARRIS. I think that what you have to do is to—something I hope we will do, as a party, something I tried to do last year, in writing a book. I thought about my dad, who lived on a farm down in southwestern Oklahoma. He comes originally from Mississippi. And what you have to say to him is that, you know, your life is very much bound up with what is going on in Detroit, or what is going on in Chicago, or somewhere else. I think Benjamin Franklin was—I think one problem about us liberals is that we try to get people to do things simply because we preach to them. Well, I think people ought to do the right thing because it is right, but I also believe that Benjamin Franklin was right when he said, "If you would persuade, you must first appeal to interest rather than intellect." And so I think what we have to say to a guy like my dad is that it is in your interest to recognize these problems, and it is in your interest to see that they are solved. In that way, I think, we can make an appeal, as a party. But solutions sound nutty to people who don't think there are any problems, and I think there are a lot of people in the country who either don't know that these problems exist or don't realize how serious some of these problems are, the problems of urbanization, for example, now, with 70 per cent of our people living on only 2 per cent or less of the land, and we have had to spread that awareness. That is the reason why I am interested in this action program, to get people involved. If you get involved in tutoring some child, for example, in a black ghetto, or wherever, in a white rural poverty area, if you get involved, then you begin to see these problems. Then you see—you know how serious they are.

Mr. HART. Is that what the Democratic Party is going to do?

Senator HARRIS. That is what I hope we'll do.

Mr. BRODER. But, Senator, the reality is that you lost every southern state except Texas. In many of them your ticket finished third, it didn't even finish second. How do you really expect to make the Democratic Party, as long as it adheres to the principles that you are talking about, palatable to the south?

Senator HARRIS. In the first place, why should the South, why should people who live in the South be all that different from people who live in the North? If we do our duty, if we help build a really democratic and representative party, and if we do our duty in helping spread the awareness of the problems which face this country—they are not just problems of Oklahoma, they are not just problems of Washington, D.C., they are problems of Mississippi and Alabama, and so forth. And I think we have to do what we

ought to do, anyway, and that is build—and now perhaps for the first time, really—a National Democratic Party.

Mr. HART. Senator, it sounds as if, in talking about an open party in the South, you're putting your hopes a great deal on a lot of new and newly registered black voters in the South.

Senator HARRIS. Yes, that's true, of course——

Mr. HART. But there aren't enough of them to return the South to you.

Senator HARRIS. Well, there are a great many more black people there. In Mississippi, for example, the party which is headed by Dr. Henry, is the Democratic Party of Mississippi. It is about half black and about half white. I suppose it is about like the ratio of——

Mr. HART. In August was the Democratic Party.

Senator HARRIS. Well, it is the Democratic Party there. It is the one recognized by the convention. It followed—It was the only party which followed the processes which the convention had in 1964——

Mr. SCHOUMACHER. What would happen to you if you had people like John Stennis and Richard Russell and a large part of your congressional delegates suddenly go over and help the Republicans organize a Congress in the future?

Senator HARRIS. Well, you know, that would be an individual decision of theirs. I don't expect it. But may I say, nevertheless, what we have to do is laid down in the mandate of our convention. Our processes must be democratic and our platform is as adopted in Chicago. I suppose that.

Mr. BRODER. Senator, let me change the subject, if I can. Do you consider that Senator Kennedy can have that 1972 nomination if he wants it?

Senator HARRIS. I don't have any business even considering that. What I have said all along, both before and after my election as Chairman of this party, is that we ought to preserve the options of everybody who wants to run for President of the United States or any other office, if they want. What I want to do is build a party they will be proud to inherit, whoever gets the nomination.

Mr. HART. Senator Harris, as prime minister of this shadow-type government, what major role do you foresee for yourself in the next, 1972 campaign?

Senator HARRIS. Oh, in 1972 I plan to run for reelection, right now, to the United States Senate, in Oklahoma. I don't want to bind myself even to do that for sure, four years away. But I am not looking to run for——

Mr. HART. You are not binding yourself for reelection in Oklahoma?

Senator HARRIS. No, because it is four years from now. Right now I would say yes, I probably will, but I am not looking to run for national office.

Mr. SCHOUMACHER. Does the law permit you to run for both President and the Senate in Oklahoma?

Senator HARRIS. I wouldn't think so.

Mr. HART. Thank you very much, Senator Harris, for being here to "Face the Nation."

ANNOUNCER. Today, on "Face the Nation," Senator Fred Harris, of Oklahoma, the new Chairman of the Democratic National Committee, was interviewed by CBS News Correspondent David Schoumacher, David Broder, National Political Reporter of The Washington Post, and CBS News Correspondent John Hart. Next week, another prominent figure in the news will Face the Nation. "Face the Nation" was recorded yesterday at CBS Washington.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

WEAPONS SYSTEMS: A STORY OF ALLEGED FAILURE

Mr. SYMINGTON. Mr. President, in the Washington Post of Sunday, January 26, is a story by Mr. Bernard D. Nossiter, "Weapon Systems: A Story of Failure—Pentagon Gadgetry Failure Found High in Fifties, Higher in Sixties."

The article includes some charts which I hope anyone interested in the subject will examine. Unfortunately, the charts cannot be reproduced in the RECORD.

As a result of this article, I would hope there would be more understanding of why some of us suggested during the last session that this Government continue with research and development on the new ABM system, but not place orders for its production. The proposed ABM system is far more complicated than any of the systems referred to in this article.

As Members of the Senate know, over a period of years I have been protesting the "gadgetry" aspect of our current defense procurement as against the obtaining of workable hardware.

I would hope the "abstruse" article in question, now that much of it has been made a matter of public record, will be made available to the proper committees of Congress.

I ask unanimous consent that the article in question be printed at this point in the RECORD.

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

WEAPONS SYSTEMS: A STORY OF FAILURE

(By Bernard D. Nossiter)

[Charts and graphs referred to not printed in the RECORD.]

The complex electronic gadgetry at the heart of new warplanes and missiles generally works only a fraction of the time that its builders had promised.

The performance of the multi-billion-dollar weapons systems started in the 1950s was bad; those of the 1960s are worse.

The Pentagon appears to be giving the highest profits to the poorer performers in the aerospace industry.

These are the conclusions of an abstruse 41-page paper now circulating in Government and academic circles. The document, a copy of which has been made available to The Washington Post, is believed to be the first systematic effort to measure how well or ill the Pentagon's expensive weapons perform.

Its author is a key Government official with access to secret data and responsibility for examining the costs of the Pentagon's complex ventures. He and his agency cannot be identified here.

His paper, entitled "Improving the Acquisition Process for High Risk Military Electronics Systems," aims at bringing down the costs and bettering the dismal performance of weapons. It does not discuss a question that might occur to others: if these weapons behave so badly, why is the money being spent at all?

For security reasons, many of the planes and missiles examined are not identified by name.

The paper first examined 13 major aircraft and missile programs, all with "sophisticated" electronic systems, built for the Air Force and the Navy beginning in 1955, at a cost of $40 billion.

Of the 13, only four, costing $5 billion, could be relied upon to perform at more than 75 per cent of their specifications. Five others, costing $13 billion, were rated as "poor" performers, breaking down 25 per cent more often than promised or worse. Two more systems, costing $10 billion, were dropped within three years because of "low reliability." The last two, the B–70 bomber and the Skybolt missile, worked so badly they were canceled outright after an outlay of $2 billion.

LOSES FURTHER LUSTER

The paper sums up: "Less than 40 per cent of the effort produced systems with acceptable electronic performance—an uninspiring record that loses further luster when cost overruns and schedule delays are also evaluated."

The paper measures "reliability" in this context. The electronic core of a modern plane or missile consists essentially of three devices. One is a computer that is supposed to improve the navigation and automatically control the fire of the vehicle's weapons and explosives. Another is a radar that spots enemy planes and targets. The third is a gyroscope that keeps the plane or missile on a steady course.

When the Pentagon buys a new gadget, its contract with the aerospace company calls for a specified "mean time between failure of the electronic system." In lay language, this is the average number of continuous hours that the systems will work.

In a hypothetical contract for a new jet bomber, Universal Avionics will sell the Air Force on its new * * * by promising that the three crucial electronic elements will operate continuously for at least 50 hours without a breakdown. In the reliability measures used in the paper described here, the plane is said to meet 100 per cent of the performance standards, if, in fact, its gadgetry did run 50 consecutive hours. However, if a key element breaks down every twelve and a half hours, it gets a rating of 25 per cent; every 25 hours, 50 per cent and so on. Should a system operate with a breakdown interval of 62.5 hours—a phenomenon that happens rarely—its reliability is rated at 125 per cent.

TEST FOR THE PILOT

Quite obviously, the more frequent the breakdown, the more the pilot of a plane has to rely on his wit and imagination to navigate, find targets and fly a steady course. Over-frequent breakdowns in a missile can render it worthless as an instrument of destruction.

Curiously enough, as the paper demonstrates, the Pentagon and the aerospace industry apparently learned * * * the systems of the 1960s are even worse.

The document first looks at the performance record of the electronic systems in 12 important programs begun in the 1950s. As the accompanying chart shows, all but four missiles can be identified by name without breaching security.

Of the 12, only five perform up to standard or better; one breaks down 25 per cent more frequently than promised; four fail twice as often and two break down four times as frequently as the specifications allow.

The document discusses some of the good and bad performers in this group. It observes that the F–102, the Delta wing interceptor for the Air Defense Command, was bedevilled by an unsatisfactory fire control system. Its first had to be replaced; the next was also unsatisfactory, and an extension

two-year program to modify the device was then undertaken.

SIDEWINDER DID WELL

In contrast, the Sidewinder, a heat sensing missile, performed very well. The study attributes this to the fact that the missile was developed in a leisurely fashion, without a "crash" schedule, and that several contractors were brought in to compete for key components.

The paper next examines eleven principal systems of the 1960s. These cannot be identified beyond a letter designation.

Thus, in the chart, A1 is the first version of a plane or missile; A2 is the second version, possibly one for a sister service; A3 is the third version and so on. B1 is the first version of an entirely different system; so are C1, D1 and E1.

To make the best possible case for the Pentagon and its contractors, this survey does not include two systems costing $2 billion that performed so badly they were killed off. The eleven systems of the 1960s evaluated here account for more than half of those begun in the most recent decade and their electronic hearts cost well in excess of $100 million each.

Of the eleven systems, only two perform to standard. One breaks down 25 per cent more rapidly than promised; two break down twice as fast and six, four times as fast.

As a group, the eleven average a breakdown more than twice as fast as the specifications demand. Oddly enough, the first version of the system designated as "A" met the standard. But the same unidentified contractor produced three succeeding versions that fail on the average more than three times as often as they should. All these successors, the paper observes, were ordered on a "pressure cooker" basis, on crash schedules.

HIGHEST REWARDS

The paper also examines the relationship between contractors' profits and performance, and suggests that, contrary to what might be expected, some of the most inefficient firms doing business with the Pentagon earn the highest rewards.

The second chart looks at profits, after-tax returns as a percentage of investment, the only valid basis for determining profitability, for the ten years from 1957 through 1966. During the decade, the aerospace firms managed to earn consistently more than American industry as a whole, piling up nine dollars or (billions of dollars) in profits for every eight garnered by companies not doing business with the Pentagon.

Even more peculiar is the brilliant earnings record of two of the biggest contractors, North American and General Dynamics. Both, except for a brief period when General Dynamics tried its hand at some civilian business, made profits far above the industrial average and generally in excess of their colleagues in aerospace.

During the ten years, North American did all but two per cent of its business with the Government. The study reports that it produced one highly successful plane in the mid-50s, another system that met performance specifications, one that was canceled and four that broke down four times as frequently as promised. Nevertheless, the company's profits were 40 per cent above those of the aerospace industry and 50 per cent above the average for all industries.

NONE MEASURES UP

General Dynamics had, as the chart shows, a much more uneven profits record. But its years of disaster and even losses were those when it ventured into the economically colder climate of the civilian world to produce a commercial jet airliner. Having learned its lesson, it retreated to the warmer regions of defense procurement and, in recent years, has netted more than the industry average. It has compiled this happy earnings score, the study observes, despite the fact that none of the seven weapons systems it built for the Pentagon "measured up to expectations." Its most notorious failure is the F-111 swing-wing fighter-bomber.

As a final touch, the study notes that complex electronic systems typically cost 200 to 300 per cent more than the Pentagon expects and generally are turned out two years later than promised. But both of these phenomena have been examined so frequently by specialists in the field that the paper does not dwell on them.

HOW MUCH PROTECTION?

These findings raise some serious questions. Perhaps the most important is how much protection the United States is getting for the tens of billions of dollars invested in expensive weaponry. Another is whether the whole process should be turned off and improvements made in the existing devices. Secretaries of Defense have repeatedly assured the Nation that present weaponry guarantees the destruction of any Nation that attacks the United States.

The document under study here, however, takes a different line, one aimed at getting less costly weapons that measure up to the promised performance.

It blames the dismal record on several factors. One is the relentless search for newer and more complicated electronic "systems." The aerospace contractor has an obvious vested interest in promoting "breakthrough" gadgetry. This is the way he gets new, and clearly profitable business.

CLOSE CORRELATION SHOWN

But the study asks, do the services need it? Since the Air Force and the Navy almost always accept a plane or a missile that performs at a fraction of its promised standard, it would appear from an exclusively military standpoint that a device of a much lower order of performance fits the Nation's defense needs.

The document also shows a close correlation between "crash" programs and poor performance. Thus, it proposes more realistic schedules. If a weapon is wanted in short order, five years or less, the study recommends that its electronic gadgetry be limited to familiar items.

If the Pentagon wants something that makes a "technical breakthrough," it should allow a minimum development period of five to seven years, it is pointed out.

Another factor in poor performance, the study says, is the absence of competition for new systems after the initial designs are accepted. Typically, the Pentagon requires five or so aerospace firms to bid on its original proposal. But typically, it selects one winner on the basis of blueprint papers. The study says that the military could save more money and get a better product if it financed two competitors to build prototypes after the design stage. Such a technique was followed, it recalls, with the F-4, a supersonic Navy interceptor. Even though the F-4 employed both a new radar and a new computer, it performed up to the promised standard.

At first glance, such a technique might seem like throwing good money after dubious dollars. But the study contends that if two aerospace competitors are forced to build and fly prototypes before they win the big prize—the contract to produce a series of planes or missiles—they will be under a genuine incentive to be efficient, hold costs down and make things that work.

GOOD WILL TOWARD MEN

Mr. ERVIN. Mr. President, during the recent Christmas season, the Rocky Mount, N.C., Telegram, published an editorial, on December 31, 1968, entitled "Where Good Will Really Counted."

In order that all Americans might read of the spirit of good will that prevailed in the case of little Margie Elizabeth Ingram, I ask unanimous consent that the editorial be printed at this point in the RECORD.

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

WHERE GOOD WILL REALLY COUNTED

The story of little five-year-old Margie Elizabeth Ingram is one to warm the cockles of the heart and make the old familiar words about "goodwill toward men" more meaningful.

Margie was severely burned the Saturday before Christmas and was immediately placed in Park View Hospital. But with third-degree burns over 40 per cent of her body, she needed specialized treatment, the kind available in the burns institutes in various cities.

Shriners of the Rocky Mount Shrine Club and Sudan Temple arranged a room for her in the Cincinnati Shriner's Burns Institute and arranged transportation through the helping hands of Rep. L. H. Fountain and the Surgeon General's office in Washington. An Air Force plane was made available at Seymour Johnson Air Base in Goldsboro.

Weather prevented landing in Cincinnati so she was placed in the Shriner's Burns Institute in Boston where she is getting the best care available.

Officials at the Boston Institute say her condition is good despite the widespread burns. Rocky Mount citizens will be joined by countless others across the country who read the story on the national wire services in pulling for the child to make a complete recovery.

At the same time, we all heartily commend those who were actively involved in arranging such fine care for Margie—the Shriners, Rep. Fountain, the Surgeon General's office, the Air Force, the countless unnamed citizens here who pitched in when help was so desperately needed. In this, our season of "good will" it was given a special meaning for Margie Ingram at a time when she needed it most.

PRESIDENTIAL CONTROL OVER INDEPENDENT ADMINISTRATIVE AGENCIES

Mr. ERVIN. Mr. President, during the past year, the Subcommittee on Separation of Powers has been studying various constitutional issues involving the independent administrative and regulatory agencies. Our concern to date has been primarily with the relations between the agencies and Congress. The subcommittee has examined the problem of agency adherence to legislative policy and the various techniques by which Congress can better insure that its legislative will is followed. As part of this inquiry, we have also examined the extent to which the courts perform a policy oversight function.

The relationships between the agencies and Congress and the courts are, however, only two-thirds of the picture. The remaining aspect involves the relationship between the agencies and the President. Although we may popularly regard the administrative agencies as part of the executive branch, they were not created as arms of the executive departments, nor are they intended to act as

such. The agencies are creatures of Congress legislative power, particularly its authority over interstate commerce. They were created to perform a large part of the regulatory function which Congress, as a practical matter, could not. Their regulatory functions and the policies they administer are determined by Congress, and it is to Congress that they are ultimately responsible.

The "independent" part of their descriptive title refers primarily to independence from the policy and partisanship of the President and his administration. Congress sought to achieve continuity in the functioning of the agencies regardless of changes in control of the executive branch. Such is the theory. In practice, however, there are a variety of methods by which the agencies are kept more or less within the influence, if not the control, of the President and his administration. In a speech delivered January 16 before the Capitol Hill chapter of the Federal Bar Association, Commissioner Everette MacIntyre of the Federal Trade Commission sketched some of the devices by which, potentially or actually, the President can exercise influence over the agencies, and to some indefinite extent make them conform to his policies and programs.

As Commissioner MacIntyre related, these devices are in part the unintended byproducts of attempts to improve the operations of the agencies. In other respects, they are the result of a very understandable desire to reduce friction between the executive department and the agencies and eliminate conflict between the economic policies of the President and the activities of the agencies.

The subcommittee intends to explore further this aspect of the administrative agencies system, which Commissioner MacIntyre has so well described. I ask unanimous consent that his speech, "Regulator Independence: Factual or Fanciful," be printed in the RECORD at this point.

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

REGULATORY INDEPENDENCE: FACTUAL OR FANCIFUL?

(Remarks by Everette MacIntyre, Commissioner, Federal Trade Commission, before Capitol Hill Chapter, Federal Bar Association, Washington, D.C., January 1, 1969)

I. INTRODUCTION

Congress, in the exercise of its prerogatives pursuant to Article 1, Section 8 of the Constitution, which empowers it "to regulate commerce with foreign nations, and among the several states, and with the Indian tribes," by 1885 felt the necessity for the regulation of commerce by some other method than had previously been the case. It faced up to this problem with the full realization that it would not be able to deal with all the requisite details by way of direct legislation from one detail to another. It also realized that under the doctrine of separation of powers it would not be proper to delegate the function of filling in all legislative details to either the judiciary or the executive branch of the government. It therefore determined upon a course of creating, as arms of the Congress, independent regulatory agents to whom would be delegated a limited amount of legislating authority —namely, filling in of legislative detail within a broad framework of congressional standards and declarations of policy. An example of such a delegation is Section 5 of the Federal Trade Commission Act, which provides that "unfair methods of competition" are unlawful. In such situations there was left to the independent regulatory agent, as an arm of Congress—in this instance the Federal Trade Commission—the delegated authority and power to fill in and implement the necessary legislative details to establish the precise meaning of the phrase "unfair methods of competition." This was to be established by quasi-judicial action through the process of judicial inclusion and exclusion and by the quasi-legislative process, including rulemaking proceedings. The Supreme Court has recognized the propriety of congressional delegation to an independent regulatory agent serving as an arm of Congress. But it is equally clear that it would not only be improper but unconstitutional to attempt delegation to the same degree to the executive or, for that matter, to the judiciary.[1]

This is not to say, of course, that Congress may not properly delegate some regulatory authority to the executive. But under constitutional theories such delegation requires a great deal more specificity than is required for "an arm of Congress." This distinction, however, has been steadily eroded, be it by accident or design.

With the advent and growth of the railroads after the Civil War and improved methods of communication, commercial intercourse between the states mushroomed and Congress could hardly be expected to concern itself with the day-to-day aspects of regulating this commerce. Accordingly, Congress delegated a goodly part of its authority to different bodies as the need arose and depending upon the particular function involved. The independent regulatory agency was but one method used by Congress to achieve a particular end. This method of regulation was to be through the reach of an arm of Congress outside of the control of the executive. With this approach Congress chanced upon a method of regulation unique and untried at that time but upon which it was to place increasing reliance in the fulfillment of its constitutional mandate.

Parenthetically, I should note that whenever regulatory independence is discussed it should be understood that it refers to independence from the executive or executive departments. It does not refer to absolute independence; the agencies are arms of Congress, are responsible to Congress and subject to the oversight of Congress.

Since the creation of the first federal independent regulatory agency in 1897—the Interstate Commerce Commission—and the last of the original seven [2] independent regulatory agencies—the Civil Aeronautics Board in 1938—there has been an almost endless stream of legislative and judicial expression affecting every phase of these agencies' operations. The purpose of this paper is to review and analyze some of these legislative and judicial developments which relate to the concept of the "independence" of these agencies, with particular reference to the Federal Trade Commission. At the outset it should be noted that the Federal Trade Commission differs from other independent agencies with respect to the subject matter of regulation; whereas other independent agencies have a particular industry assigned to them, the Federal Trade Commission is charged with regulating that vast array of American business not otherwise the subject of special federal regulation. This gives additional meaning and importance to the theory of independence as applicable to the Federal Trade Commission.[3]

Every time the administration changes we frequently experience calls for a reorganization, if not an actual reorganization, during which the theory of the independence of the regulatory agency is debated with renewed vigor. It is hoped that the following comments will contribute some useful information to this debate.

II. HISTORY AND THEORY OF INDEPENDENCE

The legislative history of the Federal Trade Commission Act, as well as that of any of the other commissions, leaves little doubt of Congress' intent insofar as it pertains to the Commission's independence from control of the executive. More specifically, Congress expressed the desire to create a commission which in the performance of its functions would be independent from the executive branch of the government. For instance, prior to the creation of the Commission, its powers of investigation resided with its predecessor—the Bureau of Corporations of the Department of Commerce. This investigatory power was taken from a department under the control of the executive and "given to this non-partisan body." [4] Expressions of congressional intent on this point are surprisingly explicit and articulate. As a matter of fact, no other single topic concerning the new commission received such extensive comment. It was, perhaps, most succinctly stated by Senator Newlands, Chairman of the Senate's Committee on Interstate Commerce, who introduced the original bill, when he explained the need for independence from the executive branch in the following way:

"The need has long been felt for an administrative board which would act in these matters in aid of the enforcement of the Sherman antitrust law, which would have precedents and traditions and a continuous policy and would be free from the effect of such changing incumbency as has in the nature of things characterized the administration of the Attorney General's office." (Sen. Newlands, 51 Cong. Rec. 10,376.)[5]

The desire for impartial regulation not dictated by political considerations and the recognized, as well as demonstrated, need for a continuous policy of regulation prompted the care which Congress bestowed upon this particular part of the Act. And aside from specific congressional intent, the theory of independence as it concerns the Federal Trade Commission has proven merit over and beyond that of other regulatory agencies. For example, the Commission and the Department of Justice's Antitrust Division have concurrent jurisdiction over a variety of practices. The benefits of such concurrent jurisdiction can be readily observed. The Department, as a general matter, has traditionally concerned itself almost exclusively with hard-core and clear-cut cases. The Commission, on the other hand, has been more willing to move into the gray areas, as indeed was one of the purposes of its creation, i.e., to fill the interstices of the Clayton Act. Thus, enforcement of Section 7 of the Clayton Act [6] in the area of conglomerate mergers by the Commission has been more innovative and imaginative. Therein the Commission is able to rely to a considerable extent on the economic expertise available to it. Similarly, the brunt of enforcement activity under the Robinson-Patman Act has been borne by the Commission. There can be little doubt that concurrent jurisdiction by an independent regulatory agency and a department of the executive has resulted in more effective and successful law enforcement than exclusive jurisdiction by one governmental body could have provided.

It should also be recalled that with the passage of the Federal Trade Commission Act and the Clayton Act Congress expressed its continuing concern with economic concentration. At the same time, Congress is, of course, continuously aware of governmental concentration. Certainly if the generalization of concern with centralized pow-

Footnotes at end of article.

er has any validity at all it applies equally to governmental as well as economic concentration.

III. DEVELOPMENTS BEARING ON INDEPENDENCE

An analysis of a number of congressional actions ultimately affecting regulatory independence shows that not infrequently there was only a very general congressional intent, with no clear recognition of the effect such legislative endeavors would have upon regulatory independence. For example, of the plethora of statutes enacted solely for housekeeping purposes, many of them subsequently proved to have considerable impact upon the substantive work of an agency. What Congress intended to be an administrative statute, where it was deemed necessary to give the chief executive certain authority in the interest of economy, efficiency and the orderly conduct of government, developed into a means of executive control over substantive programs of an agency unforeseen and inconsistent with congressional intent.

1. The Budget and Accounting Act of 1921

The first act passed by Congress which adversely affected the independence of regulatory agencies was the Budget and Accounting Act of 1921.[7] The Act specified that henceforth the budgets and requests for appropriations of all governmental units, with the exception of the legislative and executive units, shall be submitted to the Bureau of the Budget, created by the Act.[8] These budgets and requests for appropriations would be included in the nation's budget the President submits to Congress each year.

Congressional debate indicates that passage of the Act reflected increasing concern over governmental economy, occasioned by the fact that 1918 was the first year since the end of the Civil War in which the United States experienced a budgetary deficit. To remedy this situation it would ". . . be necessary to wipe out duplications in the Government service, to eliminate inefficiency and to stop unnecessary work."[9] The motives prompting passage of this Act can hardly be questioned. The question which remains is whether Congress intended to effect regulatory independence to the degree the Act subsequently would, and, if not, how this could have been avoided.

In practice, the Act resulted in a degree of control over substantive programs of the agency which were certainly not envisioned by the Congress when it passed what it considered to be a statute dealing with administrative detail. An agency's proposed appropriations request is reviewed by the Bureau of the Budget, which follows policies and priorities established by the President and not necessarily by the Congress. To the extent they coincide, the congressional intent will be fulfilled; to the extent they differ, congressional intent will, of necessity, take a back seat. What was intended as a purely housekeeping measure not infrequently has become an instrument of control over policy. Perhaps a better solution would have been to have budgets and requests for appropriations submitted to the Bureau of the Budget for review but at the same time permit independent agencies to submit copies of such requests directly to the Congress. This, however, the Act expressly prohibits.[10] Such a practice would at least enable Congress to obtain a greater knowledge of the agencies' positions.[11]

2. The Judges Act of 1925

The next development affecting the independence of regulatory agencies was the passage of the Judges Act of 1925.[12] The purpose of this Act was to collect in one statute the provisions of the law relating to appellate jurisdiction of the Supreme Court. At the same time, the Act sought to reduce this jurisdiction due to the backlog of cases before the Court.[13] This was accomplished by the simple expedient of broadening the Court's jurisdiction to issue writs of certiorari, *i.e.*, increasing the Court's discretion as to the cases it will hear.[14] At the same time, however, Congress (it is not clear whether through inadvertence or design) altered the then-existing practice whereunder the Federal Trade Commission prepared its own requests for write of certiorari and argued its own cases before the Supreme Court. At that time, by leave of the Attorney General (who neither had the staff nor the inclination to do otherwise), the two then-existing agencies—the ICC and the FTC—argued their own cases before the Supreme Court.[15] With respect to the Interstate Commerce Commission, the practice was codified in 1913,[16] and reaffirmed by the Judges Act of 1925. At the same time, how-ever, it was denied to the Federal Trade Commission by implication and now all independent agencies, with the exception of the Interstate Commerce Commission, do not ask the Supreme Court to grant a writ of certiorari directly but channel their requests through the Attorney General.

The importance of this development cannot be overstated and will be demonstrated in more detail in a subsequent section. Suffice it to say at this point that conflicts as to the type of case in which certiorari should be sought are inevitable. Equally inevitable is the fact that any such conflict is resolved by and in favor of the Attorney General, since he has the final word. The extent to which an agency can find a responsive ear with the Attorney General will largely depend upon the extent to which its own views coincide with his. It goes without saying that frequently they do not coincide, in which case the agency is denied the chance to seek Supreme Court review of what may be an important decision. In such cases the Attorney General substitutes his judgment for that of the agency, which seems to be diametrically opposed to what Congress had in mind. Control over litigation is the most important aspect of independence, which must be considered severely handicapped if it is in the hands of someone other than the agency.

3. Central clearance of legislative proposals—1930

Sometime during the mid-1930s the practice originated of submitting legislative proposals to the Congress via the Bureau of the Budget. This policy was originated by Franklin D. Roosevelt and has been continued to this day, although there does not appear to be any statutory authority for it. As a matter of fact, with respect to the Federal Trade Commission, it appears to be directly contrary to the mandate contained in Section 6(f) of the Federal Trade Commission Act—that the Commission, together with annual and special reports to Congress, shall submit recommendations for additional legislation to Congress. In addition, when the Commission is requested to report on specific legislative proposals, such reports must be cleared by the Bureau of the Budget before being submitted to the appropriate congressional committee. At the Bureau of the Budget such reports and legislative recommendations must receive clearance in terms of substance, *i.e.*, they are again reviewed in light of the President's policy objectives.[17] This practice clearly constitutes a significant departure from the theory of independence insofar as it may deprive Congress of the benefit of the views of its agencies.

4. The Federal Reports Act of 1942

Passage of the Federal Reports Act of 1942[18] accorded to the Bureau of the Budget another important right of review and control over the activities of regulatory agencies. Curiously enough, as is often the case, the Act was passed under circumstances and for reasons considerably different from those in which it would be used.

It will be recalled that passage of the Federal Reports Act was occasioned by the proliferation of governmental questionnaires and requests for information and other forms which were the direct result of the activities of the Office of Price Administration. The nation was literally engulfed in a blizzard of paperwork concerning rationing, output, prices, and any other conceivable type of information, both private and public.

E.g., for the purpose of ensuring successful prosecution of the war, the OPA required literally hundreds of thousands of questionnaires be filled out by farmers and housekeepers who needed a few gallons of oil for lighting and other purposes around their homes. For this purpose, however, it proved not only unnecessary but was much resented by the many citizens who were required to wait their places in long lines at various post offices throughout the country for a determination whether the questionnaires were properly filled out and their requests indeed necessary.[19]

The Act provides that requests for information originating with any governmental agency[20] and directed to more than nine respondents must receive clearance by the Bureau of the Budget. Requests for such clearance must be accompanied by a detailed explanation of the questionnaire, such as technicalities of implementation, manner of selecting the respondents, whether the information is to be collected by mail or personal interview, etc., etc. In addition, the request must be justified in depth. This would include a statement why the information is sought and how it will be used; why the particular number of respondents and not less has been selected; how much time it will take a respondent to answer the questionnaire, etc., etc. In ruling upon such requests the Bureau of the Budget must also be satisfied that this is the only practical method of getting the necessary information and that it is not available through some other governmental or more readily accessible private source.[21]

The power of review within the Bureau of the Budget extends so far as to permit forbidding collection of all or a part of the information sought. In case of the traditionally used questionnaire, for example, the Bureau of the Budget may withhold clearance for its issuance altogether or it may strike certain questions—a matter entirely within its discretion.

Congress, in its haste to pass this bill, however, did not heed the warning of those questioning its extent, although this point was the subject of considerable debate.[22] Specifically, some members of Congress felt that while the bill was ostensibly aimed at the elimination of unnecessary and presumably duplicate reports the way it was phrased gave the Director of the Bureau of the Budget a good deal more control over the collection of information than was necessary under the circumstances and perhaps even intended by Congress had it considered all the ramifications of the bill.[23] As it turned out, the Act permits the Bureau of the Budget to exercise a good deal of control over the investigative functions of the independent agencies. With respect to the Federal Trade Commission this represents a drastic departure from the theory of its creation. One of the Commission's most important functions arises out of the mandate to investigate and publicize business conditions harmful to the continued good health of the economy and to do so independently and outside of the control of the executive. Any control over its ability to investigate or a substantive review of the information it seeks will naturally adversely affect the independence of the Commission.

There is no doubt that the purpose for

Footnotes at end of article.

which the Act was conceived—to cut costs to the government and to avoid unnecessary harassment of citizens and businesses—has considerable merit. If, however, it becomes an instrument of control over some types of investigations, specifically those of independent regulatory agencies—and this in fact has occurred—it would appear that the authority the Act vests in the Bureau of the Budget needs to be reexamined.

5. The Hoover Commission and the Landis Report

In 1947 the Hoover Commission [24] was organized to study and make its report on, along with recommendations, governmental operations, with particular emphasis on efficiency in the operation of government. One recommendation included in the Hoover Commission report,[25] which was adopted later and which was to have a far-reaching impact upon the independence of regulatory agencies, concerned the position of chairmen for these agencies. In the interest of efficiency and to "enable the President to obtain a sympathetic hearing of broader consideration of national policy which he feels the Commission should take into account," [26] the Hoover Commission recommended that the chairman of an agency should be appointed by the President and should be given more administrative authority over his agency. It will be recalled that up to that time, with the exception of the Federal Communications Commission, whose organic statute provides for the appointment of its chairman by the President, the agencies selected their chairmen from among their members. Generally the chairman of an agency would be selected by the members of such an agency on an annual basis and he constituted little more than a *primus inter pares*. In addition, the agencies themselves would decide how to handle intra-agency administrative detail. Under the reorganization of 1950, however, the chairman had the authority (1) to appoint and supervise personnel, [27] (2) to distribute the workload among such personnel, and (3) to determine the use and expenditure of funds. The reason assigned to this drastic departure from previous practice was that it would relieve the commissioners from burdensome administrative chores such as ruling upon the salaries of the char force and thereby free them to devote their energies to the substantive aspects of the commission's work.

The impact of these plans, once they were implemented, was profound.[28] Inasmuch as the chairman holds his post at the pleasure of the President, it becomes unlikely for him to pursue a policy alien or contrary to that of the Chief Executive if he is to retain his post. Since the chairman is responsible for the selection of personnel, the assignment of the workload and the use of the agency's funds, it is difficult to see how an agency, even if a majority of its members wish to do so, may pursue a course independent from the wishes and desires of the then current administration. As a practical matter there would appear to be no conflict if the policies of the Executive are the same as those of the Congress; should those be different, however, it will become readily apparent that independence from executive control has been materially weakened.

Those members of Congress who had the opportunity to study the proposal recognized, of course, that any gains in efficiency which might result would be at a sacrifice in independence. As a result, Senator Edwin C. Johnson from Colorado introduced a resolution for disapproval [29] of the proposals on the ground that they were contrary to the "long established congressional policy that regulatory agencies must be independent and directly responsible to Congress." [30] Interestingly enough, the resolution carried only with respect to the Interstate Commerce Commission and the Federal Communications Commission, and in those instances only because it was vigorously supported by the industries regulated by these commissions and their bars.[31]

The Landis Report of 1960 [32] covered similar ground and also voiced its concern about efficiency in government. The recommended cure for whatever bureaucratic blunders or loss of efficiency might have occurred was again greater control by the executive. With respect to the Federal Trade Commission the report states:

"Here, as in the case of the Interstate Commerce Commission, the Civil Aeronautics Board and the Securities Exchange Commission, the powers of the Chairman should be increased and the Commission's authority to delegate decision-making implemented by Presidential Action under the Reorganization Act." [33]

Quite revealing is the reason given for the necessity of these changes. As the report states, the Federal Trade Commission must, due to its limited resources, exercise a great deal of discretion as to the trade practices it will investigate and must concentrate on specific areas. This, according to Landis, "involves an issue of policy of which the Executive should not only be aware but which should be keyed to whatever over-all program is then the Administration's prime concern. The responsibility for concentration on a particular area should be the responsibility of the Executive and not the Federal Trade Commission." [34] Under this theory, the Executive, alternatively, would be able *not* to concentrate on a particular area. Acceptance of this theory would inevitably lead to precisely the circumstances the establishment of the independent agencies was supposed to preclude—*executive* control over the regulatory scheme. By the same token, however, the report, in a curiously candid comment, states that "[t]here has also been too much of the morale-shattering practice of permitting executive interference in the disposition of causes and controversies delegated to the agencies for decision." [35] No doubt there is a direct relationship between the extent of "morale-shattering executive interference" and the degree to which, over the years, we have veered from the original congressional intent concerning regulatory independence. As a matter of fact, such interference is invited for the very reasons assigned to the need for greater executive control.

The recommendation with respect to the Federal Trade Commission contained in the report became the Reorganization Plan No. 4 of 1961.[36] The plan substantially broadened the Chairman's authority, particularly with respect to the assignment of workload among the Commission personnel as well as among the individual Commissioners. The importance of this authority in the Chairman's office cannot be underestimated.

6. Federal Trade Commission v. Guignon

The most far-reaching recent development affecting the Federal Trade Commission's independence is the Eighth Circuit's 1967 decision in *Federal Trade Commission v. Guignon*.[37] In that case the court, in a two-to-one decision, held that the Commission does not have the authority to institute court proceedings to enforce its subpoenas. The Commission had, of course, for 53 years, instituted subpoena enforcement proceedings under Section 9 of the Federal Trade Commission Act, which states that "in case of disobedience to a subpoena the Commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence." The court stated the issue to be "whether the Federal Trade Commission, acting under § 9 of the Federal Trade Commission Act . . . may, without the aid or consent of the Attorney General of the United States, seek enforcement of its own subpoenas in the Federal District Courts." [38] In reaching its decision to deny the Commission enforcement of its own subpoenas the majority considered not only the briefs and arguments of the parties but also a brief *amicus curiae* submitted by the Department of Justice at the invitation of the court. In that brief, the Department took the position that Section 9 did not authorize the practice which the Commission has followed since its creation, and argued that the Department should conduct and control proceedings to enforce Commission subpoenas.

Until the Department took that position and the court agreed with it, it had been accepted practice that the Commission did, indeed, have the authority to enforce its own subpoenas, and this has never been questioned. Now, however, the Commission must apply to the Attorney General for enforcement of its subpoenas, notwithstanding the fact that Section 9 of the Act appears to be abundantly clear on this point. This is evidenced by the enforcement provision relating to subpoenas and that relating to the enforcement of orders. Subpoena enforcement may be sought by the Commission whereas its orders are enforced by application to the Attorney General. In addition, the theory of independence and congressional intention amply demonstrate the necessity for this authority. One of the most important aspects of the Commission's functions and duties is the ability to investigate through the issuance of subpoenas. It has repeatedly been recognized that it is in this area that Congress intended the Commission to have the greatest possible degree of independence from control by the executive. In *Humphrey's Executor*,[39] the Court stated that the Commission's "duties are performed without executive leave and, in the contemplation of the statute, must be free from executive control." [40]

In the *Guignon* case, the court repeated a previously made mistake; [41] it confused those provisions of the Federal Trade Commission Act relating to mandamus, *i.e.*, enforcement of orders, and that relating to enforcement of subpoenas. In addition, this decision brings into sharp focus the problems presented by the inability of the Commission to request the Supreme Court to grant writs of certiorari. In *Guignon*, the Commission is faced with a decision which is against the interest of the Commission but which is supported by the Department of Justice. In order to seek certiorari, however, the Commission had to obtain the support of the Attorney General, which in this case was not achieved. It is certainly open to question whether this result was intended by Congress when it established independent agencies.

V. CONCLUSION

These are some of the outstanding developments which demonstrate that regulatory independence is rapidly becoming more fanciful than factual. Congressional intent was clear from the outset that the quasi-legislative and quasi-judicial regulatory agencies were to be independent and free from the influence, direction or oversight of the executive department. Moreover, the above noted reasons for this—the quasi-legislative service as an arm of the Congress and continuity in effectuation of public policy as declared in the broad outlines of the law—are as valid today as in 1897, more than 70 years ago. I tend to believe that many of the congressional actions undertaken in the interest of orderly and efficient operation of government, which subsequently adversely affected regulatory independence, were accidental rather than a conscious and deliberate effort to limit such regulatory independence. Academic considerations aside, however, the fact remains that when Congress assigned these regulatory tasks to independent agencies it did so because it expected its mandate, as evidenced by the organic acts, to be carried out by a vigorous and effective enforcement policy.

Footnotes at end of article.

This policy was intended to be continuous and irrespective of the changing political fortunes dictating White House occupancy. To the extent we have deviated from this intent the resulting diffusion of control has taken its inevitable toll in regulatory efficiency. For example, this situation has undoubtedly had a deleterious impact on antitrust enforcement activities by the Federal Trade Commission as well as the activities of other agencies. To varying degrees, therefore, erosion of independence has at the same time undermined the agencies' effectiveness. It is ironic that the loss of efficiency should be, at least in part, the result of precisely those statutes designed to foster the orderly and efficient conduct of government. Perhaps, then, the public interest has and may continue to suffer loss of efficiency instead of capturing that illusive objective if there should be continuing erosion of effective congressional oversight instead of oversight by others.

FOOTNOTES

[1] *A.L.A. Schechter Poultry Corp.* v. *U.S.*, 295 U.S. 495 (1935); *Humphrey's Executor* v. *U.S.*, 295 U.S. 602 (1935).

[2] ICC—1887, FTC—1914, FPC—1920, SEC—1933, FCC—1934, NLRB—1935, CAB—1938.

[3] For example, the argument advanced—that executive control of an agency at the same time protects it from unwanted control by the industry it regulates—is not particularly relevant with respect to the Federal Trade Commission.

[4] 51 Cong. Rec. 8841. The opinion was also expressed that if the Bureau of Corporations could be converted into an independent commission, more complete knowledge about corporations engaged in commerce could be gathered.

[5] In the House of Representatives Mr. Morgan expressed these views:

"And instead of giving additional power to the Attorney General we should, as the gentleman from Maryland [Mr. Covington] said this afternoon, create a great, independent, non-partisan commission, independent of the President, independent of Cabinet officers, removed so far as possible from partisan politics, that would command the respect and confidence of all parties and of all the people of the Nation. . . . What I say is not particularly applicable to the present Attorney General or the administration in power. Whatever we do in regulating business should be removed as far as possible from political influence.

"It will be far safer to place this power in the hands of a great independent commission that will go on while administrations may change. That is one reason why I believe in having all these matters placed, so far as they can be, in the hands of a commission, taking these business matters out of politics." (51 Cong. Rec. 8857).

In an article entitled "Constitutionality of Investigations by the Federal Trade Commission," 28 Column. L. Rev. 708, 728 n. 56 (1928), Milton Handler pointed out that:

"The opposition to the Covington bill came not from those who thought the bill went too far but that it did not go far enough. . . . There was singular agreement as to the wisdom of establishing an independent, nonpartisan fact-finding body, and no attempt was made to reduce the broad inquisitional powers discussed in the text [of Handler's article]."

[6] See, for example, *F.T.C.* v. *Procter & Gamble*, 386 U.S. 568 (1967); and *General Foods* v. *F.T.C.*, 386 F.2d 936 (3d Cir. 1967), *cert. denied*, — U.S. — (1968).

[7] 42 Stat. 20; 31 U.S.C.A. 1. Passage of the Act failed the previous year, interestingly enough, due to a dispute over the presidential removal power of the proposed Budget Bureau's director. 61 Cong. Rec. 980.

[8] 31 U.S.C.A. 16.

[9] 61 Cong. Rec. 980.

[10] Budget and appropriations requests may only be transmitted to Congress upon the specific request of either house thereof. 31 U.S.C.A. 15.

[11] It is interesting to note that after passage of the Act some of the independent agencies apparently took the position that it did not apply to them. This, however, was made clear in a 1939 amendment restating applicability of the Act to include "any independent regulatory commission or board." 53 Stat. 565. See also "Government Organization," H. Rep. 2033, 75th Cong., 3d Sess., p. 15 (1938).

[12] 43 Stat. 936.

[13] Henry Pringle, *The Life and Time of William Howard Taft* (New York 1939 (two vols.)), p. 992, *et seq.*

[14] 66 Cong. Rec. 2752.

[15] The authority to argue cases in which the United States is interested before the Supreme Court rests with the Attorney General. 28 U.S.C.A. 518 (1968). For example, the first Federal Trade Commission case to reach the Supreme Court—*F.T.C.* v. *Gratz*, 253 U.S. 421 (1920)—was argued by the Commissioner whose term I am succeeding—Huston Thompson. As a matter of fact, there was widespread belief at the time that the fact that a Commissioner argued the case may have cost the Commission the decision.

[16] Urgent Deficiencies Appropriations Act of 1913, 38 Stat. 208.

[17] "The Organization and Procedures of the Federal Regulatory Commissions and Agencies and Their Effect on Small Business," H. Rep. No. 2967, 84th Cong., 2d Sess., p. 91 (1956).

[18] 56 Stat. 1078; 44 U.S.C.A. 421 (1968).

[19] Speaking about OPA reports and questionnaires, Congressman Patman stated:

"If the gentleman had heard the testimony that has been presented before the Committee on Small Business of the House, he would be very anxious to have this bill passed without 1 hour's delay. The people are up in arms about these useless reports and unnecessary questionnaires. They are irritated by them and they are irritated at the Congress because the Congress will not do something about it." 88 Cong. Rec. 9121.

[20] Some of the supervisory agencies and the Bureau of Internal Revenue are exempted. See Bowman, "Results Achieved by the Federal Reports Act," 7 Bus. and Gov't Rev. 5 (U. of Missouri 1966).

[21] Bowman, *supra* note 20.

[22] 88 Cong. Rec. 9159–9166.

[23] The following is an excerpt of one of the comments during the debate of the bill:

"Mr. SMITH of Ohio. Mr. Speaker, reserving the right to object, there is a good deal more to this bill than merely the elimination of unnecessary reports. Under section 2 (d) it seems to me you are vesting a lot of authority and power in the Director of the Budget.

"Upon the request of any party having a substantial interest or upon his own motion, the Director is authorized within his discretion to make a determination as to whether or not the collection of any information by any Federal agency is necessary for the proper performance of the functions of such agency or any other proper purpose.

"Certainly a considerable amount of information being collected by various governmental agencies is being so collected by direction of the Congress in response to specific legislation. Are we to infer that the Director of the Budget is to have final authority and power to set aside any legislation which the Congress has passed directing the collection of information?" Cong. Rec. 9159.

[24] The Commission on Organization of the Executive Branch of the Government received its name "Hoover Commission" because it was chaired by ex-President Hoover.

[25] Report on the Organization of the Independent Regulatory Commissions, March 3, 1949.

[26] Task Force on Regulatory Commissions, Appendix N, p. 32 (January 1949). (Prepared for the Commission on Organization of the Executive Branch of the Government.

[27] With the exception of appointments to the largest organizational units within an agency, which would require approval of a majority of commissioners.

[28] These plans were labeled in the following manner: Reorganization Plan No. 8, FTC; Reorganization Plan No. 9, FPC; Reorganization Plan No. 10, SEC; and Reorganization Plan No. 13, CAB. 5 U.S.C. 133–Z–15 (1964).

[29] Under the Reorganization Act of 1945 (59 Stat. 613), the President was given the authority for a specific time period to submit reorganization plans to the Congress. To prevent such a plan from going into effect, a concurrent resolution was necessary by the two Houses, stating that the Congress does not favor the reorganization plan. This time period has since been periodically extended but permitted to expire as of 1968.

[30] Hearings Before the Senate Committee on Expenditures in the Executive Departments, 81st Cong., 2d Sess. (1950), S. Res. 253, 254, 255 and 256, pp. 13–17.

[31] It is questionable whether it is desirable that a regulated industry become the champion and protector of the independence of its regulatory agency.

[32] Report on Regulatory Agencies to the President-Elect, James M. Landis, December 1960.

[33] *Id.* at 48.

[34] *Id.* at 52.

[35] *Id.* at 36.

[36] Reorganization Plans 1 (SEC), 2 (FCC), and 5 (NLRB) were disapproved by the House of Representatives. 5 U.S.C. 133–Z–15 (1964).

[37] *F.T.C.* v. *Guignon*, 261 F. Supp. 215 (E.D. Mo. 1967), *aff'd*, 390 F.2d 323 (8th Cir. 1968).

[38] 390 F.2d at 324.

[39] *Humphrey's Executor* v. *United States*, 295 U.S. 602 (1935).

[40] *Id.* at

[41] *F.T.C.* v. *Claire Furnace Co.*, 274 U.S. 160 (1927).

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

EXECUTIVE COMMUNICATIONS, ETC.

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

REPORT OF FEDERAL CROP INSURANCE CORPORATION

A letter from the Secretary of Agriculture, transmitting, pursuant to law, a report of the Federal Crop Insurance Corporation, dated 1968 (with an accompanying report); to the Committee on Agriculture and Forestry.

REPORT OF RURAL ELECTRIFICATION ADMINISTRATION

A letter from the Secretary of Agriculture, transmitting, pursuant to law, a report covering the activities of the Rural Electrification Administration for the fiscal year 1968 (with an accompanying report); to the Committee on Agriculture and Forestry.

REPORT OF OVEROBLIGATION OF AN APPROPRIATION

A letter from the Secretary of Defense, transmitting, pursuant to law, an overobligation of an appropriation (with an accom-

panying report and papers); to the Committee on Appropriations.

REPORT OF OFFICE OF CIVIL DEFENSE

A letter from the Director of Civil Defense, Office of the Secretary of the Army, Department of the Army, transmitting, pursuant to law, a report on the Federal Contributions Program Equipment and Facilities for the quarter ending December 31, 1968 (with an accompanying report); to the Committee on Armed Services.

REPORT ON ARMY RESERVE OFFICERS' TRAINING CORPS FLIGHT INSTRUCTION PROGRAM

A letter from the Secretary of the Army, transmitting, pursuant to law, a report on the progress of the Army Reserve Officers' Training Corps flight instruction program, for the calendar year ended December 31, 1968 (with an accompanying report); to the Committee on Armed Services.

REPORT OF PROPOSED ADDITIONAL FACILITIES PROJECTS, ARMY NATIONAL GUARD

A letter from the Deputy Assistant Secretary of Defense (Properties and Installations), transmitting, pursuant to law, a report on the location, nature, and estimated cost of certain additional facilities projects proposed to be undertaken for the Army National Guard (with an accompanying report); to the Committee on Armed Services.

REPORT OF DIRECTOR OF SELECTIVE SERVICE

A letter from the Director, Selective Service System, transmitting, pursuant to law, a report of the System for the period from January 1, 1968 to June 30, 1968 (with an accompanying report); to the Committee on Armed Services.

REPORT ON DEPARTMENT OF DEFENSE PROCUREMENT FROM SMALL AND OTHER BUSINESS FIRMS

A letter from the Assistant Secretary of Defense (Installations and Logistics) transmitting, pursuant to law, a report on the Department's procurement from small or other business firms, for the period July–October 1968 (with an accompanying report); to the Committee on Banking and Currency.

REPORT OF SECRETARY OF HOUSING AND URBAN DEVELOPMENT

A letter from the Secretary of Housing and Urban Development, reporting, pursuant to law, on the progress of the Department in developing a plan for an insurance program to help homeowners in meeting mortgage payments; to the Committee on Banking and Currency.

PROPOSED LEGISLATION PERTAINING TO IMPORTATION AND INTERSTATE SHIPMENT OF CERTAIN SPECIES OF FISH OR WILDLIFE

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to prevent the importation of endangered species of fish or wildlife into the United States; to prevent the interstate shipment of reptiles, amphibians, and other wildlife taken contrary to State law; and for other purposes (with an accompanying paper); to the Committee on Commerce.

PROPOSED EDUCATIONAL TELEVISION AND RADIO AMENDMENTS OF 1969

A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Communications Act of 1934 by extending the provisions thereof relating to grants for construction of educational television or radio broadcasting facilities and provisions relating to support of the Corporation for Public Broadcasting (with an accompanying paper); to the Committee on Commerce.

PROPOSED LEGISLATION MAKING CERTAIN AIR CARRIERS INELIGIBLE FOR SUBSIDY PAYMENTS

A letter from the Chairman, Civil Aeronautics Board, transmitting a draft of proposed legislation to amend section 406(b) of the Federal Aviation Act of 1958 to make certain air carriers ineligible for subsidy payments (with accompanying papers); to the Committee on Commerce.

REPORT ON THE USE OF U.S. OWNED FOREIGN CURRENCIES

A letter from the Chairman, the U.S. Advisory Commission on International Educational and Cultural Affairs, transmitting, pursuant to law, a report on the use of U.S. owned foreign currencies (with an accompanying report); to the Committee on Foreign Relations.

REPORT OF THE U.S. ADVISORY COMMISSION ON INTERNATIONAL EDUCATION AND CULTURAL AFFAIRS

A letter from the Chairman, the U.S. Advisory Commission on International Educational and Cultural Affairs, transmitting, pursuant to law, the sixth annual report of the Advisory Commission, dated January 21, 1969 (with an accompanying report); to the Committee on Foreign Relations.

REPORT ON DISPOSAL OF FOREIGN EXCESS PROPERTY

A letter from the General Manager, Atomic Energy Commission, reporting, pursuant to law, on the disposal of foreign excess property, during the fiscal year 1968; to the Committee on Government Operations.

PROPOSED CONCESSION CONTRACT FOR THE SOUTH RIM OF THE GRAND CANYON NATIONAL PARK, ARIZ.

A letter from the Acting Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a copy of a proposed concession contract for the South Rim of the Grand Canyon National Park, Ariz. (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORT OF THE ALASKA POWER ADMINISTRATION

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, the first annual report of the Alaska Power Administration for fiscal year ending June 30, 1968 (with an accompanying report); to the Committee on Interior and Insular Affairs.

ORDER CANCELING CERTAIN IRRIGATION CONSTRUCTION CHARGES

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, an order canceling certain irrigation construction charges against non-Indian owned lands within the Modoc Point unit of the Klamath Indian irrigation project, Oregon (with accompanying papers); to the Committee on Interior and Insular Affairs.

PROPOSED CANCELLATION OF CERTAIN IRRIGATION CHARGES

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to approve an order of the Secretary of the Interior canceling irrigation charges against non-Indian owned lands under the Modoc Point unit of the Klamath Indian irrigation project, Oregon (with an accompanying paper); to the Committee on Interior and Insular Affairs.

PROPOSED CONCESSION CONTRACT, NATIONAL CAPITAL REGION, NATIONAL PARK SERVICE

A letter from the Acting Deputy Assistant Secretary of the Interior, transmitting a proposed amendment to a concession contract for the National Capital Region, National Park Service (with an accompanying paper); to the Committee on Interior and Insular Affairs.

REPORT OF SECRETARY OF THE INTERIOR ON ACCOMPLISHMENTS IN COOPERATIVE WATER RESOURCES RESEARCH AND TRAINING

A letter from the Secretary of the Interior, reporting, pursuant to law, on activities and accomplishments in cooperative water resources research and training; to the Committee on Interior and Insular Affairs.

REPORT OF OFFICE OF COAL RESEARCH

A letter from the Secretary of the Interior, transmitting, pursuant to law, a report of the Office of Coal Research, for the calendar year 1968 (with an accompanying report); to the Committee on Interior and Insular Affairs.

ADMISSION INTO THE UNITED STATES OF CERTAIN DEFECTOR ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered granting admission into the United States of certain alien defectors (with accompanying papers); to the Committee on the Judiciary.

PROPOSED COMMEMORATION OF THE 100TH ANNIVERSARY OF THE ESTABLISHMENT OF YELLOWSTONE NATIONAL PARK

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation authorizing the Secretary of the Interior to provide for the commemoration of the 100th anniversary of the establishment of Yellowstone National Park, and for other purposes (with an accompanying paper); to the Committee on the Judiciary.

REPORT ON MEDICARE

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on medicare (with an accompanying report); to the Committee on Finance.

REPORT OF RAILROAD RETIREMENT BOARD

A letter from the Chairman, Railroad Retirement Board, transmitting, pursuant to law, a report of the Board for the calendar year 1968 (with an accompanying report); to the Committee on Post Office and Civil Service.

PROPOSED BILL TO MERGE FIRST-CLASS MAIL AND AIRMAIL INTO A SINGLE CLASS OF MAIL SERVICE

A letter from the Postmaster General, transmitting a draft of proposed legislation to merge first-class mail and airmail into a single class of mail service (with accompanying papers); to the Committee on Post Office and Civil Service.

REPORT OF COST OF CLEAN WATER AND ITS ECONOMIC IMPACT

A letter from the Secretary of the Interior, transmitting, pursuant to law, a report on the cost of clean water and its economic impact (with an accompanying report); to the Committee on Public Works.

PROPOSED AMENDMENTS TO THE FEDERAL WATER POLLUTION CONTROL ACT

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend the Federal Water Pollution Control Act, as amended, and for other purposes (with an accompanying paper); to the Committee on Public Works.

REPORT ON THE COST OF CARRYING OUT THE FEDERAL WATER POLLUTION CONTROL ACT

A letter from the Secretary of the Interior, transmitting, pursuant to law, the second annual report on the cost of carrying out the Federal Water Pollution Control Act (with an accompanying report); to the Committee on Public Works.

PROPOSED AMENDMENTS OF ATOMIC ENERGY ACT OF 1954

A letter from the Chairman, Atomic Energy Commission, transmitting a draft of proposed legislation to amend the Atomic Energy Act of 1954, as amended, to eliminate the requirement for a finding of practical value and abolish the distinction between commercial licenses for facilities and certain research and development licenses for facilities and for other purposes (with accompanying papers); to the Joint Committee on Atomic Energy.

An letter from the Chairman, Atomic Energy Commission, transmitting a draft of

proposed legislation to amend section 11 of the Atomic Energy Act of 1954, as amended (with accompanying papers); to the Joint Committee on Atomic Energy.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. SPARKMAN, from the Committee on Banking and Currency, without amendment:

S. Res. 57. Resolution authorizing the Select Committee on Small Business to make a complete study of the problems of small and independent businesses (Rept. No. 91-3); referred to the Committee on Rules and Administration.

BILLS AND JOINT RESOLUTIONS INTRODUCED

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

By Mr. HANSEN:

S. 629. A bill to authorize the Secretary of the Interior to engage in a feasibility investigation for the modification of Buffalo Bill Dam; to the Committee on Interior and Insular Affairs.

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

By Mr. TOWER:

S. 630. A bill to provide for the appointment of an advisory committee to recommend improvements in and simplification of Federal tax return forms and procedures; to the Committee on Finance.

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

By Mr. DOLE:

S. 631. A bill for the relief of Dr. Elsaid Abel Ghani Ashour; to the Committee on the Judiciary.

By Mr. PROUTY:

S. 632. A bill for the relief of Raymond C. Melvin; to the Committee on the Judiciary.

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

By Mr. MATHIAS:

S. 633. A bill for the relief of Adriana Bernardis;

S. 634. A bill for the relief of Rev. Dr. Christopher Stephen Mann;

S. 635. A bill for the relief of Dr. Joel Malabrigo;

S. 636. A bill for the relief of Dr. Fausto Q. Aquino, Jr.;

S. 637. A bill for the relief of Dr. Angelita A. Topacio;

S. 638. A bill for the relief of Minas Kritharis; and

S. 639. A bill for the relief of Dr. Istvan Kuhn; to the Committee on the Judiciary.

By Mr. CASE:

S. 640. A bill to establish the Sandy Hook National Seashore in the State of New Jersey; to the Committee on Interior and Insular Affairs.

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

By Mr. ERVIN:

S. 641. A bill to amend the Consolidated Farmers Home Administration Act of 1961 in order to permit borrowers obtaining loans under such act to employ attorneys of their own choice to perform necessary legal services in connection with such loans; to the Committee on Agriculture and Forestry.

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

By Mr. BYRD of West Virginia:

S. 642. A bill to make it a Federal offense, to assassinate, kidnap, or assault a Member of Congress or a Member-of-Congress-elect; and

S. 643. A bill for the relief of Ruperto Evangelista Perez; to the Committee on the Judiciary.

By Mr. PROXMIRE (for himself and Mr. MCGOVERN):

S. 644. A bill to provide a special milk program for children; to the Committee on Agriculture and Forestry.

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

By Mr. HART:

S. 645. A bill for the relief of Man Jak Cheung (Ting Ping Woo); and

S. 646. A bill for the relief of Joan Sara; to the Committee on the Judiciary.

By Mr. CRANSTON:

S. 647. A bill for the relief of Severino Manni; and

S. 648. A bill for the relief of Ernesto Alunday; to the Committee on the Judiciary.

By Mr. MONDALE:

S. 649. A bill for the relief of Mrs. Margarita Gutierrez De Cespedes; to the Committee on the Judiciary.

By Mr. HRUSKA (for himself and Mr. ERVIN):

S. 650. A bill to amend section 3006A of title 18, United States Code, relating to representation of indigent defendants; to the Committee on the Judiciary.

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

By Mr. SPARKMAN:

S. 651. A bill to provide for the conveyance of certain public land held under color of title to Mrs. Jessie L. Gaines of Mobile, Ala.; to the Committee on Interior and Insular Affairs.

By Mr. CURTIS (for himself and Mr. HRUSKA):

S. 652. A bill for the relief of Filadelfo Fracica; to the Committee on the Judiciary.

By Mrs. SMITH:

S. 653. A bill for the relief of Guvenc Alpander; to the Committee on the Judiciary.

By Mr. CANNON:

S. 654. A bill to enable the citizens of the United States who change their residences to vote in presidential elections, and for other purposes; to the Committee on Rules and Administration.

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

By Mr. RIBICOFF:

S. 655. A bill for the relief of Raul das Dores Roberto and Maria Inocencia de Sousa Roberto;

S. 656. A bill for the relief of Corazon Halili Lomotan; and

S. 657. A bill for the relief of Gaetano D'Andria; to the Committee on the Judiciary.

S. 658. A bill to amend section 815 of the Internal Revenue Code with regard to certain distributions of the stock of wholly owned corporations; to the Committee on Finance.

By Mr. NELSON:

S. 659. A bill for the relief of Sui King Yu, Yuk Shui Chan, Man Wa Yeung, Sui Kwong Wong, Kam Woon Leung, Chun Piu Yung, Ping Ying Choi, Lun Sang Wong, Muk Kan Yip, Wai Yung Lau, Ngan Lung, Chau, King Hung Chu, Shu Yau Chan, Chuen Chan, Mau Hing Chan, Au Ming, Ng Man Hung and Leung Ah Fong; and

S. 660. A bill for the relief of Fu Ken Hung; to the Committee on the Judiciary.

S. 661. A bill to provide an improved and enforceable procedure for the notification of defects in tires; to the Committee on Commerce.

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

By Mr. TYDINGS:

S. 662. A bill for the relief of Vasilios Cypriotis;

S. 663. A bill for the relief of Bechu Banerjea, his wife Pushpalata Banerjea, and their children, Binapani, Sukla, Jaya, and Tarak;

S. 664. A bill for the relief of Dr. Ataullah Moshayedi;

S. 665. A bill for the relief of Safia Talibi Naz;

S. 666. A bill for the relief of Ioannis Karaoulanis;

S. 667. A bill for the relief of Dr. Glocrito G. Sagisi; and

S. 668. A bill for the relief of Georgios J. Kornias; to the Committee on the Judiciary.

By Mr. METCALF:

S. 669. A bill to extend the provisions of certain laws relating to housing and urban development to the Trust Territory of the Pacific Islands; to the Committee on Banking and Currency.

S. 670. A bill to amend the Act of September 2, 1937, to provide for a program of Federal financial assistance to establish hunter safety programs in the several States, and for other purposes; and

S. 671. A bill to prevent the importation of endangered species of fish or wildlife into the United States; to prevent the interstate shipment of reptiles, amphibians, and other wildlife taken contrary to State law; and for other purposes; to the Committee on Commerce.

By Mr. RANDOLPH:

S. 672. A bill for the relief of Charles Richard Scott; to the Committee on the Judiciary.

By Mr. BENNETT:

S. 673. A bill for the relief of Concepcion Quezada Mota; to the Committee on the Judiciary.

By Mr. WILLIAMS of New Jersey:

S. 674. A bill to amend section 13a of the Interstate Commerce Act, relating to the discontinuance or change of certain operations or services of common carriers by rail, in order to require the Interstate Commerce Commission to give full consideration to all financial assistance available before permitting any such discontinuance or change; to the Committee on Commerce.

S. 675. A bill to prohibit federally insured banks from voting their own stock and to provide for cumulative voting in federally insured banks; and

S. 676. A bill to amend the Urban Mass Transportation Act of 1964 to authorize certain grants to assure adequate commuter service in urban areas, and for other purposes; to the Committee on Banking and Currency.

S. 677. A bill for the relief of Guiseppe Tamburro;

S. 678. A bill for the relief of Francisco Renigio Fabre Solino (Frank R. S. Fabre);

S. 679. A bill for the relief of George Zaharias;

S. 680. A bill for the relief of Christodoulos Anagnostou;

S. 681. A bill for the relief of Silvestro D'Urso;

S. 682. A bill for the relief of Rene E. Montero;

S. 683. A bill for the relief of Diamantino Ferreira Pereira;

S. 684. A bill for the relief of Hon Chun Eng;

S. 685. A bill for the relief of Tino Cattabiani, Caterina Cattabiani (nee Papurello), and Pier Maria Cattabiani;

S. 686. A bill for the relief of Juan Antonio Lopez;

S. 687. A bill for the relief of Antonino Garoffolo;

S. 688. A bill for the relief of Carmela LaGalia;

S. 689. A bill for the relief of Michele Lombardi;

S. 690. A bill for the relief of Chong Pil Lee;

S. 691. A bill for the relief of Virgilio Cibellis, Gelsimina Cibellis, and Mauro Cibellis;

S. 692. A bill for the relief of Kostas Parlapanides;

S. 693. A bill for the relief of Antonio and Rosa Malatesta; and

S. 694. A bill for the relief of Hon Yiu Fong; to the Committee on the Judiciary.

(See the remarks of Mr. WILLIAMS of New Jersey when he introduced the first two above bills, which appear under separate headings.)

By Mr. BYRD of West Virginia:

S.J. Res. 30. Joint resolution to amend the Constitution to provide for the direct election of the President and the Vice President of the United States; to the Committee on the Judiciary.

By Mrs. SMITH:

S.J. Res. 31. Joint resolution proposing an amendment to the Constitution of the United States providing for nomination of candidates for President and Vice President, and for election of such candidates by popular vote; to the Committee on the Judiciary.

By Mr. CANNON:

S.J. Res. 32. Joint resolution proposing an amendment to the Constitution of the United States extending the right to vote to citizens 18 years of age or older; and

S.J. Res. 33. Joint resolution proposing an amendment to the Constitution of the United States providing for the election of the President and the Vice President of the United States; to the Committee on the Judiciary.

(See the remarks of Mr. CANNON when he introduced the above joint resolutions, which appear under separate headings.)

S. 629—INTRODUCTION OF BILL RELATING TO THE MODIFICATION OF THE BUFFALO BILL DAM

Mr. HANSEN. Mr. President, I introduce, for appropriate reference, a bill to authorize the Secretary of the Interior to engage in a feasibility investigation for the modification of the Buffalo Bill Dam.

In a recently released reconnaissance study, the Bureau of Reclamation found that Buffalo Bill Dam is incapable of containing or passing safely the probable flood that might enter the reservoir without overtopping the dam and damaging the structure. This information is the result of a study utilizing the latest meteorologic and hydrologic data and reevaluating the spillway capacities of older dams.

The Buffalo Bill Dam is located on the Shoshone River about 5 miles west of the city of Cody, Wyo., and is one of the first dams built under the Reclamation Act of 1902. The fact that a dam incapable of handling a probable flood is located a short distance upstream of the city of Cody is cause for concern.

Three alternatives have been offered to solve this problem. The first plan is to enlarge the spillway to allow the safe passage of a probable flood that might enter the reservoir. The second plan would raise the dam without enlarging the spillway. This plan would enable the dam to contain a probable flood; however, this proposal would cause conditions which might be detrimental to the spillway tunnel to the extent that the left abutment of the dam would be in danger. No additional conservation storage would result under either of these plans.

The final alternative contemplates enlarging the spillway tunnel in combination with raising the dam. This proposal would provide additional surcharge in the reservoir, together with additional conservation storage for a multiplicity of uses.

In addition to alleviating flood dangers, this third proposal, by increasing the conservation capacity of Buffalo Bill Reservoir, would provide additional water for irrigation, power production, and municipal and industrial supply, as well as enhancing the downstream fishery, providing opportunity for increased recreation potential, and making possible some control of water quality for downstream water users.

The multiple-use development which would be made possible by increasing the conservation capacity of the dam would add greatly to the economic development of Wyoming. The State would have a greater number of options for the use of Big Horn River system waters. The Wyoming Natural Resource Board, anticipating the possible future need for water in this area, has expressed interest in 50,000 to 100,000 acre-feet of storage water from the enlarged Buffalo Bill Reservoir for municipal and industrial supply.

A comparison of the benefits and costs shows that there is economic justification for each proposed plan with selected functions.

Because of the need to correct the unsafe spillway conditions of Buffalo Bill Dam, it is urgent that a detailed study be made and a plan be selected as soon as possible.

I urge the Senate to act quickly on this measure authorizing a feasibility investigation for the modification of Buffalo Bill Dam.

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

The bill (S. 629) to authorize the Secretary of the Interior to engage in a feasibility investigation for the modification of Buffalo Bill Dam, introduced by Mr. HANSEN, was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

S. 630—INTRODUCTION OF BILL RELATING TO THE SIMPLIFICATION AND IMPROVEMENT OF THE METHOD OF COLLECTING THE FEDERAL INCOME TAX

Mr. TOWER. Mr. President, the time of year is with us again for filing our income tax return forms. It has become more apparent to me than ever before the burden that the American taxpayer is under in trying to fill out this form to the satisfaction of the Internal Revenue Service. Often crrors are made in this process by people, who are not trying to mislead the IRS, but who honestly do not know how to fill out the form properly due to its complexity. I certainly know how these people feel; not being an accountant myself, I find it extremely difficult.

In order that we may have some hope of correcting this ever-increasing burden, I introduce today a measure which would provide for the establishment of a commission to recommend improvements in and simplification of Federal tax return forms and procedures. This Commission would be appointed by the Secretary of the Treasury and would act in an advisory capacity only; however, I think that it is imperative that we begin as quickly as possible to correct the glaring problems of this procedure that affect in some way or another almost every American.

The Commission itself shall consist of nine members well versed in the problems involved: there shall be tax lawyers and accountants who know how the forms and procedures work; it shall also have a representative taxpayer who can present views on the difficulties confronting them; and also there shall be representatives of the Government who know its needs. The duties of the Commission shall be to recommend simplification of the current forms used by the IRS. We have form 1040A at the current time, which shows what can be done if the proper climate is created by form simplification.

In closing, Mr. President, this Commission can be a service to us all, for we all must pay taxes. I do not expect any overnight miracles, but if the Commission is able to reduce our burden in this matter, it shall have performed splendidly.

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

The bill (S. 630) to provide for the appointment of an advisory committee to recommend improvements in and simplification of Federal tax return forms and procedures, introduced by Mr. TOWER, was received, read twice by its title, and referred to the Committee on Finance.

S. 632—INTRODUCTION OF BILL FOR THE RELIEF OF RAYMOND C. MELVIN

Mr. PROUTY. Mr. President, I introduce, for appropriate reference, a bill for the relief of a young constituent of mine, Raymond C. Melvin.

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

The bill (S. 632) for the relief of Raymond C. Melvin, introduced by Mr. PROUTY, was received, read twice by its title, and referred to the Committee on the Judiciary.

S. 640—INTRODUCTION OF BILL TO ESTABLISH THE SANDY HOOK NATIONAL SEASHORE, N.J.

Mr. CASE. Mr. President, I introduce, for appropriate reference, a bill to create the Sandy Hook National Seashore recreation area.

Sandy Hook, a peninsula bounded by the Atlantic Ocean on one side and Sandy Hook Bay on the other, consists of 1,634 acres. From 1846 until approximately 7 years ago the entire complex was a military reservation known as Fort Hancock. However, in early 1962 it was determined that the entire acreage was no longer needed for military purposes

and the Department of the Army leased 745 acres to the State of New Jersey for a recreation area. This became known as the Sandy Hook State Park.

I was, of course, happy to support and work for the establishment of this State park.

In January 1967, the Department of Defense announced that it would turn approximately 1,200 acres of land at Sandy Hook, including 745 acres that comprise the present State park, over to the General Services Adminsitration for disposal. A recent check with the Department indicates that it anticipates reporting the approximately 1,200 acres as surplus no later than August of this year.

Enactment of my bill will authorize the Department of the Interior to take possession of this acreage, operate and maintain it for recreational purposes, and place in New Jersey its first national seashore recreation area.

The New York metropolitan region will be completely urbanized within 30 to 40 years. Even now, open space and recreation facilities fall far short of the needs of the region's population. The little open space that is left is truly a "precious little."

The New York Metropolitan Regional Council and the Regional Plan Association assessed the need for open space in a recent report, "The Race for Open Space," the fourth and final report of their park, recreation, and open space project. This report recommended that the present 189,000 acres of public parks in the metropolitan region be expanded to 736,000 and that the total open space be expanded from 600 square miles to 1,700 square miles. The report also suggested criteria for choosing lands to be acquired, pointing out that swimming and beach use rank first in public preference in recreation; picnicking is second, and walking and nature study third.

Ocean frontage within the metropolitan region totals 150 miles, of which 71 miles are suitable for mass recreation and conservation. Most of this frontage lies in New York State, and is not easily available to the people of northern New Jersey. The western part of the region's suitable ocean frontage lies mainly in Monmouth County, N.J. Of the county's 27.2 miles of recreation frontage, 8.8 miles are held privately and 6.7 miles are held by the military. The remaining 11.7 miles are publicly owned and, for the most part, are either already fully used or are unusable because of pollution.

Thus, Sandy Hook is the sole practicable potential public recreation area left to serve the people of urban north Jersey. In addition, its colorful history and interesting geological and natural features give it potential for a varied recreational experience not found elsewhere in the region west of the Hudson.

Unlike the establishment of the Cape Cod National Seashore, Mass., as part of the national park system, inclusion of Sandy Hook in the national park system will not require appropriation of millions of dollars to acquire privately owned lands. The land at Sandy Hook is already owned by the Federal Government.

The present State park is one of the most popular recreation areas along the New Jersey coast—providing swimming, nature walks, sunbathing, and some of the best fishing around. It is so popular that on many weekends during the summer months the gates to the park must be closed as early as 10:30 in the morning, depriving thousands of would-be visitors of its use.

As the report, "Sandy Hook, A Study of Alternatives," prepared by the National Park Service and the Bureau of Outdoor Recreation, points out:

> Sandy Hook's recreation resources are . . . outstanding and should be preserved. Its 6 miles of uninterrupted Atlantic oceanfront and wide sand beaches provide a maximum opportunity for developing mass water-oriented recreation. These beaches, imaginatively planned, will provide varied and vitally needed water-oriented recreation for the massive urban population in the western half of the region. Even though swimming and sunbathing will dominate their use, they will also be ideal for hiking, beachcombing, and some of the best surf fishing in the State.
>
> Inland from the beaches a series of relatively unaltered dunes, interspersed with fresh and salt water marshes, plus 7½ miles of bay shoreline will provide the opportunity for supporting activities, such as hiking and nature study. Primarily the value of the natural resource is educational, in that the student or visitor is afforded a favorable field for the study of plant succession.

Since I introduced this bill in the 89th Congress, I am glad to report that the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments at its 59th meeting endorsed the proposal to establish the Sandy Hook National Seashore as a unit of the national park system.

And on January 15 of this year then Secretary of the Interior, Stewart L. Udall, stated that he endorses enactment of legislation to establish a national seashore at Sandy Hook.

It is my strong hope that the Senate Interior and Insular Affairs Committee will hold prompt hearings on my bill so that the full Senate will have an early opportunity to pass the legislation.

The use of Sandy Hook for any purpose other than a recreation area would be unconscionable, for it is a national heritage and should remain in public possession.

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

The bill (S. 640) to establish the Sandy Hook National Seashore in the State of New Jersey, introduced by Mr. CASE, was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

S. 641—INTRODUCTION OF BILL TO AMEND THE CONSOLIDATED FARMERS HOME ADMINISTRATION ACT OF 1961

Mr. ERVIN. Mr. President, I introduce, for appropriate reference, a bill to amend the Consolidated Farmers Home Administration Act of 1961 in order to permit borrowers obtaining loans under such act to employ attorneys of their own choice to perform any necessary legal services in connection with such loans.

I should like to observe that in my opinion any act which deprives individuals of the right to select their own counsel, as this act does, is certainly incompatible with the theory that we have a free country. No government agency should direct an individual as to what lawyer he can or must retain to perform services for him.

I ask that the bill be appropriately referred, and I ask unanimous consent that a copy of the bill be printed at this point in the RECORD.

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

The bill (S. 641) to amend the Consolidated Farmers Home Administration Act of 1961 in order to permit borrowers obtaining loans under such act to employ attorneys of their own choice to perform necessary legal services in connection with such loans, introduced by Mr. ERVIN, was received, read twice by its title, referred to the Committee on Agriculture and Forestry, and ordered to be printed in the RECORD, as follows:

S. 641

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 336 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1986) is amended (1) by inserting "(a)" immediately before "No officer" in the first sentence thereof; and (2) by adding a new subsection as follows:

"(b) Any person making application for a loan under this Act may employ any attorney of his choice to provide him with the legal services necessary in obtaining such loan if such attorney is a member in good standing of the bar of the highest court of the State in which the loan applicant resides. In any case involving the purchase of land the loan applicant may employ any title insurance company of his choice to provide him with necessary legal services if such title company is licensed to perform such services in the State in which the land to be purchased is located."

SEC. 2. The amendment made by the first section of this Act shall be effective in the case of all persons who make application for loans under the Consolidated Farmers Home Administration Act of 1961 on or after the date of enactment of this Act.

S. 644—INTRODUCTION OF BILL RELATING TO EXTENSION OF SPECIAL MILK PROGRAM FOR CHILDREN

Mr. PROXMIRE. Mr. President, I introduce, on behalf of myself, the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Wisconsin (Mr. NELSON), a bill to extend and expand the special milk program for schoolchildren. The bill increases the amount provided for in the Child Nutrition Act of 1966 from $120 million for fiscal 1970 to $125 million for that year. The proposal also makes the program a permanent one, thus extending it beyond the present June 1970 expiration date. The bill will increase authorized funding to $130 million in fiscal 1971 and $135 million in fiscal 1972 and thereafter. And finally the legislation makes it crystal clear that the program is to be administered in the same manner as it is currently being handled.

This last point is particularly signif-

icant in view of the proposal made in the President's budget to eliminate the school milk program by melting it into the child nutrition and special food assistance programs. Although the budget indicates that increased milk consumption in these two programs will substantially offset the decline resulting from the elimination of the special milk program to my mind no convincing evidence exists that this is, indeed, a sound judgment.

Since the Agricultural Act of 1954 provided for the use of Commodity Credit Corporation funds to increase the consumption of fluid milk by schoolchildren the school milk program has been one of the most successful efforts the Federal Government has ever made to improve the nutrition of our sons and daughters. Periodic attempts to reduce or eliminate the program, the most recent being a 1966 attempt to slash the program by 80 percent, have failed ignominiously.

The program has been successful for two reasons. First and foremost it has supplied billions of half pints of milk—nature's perfect food—each year over and above the milk sold as part of the type A lunch under the school lunch program. Thus it has provided an invaluable supplement to the noonday meal provided by the school lunch program. The midmorning "milk break" filled many empty stomachs long before the school breakfast program was conceived.

Second, it has put Federal funds to work to feed the young as an alternative to the use of tax dollars to buy up surplus milk for storage in powdered form. For the school milk program has taken substantial portions of fluid milk off the market that the Federal Government otherwise would have had to buy and store under our price support program. Consumption under the program has typically represented approximately 2½ percent of fluid milk consumption in the United States.

To submerge this success story of a program by making it a subsidiary of the school lunch and other special programs would be to make it an unwanted stepchild. Certainly it would be far far easier to sharply slash school milk expenditures that were an unidentified part of a general nutrition effort than it would be to make deep cuts in the existing school milk program. Furthermore I am convinced that the young of our Nation, especially those with serious nutritional deficiencies, need more, not less, fluid milk.

Finally, Mr. President, I must add that it is a special source of joy to me to have my colleague from South Dakota, Senator McGOVERN, as a sponsor of this bill. We are all familiar with the marvelous work that his Select Committee on Nutrition and Human Needs is doing to analyze and find solutions to the problems of hunger and malnutrition in this land of ours. It gives me a particular sense of confidence to know that a man with his deep experience with the needs of the hungry in the United States and abroad has chosen to associate himself with me in the introduction of this legislation.

I ask unanimous consent that the bill to expand and extend the special milk program for schoolchildren be printed in the RECORD.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD, in accordance with the request of the Senator from Wisconsin.

The bill (S. 644) to provide a special milk program for children, introduced by Mr. PROXMIRE (for himself and Mr. McGOVERN), was received, read twice by its title, referred to the Committee on Agriculture and Forestry, and ordered to be printed in the RECORD, as follows:

S. 644

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Child Nutrition Act of 1966 is amended to read as follows:

"SEC. 3. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1970, not to exceed $125,000,000; for the fiscal year ending June 30, 1971, not to exceed $130,000,000; and for each succeeding fiscal year, not to exceed $135,000,000, to enable the Secretary of Agriculture, under such rules and regulations as he may deem in the public interest, to encourage consumption of fluid milk by children in the United States in (1) nonprofit schools of high school grade and under, and (2) nonprofit nursery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children. For the purposes of this section 'United States' means the fifty States and the District of Columbia. The Secretary shall administer the special milk program provided for by this section to the maximum extent practicable in the same manner as he administered the special milk program provided for by Public Law 89-642, as amended, during the fiscal year ending June 30, 1969."

S. 654—INTRODUCTION OF BILL ENTITLED "THE RESIDENCY VOTING ACT OF 1969"

Mr. CANNON. Mr. President, I introduce, for appropriate reference, a bill entitled "The Residency Voting Act of 1969."

I first introduced this bill as S. 1881 on May 25, 1967. Hearings were held by the Subcommittee on Privileges and Elections, at which time the Honorable Fred Vinson, Assistant Attorney General, representatives of American citizens residing abroad, and various committees seeking improvements in the residence requirements for voting, testified or submitted statements in support of the bill.

In essence, the bill provides that no citizen of the United States who is otherwise qualified to vote in any election shall be denied the right to vote for the Offices of President and Vice President if he establishes residence in a new State not later than the first day of September next preceding the date of an election, and, further, no citizen of the United States who is otherwise qualified to vote by absentee ballot in any election shall be denied the right to vote for President and Vice President because of any requirement of registration that does not include a provision for absentee registration.

Mr. President, the citizens of the United States are highly mobile, and it is not uncommon for them to be sent to countries all over the world representing American industry, educational institutions, and other social institutions. The Bureau of the Census has estimated that up to 20 or 25 percent of the citizens of this country are in a state of transition. During the presidential election year of 1964 witnesses stated that as many as 8 million citizens were denied the privilege of voting either because they moved into a new State too late to comply with the residency qualifications or because they were unable to register by absentee procedures.

Several States have under the Constitution the right to establish qualifications of voters, including residence requirements and procedures for absentee voting. It is quite understandable that the States would claim certain reservations concerning the right of any citizens to vote in local elections on the ground that new citizens would have insufficient knowledge of local issues and local candidates to draw meaningful conclusions. However, mass media communication, especially TV, carry to all corners of the earth complete information concerning the national issues, the candidates for President and Vice President, and the problems facing the Nation at home and abroad. No matter where in the world a citizen may temporarily be residing, he has at least been well informed on the programs and policies of each candidate seeking the office of President. He ought not to be denied the voting franchise because of some antiquated residence requirement or absentee voting requirement.

The committee again this year will hold hearings, and it is hoped that those hearings will produce sufficient interest to demonstrate the need for the adoption of this bill so as to extend to all American citizens the right to vote at least for President and Vice President beginning in 1972.

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

The bill (S. 654) to enable the citizens of the United States who change their residences to vote in presidential elections, and for other purposes, introduced by Mr. CANNON, was received, read twice by its title, and referred to the Committee on Rules and Administration.

S. 661—INTRODUCTION OF BILL TO RECALL DEFECTIVE TIRES

Mr. NELSON. Mr. President, I introduce, for appropriate reference, a bill to direct the Secretary of Transportation to develop a procedure for the recall of defectively manufactured tires.

The bill would amend the National Traffic Safety Act to require the Secretary of Transportation, within 6 months, to develop procedures under which the tire manufacturers would notify every tire purchaser of potential defects in his tires. The notification—by certified mail—would explain the nature of the suspected defect and an evaluation of the safety hazard as well as measures to be taken to correct the defect.

In effect, this bill would simply extend the existing recall provision of the Traffic Safety Act which now applies only

to the automobile manufacturer, to the tire manufacturer.

The tire industry—like every modern manufacturing process—experiences continuous problems with quality control. And as a result, a number of defective tires are reaching the marketplace, and we know that this number is very much larger than any figures reveal. In reply to a questionnaire I sent to all tire manufacturers in August 1967, six companies replied that they have recalled a total of more than 125,200 tires in the last 7 years for inspection of defects.

Despite the fact that defective tires are reaching the consumer, there has never been a systematic recall of such tires from the consumer. In all cases related, the tires were recalled from warehouses or dealers.

Because most tire companies have no system for keeping track of their product after it leaves the factory, they contend that it is impossible for them to locate the owners of defective tires.

The consumer is clearly not being reached under the present system.

Since I first introduced this tire recall bill in November, 1967, many incidents have reconfirmed the need for this legislation.

First, it became apparent last winter that untold thousands of defective Firestone wide oval tires were on the roads. The sidewalls of the tires cracked and split severely at very low mileage, creating a significant safety hazard. Also, the tires had unusually rapid tread wear. In private, Firestone admitted to this problem and changed the design of this tire, but no recall was ever carried out.

Second, my office continues to receive, as it has since 1964 when I introduced the first tire safety standards bill in the Senate, a stream of letters from consumers whose original equipment and replacement tires are failing at uncommonly low mileage. The number of multiple failures of tires on new cars is also shocking.

And finally, the obvious need for the recall provision for defective automobiles—under which more than 5 million cars have been recalled in the past 2 years—helped convince officials in the Department of Transportation and in the office of the President's special assistant for consumer affairs that motorists deserved the same protection from defective tires that they were receiving from defective autos. Both the Department of Transportation and the President's special assistant for consumer affairs, Miss Furness, endorsed the tire recall bill in the last session of Congress.

All these incidents help to dramatize the need for a recall system for defective tires. Yet the need and urgency for a systematic procedure was brought into even sharper focus by two events in the last week.

On January 19, Mohawk Tire and Rubber Co. of Akron, Ohio, announced the recall of approximately 10,000 of their tires to check for a manufacturing defect that could cause blowouts. The company urged all owners of Mohawk tires by the trade name of Airflo in size 7.35 x 14 purchased since last February 1 to return to their dealers immediately and have the tire replaced at no charge.

To my knowledge, this is the first recall of defective tires at the user level in the history of the tire industry. I want to commend Mohawk for their safety-conscious action and urge their colleagues in the industry to heed Mohawk's example.

It is hoped that all the suspect tires will be exchanged speedily before injury comes to any of their owners. But because the company keeps no record of the tires after they are sold to the dealers, they must rely on the public news media to spread the word to the individual users. So it is foolhardy to expect Mohawk's recall attempt to be more than 50 percent effective.

The bill I have introduced today will establish a system for identifying each tire and keeping track of it from the manufacturer to the dealer to the user. Then, when recall is necessary, the manufacturer can reach the individual user directly and recall can be carried out with maximum efficiency. Certainly in this computer age, this is not an awesome task.

It is particularly urgent that this bill be passed quickly. For we know that the 10,000 Mohawk Airflo tires represent only a small fraction of the total number of defective or substandard tires on the roads.

It is now apparent that literally millions of tires now on sale to the public by major tire manufacturers have failed to meet the safety standards established under the National Traffic and Motor Vehicle Safety Act of 1966.

In the past 5 months, dozens of failures of the tire standards have been reported to the Department of Transportation by their contractors who are testing for compliance with the standards. Nine major tire companies including the top four producers who account for about 75 percent of total passenger tire production are involved.

The exact number of tires involved is not known at the moment. However, one Department of Transportation spokesman estimated that perhaps as many as two-thirds of all new tires sold had serious and potentially hazardous defects.

Yesterday, I released a letter to Secretary of Transportation John Volpe, listing all the tires that do not meet the Federal standards, and urging him to proceed to institute legal action against the tire companies who are violating the law, to inform the public in as comprehensive a manner as possible about the suspect tires, and to work with the tire companies to recall all the faulty tires and replace them. I ask unanimous consent that a copy of that letter and a list of the tires be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. NELSON. It is very clear that Congress must act immediately to establish a workable recall procedure for defective tires—a system which will protect the motorist and will put the responsibility for defective tires squarely with the tire manufacturer where it legally and rightfully belongs.

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

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

The bill (S. 661) to provide an improved and enforceable procedure for the notification of defects in tires, introduced by Mr. NELSON, was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S. 661

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title II of the National Traffic and Motor Vehicle Safety Act of 1966 is amended by adding at the end thereof the following new section:

"SEC. 206. (a) In addition to the requirements of section 113 of this Act, relating to notification of defects, not later than six months after the enactment of this section, the Secretary shall establish procedures under which every manufacturer of tires shall be required to furnish notification of any defect in any tire produced by such manufacturer which the manufacturer determines, in good faith, relates to motor vehicle safety, to the last purchaser of such tire known to the manufacturer, within a reasonable time after such manufacturer has discovered such defect.

"(b) The procedures established pursuant to this section shall provide—

"(1) a method of notice to each tire manufacturer of the names and addresses of the purchasers of the tires of such manufacturer;

"(2) for notification (A) by certified mail to tire purchasers other than dealers of tire manufacturers to whom tires were delivered, (B) by certified mail or other more expeditious means to dealers of tire manufacturers to whom tires were delivered, and (C) by such other means as the Secretary deems will assist in carrying out the purposes of this Act; and

"(3) coordination of the requirements of this section with the requirements of section 113 of this Act so as to avoid unnecessary duplication of notification of tire defects while assuring the greatest probability of notification to the user of a tire as to a defect therein as soon as possible.

"(c) The notification required by this section shall contain a clear description of such defect, an evaluation of the risk to traffic safety reasonably related to such defect, and a statement of the measures to be taken to repair such defect or to replace, if necessary, any tire with such a defect.

"(d) Every manufacturer of tires shall furnish to the Secretary a true or representative copy of all notices, bulletins, and other communications to the dealers of such manufacturer or purchasers of tires of such manufacturer regarding any defect in such tires sold or serviced by such dealer. The Secretary shall disclose so much of the information contained in such notice to the public as he deems will assist in carrying out the purposes of this Act, but he shall not disclose any information which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code unless he determines that it is necessary to carry out the purposes of this Act.

"(e) If through testing, inspection, investigation, or research carried out pursuant to this title, or examination of reports pursuant to subsection (d) of this section, or otherwise, the Secretary determines that tires of any class or description—

"(1) do not comply with an applicable Federal motor vehicle safety standard prescribed pursuant to this Act; or

"(2) contain a defect which relates to motor vehicle safety;

then he shall immediately notify the manufacturer of tires of such class or description of such defect or failure to comply. The notice shall contain the findings of the Secretary and shall include all information upon which the findings are based. The Secretary shall afford such manufacturer an opportunity to present his views and evidence in support thereof, to establish that there is no failure of compliance or that the alleged defect does not affect motor vehicle safety. If after such presentation by the manufacturer the Secretary determines that tires of such class or description do not comply with applicable Federal motor vehicle safety standards, or contain a defect which relates to motor vehicle safety, the Secretary shall direct the manufacturer to furnish the notification specified in subsection (c) of this section to the purchaser of any such tire as provided in subsections (a) and (b) of this section.

"(f) For the purpose of this section the term 'manufacturer of tires' includes the retreader in the case of retreaded tires."

SEC. 2. Section 108(a)(4) of the National Traffic and Motor Vehicle Safety Act of 1966 is amended by inserting "or section 206" immediately after "section 113".

EXHIBIT 1

Hon. JOHN VOLPE,
Secretary, Department of Transportation, Washington, D.C.

DEAR MR. SECRETARY: I want to bring to your attention what I consider to be a serious violation of the National Traffic and Motor Safety Act of 1966 which is threatening the safety of millions of Americans.

Under Section 1 of the Act, the Department of Transportation has established minimum tire safety standards. The first standards went into effect in January, 1968. However, I am informed that a substantial number of tires now on sale to the public by major tire manufacturers have failed to meet these standards, and that these manufacturers therefore are in violation of the law.

In the past five months, dozens of failures of the tire standards have been reported to the Department of Transportation by their contractors who are testing for compliance with the standards. Nine major tire companies, including the top four producers who account for about 75 per cent of the total passenger tire production, are involved. I enclose a list of tires reported to the Department of Transportation as having failed to meet the official standards.

I do not know the exact number of tires involved. One Department of Transportation spokesman estimated in mid-December that perhaps an many at two-thirds of all new tires sold had serious and potentially hazardous defects.

In any case, it is safe to say that there are literally millions of faulty tires on the roads today which are a clear and present danger to millions of unsuspecting American motorists.

Under Sec. 109(a) of the Act, any manufacturer who manufacturers or sells tires not conforming to the federal standards is subject to a civil penalty of up to $1,000 for each violation. In all cases listed above, the tire companies assured the Department of Transportation that their tires met or exceeded the federal standards and were therefore eligible to receive the Department's certification. This process of self-certification has been necessary in the past because the National Highway Safety Bureau has not had the funds nor the personnel and equipment to establish more than a spot testing program. They simply could not test and certify each tire themselves.

I urge you to take steps immediately to institute legal action against those who are violating the law, to inform the public in as comprehensive manner as possible about the suspect tires, and to work with the tire companies to recall all the faulty tires and replace them.

This serious situation provides a good opportunity to take a close look at the effectiveness of the tire standards program and in this connection I would like to make several suggestions to you concerning the program.

First, it seems obvious that the process of self-certification, whereby the tire companies certify that their tires meet federal standards, is not workable. If the tire standards program is to have any meaning at all, the National Highway Safety Bureau must be able to conduct a full-scale testing program where they can test every brand of every tire manufacturer who applies for the government's certification of approval. Without this ability, the government is not able to enforce its own standards. And to establish this kind of testing program, the Bureau needs funds for testing wheels and personnel which I hope you will request from the Congress.

Secondly, the recall of about 10,000 of their tires announced last Sunday by Mohawk Tire and Rubber Company demonstrates the need for a systematic procedure for recalling defective tires. I do want to commend Mohawk for their safety-conscious action. This is the first time in the history of the tire industry that tires have actually been recalled from users (as well as from dealers). However, as Mohawk said in their announcement, they do not have any records of where these faulty tires are and they must rely on the public news media to spread this information. This is obviously not an efficient system. It is doubtful that the recall can be more than 50 percent effective.

I am reintroducing in the Senate tomorrow a bill to establish a system for identifying each tire and keeping track of it from the manufacturer to the dealer to the user. Then, when recall is necessary, the manufacturer can reach the individual user directly and recall can be carried out with maximum efficiency. In effect, the bill would simply extend the recall provision of the National Traffic and Motor Vehicle Safety Act which now applies only to automobile manufacturers, to the tire manufacturers. The Department of Transportation and the President's Special Assistant for Consumer Affairs endorsed the bill in the last session of Congress, and I am hopeful that you will lend your firm support to the bill to assure speedy congressional action in this session.

And finally, I think the Department of Transportation should establish a firm policy that recall announcements be made by the Department in Washington to assure the broadest press coverage and dissemination to the public. This is information that is of vital public interest. The Mohawk recall incident is a good example of the need for broad press coverage. The effectiveness of the campaign rests solely on the press getting the information to the public. However, the Mohawk announcement was made in Akron, and none of the major newspapers in Washington and New York, at least received a copy of the news release from the company. I hope you will take whatever action is necessary to assure that these announcements henceforth come from the Department.

Sincerely yours,

GAYLORD NELSON,
U.S. Senator.

Enclosure.

Tire manufacturer	Brand name and size	Test	Date of failure
Firestone	Delux Champion, 6.50x13	High speed and dimension	September 1968.
	Champion, 6.50x13	Endurance	Do.
	Delux Champion, 6.95x14	Strength	Do.
	Safety Champion, 7.35x14	do	August 1968.
	Delux Champion, 8.55x14	Labeling standard	September 1968.
	Super Sport Wide Oval, F70x14	Dimension	Do.
	"500," 8.15x15	Endurance	Do.
	Super Sport Wide Oval, H70x15	Dimension	June 1968.
B. F. Goodrich	Silvertown 660, 6.50x13	High speed and strength	October 1968.
	Silvertown 660, 6.95x14	High speed	Do.
	Silvertown 770, 7.00x13	do	August 1968.
	Silvertown 770, 7.35x14	do	Do.
	Silvertown 660, 8.25x14	do	October 1968.
	Silvertown 660, 8.55x14	do	Do.
Goodyear	Power Cushion, 6.50x13	Endurance and high pseed	Do.
	Power Cushion, 7.00x13	Strength	Do.
	Power Cushion, 7.75x14	do	Do.
	Power Cushion, 7.75x15	Endurance	September 1968.
	Safety All Weather, 7.75x15	Dimension	October 1968.
	Power Cushion, 8.45x15	High speed and dimension	September 1968.
General	Safety Jet, 7.00x13	Endurance	August 1968.
	General Jet, 8.15x15	do	October 1968.
	Safety Jet, 9.00x15	Endurance and strength	August 1968.
Uniroyal	Laredo, 6.50x13	High speed	September 1968.
	Laredo, 7.35x14	Dimension	August 1968.
	Tiger Paw, 8.55x14	Endurance	Do.
Dunlop	C. T., 6.50x13	Endurance and strength	August-September, 1968.
	Gold Seal, 7.75x14	High speed	August 1968.
Mansfield	Premium, 7.75x14	do	November 1968.
	Premium, 895/900x15	Endurance	Do.
Mohawk	Airflo, 7.35x14	do	July-August, 1968.
	Bonanza, 8.55x14	do	July 1968.
Armstrong	Premium Coronet, 7.35x14	High speed	August 1968.

S. 674—INTRODUCTION OF COMMUTER ASSISTANCE ACT OF 1969

Mr. WILLIAMS of New Jersey. Mr. President, I am today introducing the Commuter Assistance Act of 1969, legislation which will bring increased financial assistance to the Nation's hard-pressed commuter transportation systems—systems more than ever needed where urban sprawl has become urban crisis.

The gradual strangulation and atrophy of our urban transportation systems has been an important factor in the creation of that crisis. The problems that would arise from the failure to build a transportation system equal to the needs of giant city areas were foreseen long before our cities reached the serious—almost desperate—condition they are now in. Since coming to the Senate in 1958, I have worked for sound programs of Federal assistance for modern transportation networks for our ever-growing cities. We have made important progress. The Mass Transportation Act of 1964 was a major step forward, and in its 4 years of operation, has produced fine results. Without the assistance provided by this program, there is no question that vital commuter operations in cities like New

York, Boston, and Philadelphia would have ceased entirely. It has given impetus to the construction of new and modern systems in San Francisco, Cleveland, and Chicago. The long campaign for the passage of this act made people aware that for the city of today, an efficient transportation system was not merely a convenience, but an absolute necessity. But given the need, the amount of money being spent on a key part of our cities' life and growth is pitifully small. There are $4.5 billion available for highway construction, but only $175 million for mass transit. Former Transportation Secretary Boyd described well the absurdity of this disproportion when he said:

> We've got a bucketful of money for highways, and only a medicine dropperful for the rest.

We do not now have and never will have a balanced transportation system as long as this cockeyed imbalance in the spending of public funds exist.

Sound planning and sensible public policy call for spending money for transportation more equitably and where the most results for the tax dollar are achieved. We can build highways and airports from now until kingdom come without helping the commuter. The commuter clearly can not fly to work, and driving becomes a dangerous daily journey in pursuit of a probably nonexistent parking place. Instead of solving the traffic problem, we are wasting more valuable land to create ever larger traffic jams.

In an era when we are sending men to look at the dark side of the moon, it may seem an anachronism to talk about the railroads as a key part of modern transportation. But it has been pointed out that "a single passenger track can handle as many people in peak hours as a mile of expressway 20 lanes wide. A tax dollar can buy up to 20 times as much rail transportation as it can when it is spent on urban highways."

Linked with good bus service, the railroad is the most effective means of mass transportation. Railroads have one other decided advantage—not only do railroads use less land areas than sprawling highways, they are already there. By using existing rights-of-way to their fullest for transportation, we can avoid serious human problems created by putting new freeways into already overcrowded cities.

Mr. President, commuters depend on and will continue to use good railroad commuter service. In 1967, commuters constituted 67 percent of all passengers carried by railroads. These commuters paid $143.8 million to ride to and from work, and railroads with commuter service carried almost 200 million revenue passengers. Clearly, the end of commuter service would be a transportation disaster. In New York, for example, we have frequent lessons on the importance of commuter service everytime the Long Island Railroad, which carries 80,000 people a day, is shut down. They are unfortunate and negative lessons, but one picture of a traffic jam on the Long Island Expressway says more than a thousand words on why we must have good mass transportation.

Now that the Penn Central Railroad has taken the New Haven Railroad, it will carry about 138,000 people a day into Philadelphia, New York, New Jersey, and Boston, and 40,000 people a day go from New Jersey into Manhattan. It would be impossible to build a highway system large enough to handle that number of people if they were added to the rush-hour traffic jams already existing.

One myth that the mass transportation program has laid to rest is that people do not want to use mass transportation systems. Figures show that where good and efficient service is provided, it will be used. In the Philadelphia area, for example, the total number of commuting passengers rose 34 percent from 1962 to 1967—from 13.6 to 18.2 million. In northern New Jersey, passenger volume rose 6 percent in 1967 once the Aldene Plan was in effect. The Grand Trunk Railroad, serving the suburbs of Detroit, increased its passenger volume by 25 percent in 1967. Cleveland's recently begun high-speed service from downtown to Hopkins Airport, shows every sign of being a great success.

The taxpaying public certainly knows the importance of good commuter transportation, and will back spending with their votes. The voters of New York in 1967 authorized a $2.5 billion bond issue to revitalize the State's transportation systems. In the last election, the voters of New Jersey overwhelmingly approved a $640 million transportation bond issue. This is tangible evidence of the importance taxpaying Americans give to good transportation. All across the country there has been a consistent effort by States and local governments to improve existing commuter systems or, as San Francisco is doing, to build new ones from the ground up.

Mr. President, in the last session of Congress, I chaired hearings of the Housing Subcommittee of the Committee on Banking and Currency on the effects of railroad mergers on commuter transportation.

The subcommittee heard from an impressive array of witnesses from Government and the railroad industry. These hearings gave us a chance to review the entire commuter situation. On several points, there was almost unanimous agreement. Commuter transportation is an absolute necessity. As Mr. Owen Clarke, vice president of the C. & O./B. & O. put it:

> Urban transportation in the large cities can only be looked upon as a public service. It is analogous to police and fire protection, the construction and maintenance of highways and waterlines, and the operation of schools.

Second, privately owned railroads—even given the new financial strength brought by the recent series of mergers—cannot and will not operate deficit-ridden service. In agreeing to take over the Erie Lackawanna, Delaware & Hudson, Boston & Maine, the Reading, and the Central of New Jersey as a condition of their mergers, the C. & O. and the Norfolk & Western told the ICC it would take these ailing railroads only if the problem of commuter losses were solved.

Finally, all agreed that more Federal assistance was needed. Now, I know my colleagues have been told that more Federal assistance is the solution to the myriad problems which the Nation faces. But the ludicrously small amount of money we are spending now for mass transportation gives the argument force.

One solution which has worked well when tried by State and local transportation authorities is an operating subsidy. Since 1959, the State of New Jersey has spent $60 million for operating subsidies. Operating subsidies now keep good commuter service going into Boston and Philadelphia. There is nothing new or novel about the idea. The railroad industry recognizes that it does have a responsibility to the riding public, but asks that the public provide some support for the public service they provide. There is some question as to whether the railroads are doing all they financially can, but they cannot be expected to bear the entire expense of deficit-ridden commuter operations. But working with State and local transportation agencies, they can maintain and improve service.

Mr. President, a substantial portion of my remarks has been devoted to commuter trains. I have placed emphasis on the railroads only because they are already dangerously close to the eve of extinction, and not because the bus companies find themselves in a financially enviable position. Last year alone, for example, D.C. Transit, right here in the Nation's Capital, was granted a total of three fare increases. Each increase has been accompanied by a decrease in riders. Most of these lost riders turn to automobiles as their alternative form of transportation. This simply aggravates the already serious situation the community faces in coping with automobile and traffic problems. Furthermore, the segment of the community most dependent upon public transportation—the low-income group—is the group least able to pay the increases, and therefore, the most affected by the increased fares. It is my strong belief that commuter lines of all types, including buses, must be maintained in order to insure the continuing prosperity and well-being of the millions of people all over the country whose daily routine is so dependent on them.

The Mass Transportation Act provides capital grants for the construction or improvement of transportation systems. We must increase the appropriations for this program, which has never been funded at the level authorized by the Congress. At the same time, we should make money available to State and local transportation authorities to keep existing service going through operating subsidies. This is what the Commuter Assistance Act will do. It will provide Federal funds for operating subsidies over a limited period of time to aid those local agencies which are already doing more than their share in paying the transportation bill.

The bill is not intended to set up a program of permanent subsidies. An operating subsidy grant would have a 10-year limitation, although individual grants could be extended for another 5 years. During this period of time, we can hope that the necessary program of capi-

tal investment will be carried out which will put commuter transportation on a paying basis.

Under the provisions of the legislation I am introducing today, the Secretary of the Department of Transportation would make these grants on a two-third, one-third matching basis, not to the operating applicant itself, but to a public transportation authority which has broad responsibilities for maintenance of commuter transportation and upon whose contribution the ratio is based.

In operation, a State or independent public body with transportation responsibilities, will submit to the Department of Transportation a complete, long-term program setting out a limited period of time in which its operating deficits must be met and a comprehensive schedule for capital improvements. I am hopeful that this legislation will also stimulate creation of the broad regional transportation authorities which have proven so successful in dealing with the complex and interrelated problems of planning transportation for a particular metropolitan region.

As a companion measure, I am also introducing an amendment to the Interstate Commerce Act which will make it more difficult for railroads to eliminate passenger service, unless they have exhausted all possibilities for public assistance open to them.

Instead of allowing abandonment of service on the grounds it currently does, which are mostly financial, the Interstate Commerce Commission must first require that a carrier has made good-faith efforts to take full advantage of the provisions of the commuter service bill. In short, we will give all possible help to keep the railroads in business, but we will not tolerate their just walking out of the picture because that is the simple way out.

Similar legislation is being introduced in the House by my colleague of New Jersey, Representative JAMES HOWARD. Congressman HOWARD is well aware of the need for more assistance to commuter transportation systems, and he has worked hard to improve transportation facilities for residents of his district.

Mr. President, I hope that the new administration will pay close attention to this legislation. Under a Democratic administration, the importance of good urban transportation was recognized; a sensible program of assistance was begun with the Mass Transportation Act. The Commuter Assistance Act will give the Secretary of Transportation a new instrument for the improvement and continuation of good commuter service. It relies on a principle about which we have heard much from the Republicans—cooperation between private enterprise and State, local, and Federal governments in solving public problems. I hope that Transportation Secretary Volpe, who, as Governor of Massachusetts, should have learned the importance of urban transportation to the Greater Boston area, will give his support to increased aid and realize that highways alone cannot do the job. Good mass transportation by rail and bus is a vital part of a balanced national transportation system. We can rightly ask the present administration to carry forward the record of progress built by the Kennedy-Johnson administrations in the field of mass transportation.

Mr. President, I ask unanimous consent that the text of the bill I am introducing today be printed in the RECORD following my remarks.

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

The bill (S. 674) to amend section 13a of the Interstate Commerce Act, relating to the discontinuance or change of certain operations or services of common carriers by rail, in order to require the Interstate Commerce Commission to give full consideration to all financial assistance available before permitting any such discontinuance or change, introduced by Mr. WILLIAMS of New Jersey, was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S. 674

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 13a(1) of the Interstate Commerce Act (49 U.S.C. 13a(1)) is amended by inserting after "If, after hearing in such investigation," the following: "including full consideration of any financial assistance available pursuant to the Urban Mass Transportation Act of 1964 or any other law for the purpose of continuing such operation or service and the efforts of such carrier or carriers to obtain such assistance,".

SEC. 2. Section 13a(2) of the Interstate Commerce Act (49 U.S.C. 13a(2)) is amended by inserting after "The Commission may grant such authority only after full hearing" a comma and the following: "including full consideration of any financial assistance available pursuant to the Urban Mass Transportation Act of 1964 or any other law for the purpose of continuing such operation or service and the efforts of such carrier or carriers to obtain such assistance,".

S. 675—INTRODUCTION OF BILL RELATING TO CORPORATE DEMOCRACY FOR BANKS

Mr. WILLIAMS of New Jersey. Mr. President, I introduce a bill to strengthen the Federal Deposit Insurance Corporation and to provide for added corporate democracy in bank stock ownership.

This legislation provides for cumulative voting rights for shareholders in all federally insured banks. By cumulative voting, a group of minority shareholders would be able to vote their stock together and possibly elect at least one member to their bank's board of directors—insuring at least some minority representation in policy determinations.

This procedure is presently required in the voting of national bank stock. Certainly, such established democratic procedures which have worked so well in the past should be made applicable to State banks. Cumulative voting for the election of directors is an essential ingredient of corporate democracy and for the protection of the rights of minority stockholders. Its benefits should be extended throughout our banking system.

This bill would also add further safeguards to the Federal deposit insurance program. Under its provisions, federally insured banks would be prohibited from voting their own capital stock, or any such stock held in the bank's trust department. The right of banks to vote their own stock plus shares held in trust, coupled with the lack of cumulative voting, has had the effect of perpetuating entrenched management, thus disfranchising minority shareholders.

In some instances, shareholders' meetings have become meaningless rituals, with minority shareholders having little or no say in the bank's affairs. Surely such a situation does not bring confidence to our banking system. The democratic election of bank directors required under this bill's provisions will provide meaningful safeguards and added public confidence in our Nation's banks.

I ask unanimous consent that the bill be printed in the RECORD.

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

The bill (S. 675) to prohibit federally insured banks from voting their own stock and to provide for cumulative voting in federally insured banks, introduced by Mr. WILLIAMS of New Jersey, was received, read twice by its title, referred to the Committee on Banking and Currency, and ordered to be printed in the RECORD, as follows:

S. 675

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

SECTION 1. The Federal Deposit Insurance Act is amended by adding the following new sections at the end:

"SEC. 21. No insured bank may directly or indirectly exercise or control the exercise of the voting rights of its capital stock.

"SEC. 22. In all elections of directors, each shareholder of any insured bank shall have the right to vote the number of shares owned by him for as many persons as there are directors to be elected, or to cumulate such shares and give one candidate as many votes as the number of directors multiplied by the number of his shares shall equal, or to distribute them on the same principle among as many candidates as he shall think fit."

SEC. 2. The first sentence of section 5144 of the Revised Statutes (12 U.S.C. 61) is amended by striking "(2)" and all that follows in such sentence and inserting "and (2) any exercise of voting rights shall be consistent with the requirements imposed by section 21 of the Federal Deposit Insurance Act."

SENATE JOINT RESOLUTION 32—INTRODUCTION OF JOINT RESOLUTION RELATING TO CONSTITUTIONAL AMENDMENT TO PERMIT VOTING BY 18-YEAR-OLDS

Mr. CANNON. Mr. President, I introduce, for appropriate reference, a resolution proposing a constitutional amendment to permit voting by 18-year-old citizens.

Efforts to lower the voting age to 18 have been frustrated in the past due largely to the narrow perspective of our older citizens. Eighteen-year-olds have been looked upon only as teenagers without the mature judgment to cast a vote responsibly.

It was universally accepted that 21 was the age of maturity, of emancipation and

the beginning of reliable accountability. Times have changed, Mr. President. Today 18-year-old citizens can own property, draw wills, purchase firearms, be sued, or otherwise be held liable for their acts.

In most States they are no longer held to be juveniles. They have a military obligation and acquit themselves with honor and courage. Millions of them have worked intelligently and industrially in the Peace Corps, poverty programs, educational projects, and in political campaigns.

Four States—Alaska, Georgia, Hawaii, and Kentucky—already have changed their laws to permit voting by citizens less than 21 years of age. Almost 7 percent of our total population consists of persons between 18 and 21.

Today the great preponderance of 18-year-olds are high school graduates. Their education is superior to the requirements set by those States which demand that citizens pass a literacy test to determine eligibility for voting.

Eighteen is the beginning of adult life, not 21. Young married couples put themselves through college or work together to establish responsible positions in the community.

Let us hope, Mr. President, that the 91st Congress will accept this new challenge from the youth of our Nation with pride and help them to obtain the voting franchise.

The VICE PRESIDENT. The joint resolution will be received and appropriately referred.

The joint resolution (S.J. Res. 32) proposing an amendment to the Constitution of the United States extending the right to vote to citizens 18 years of age or older, introduced by Mr. CANNON, was received, read twice by its title, and referred to the Committee on the Judiciary.

SENATE JOINT RESOLUTION 33—INTRODUCTION OF JOINT RESOLUTION PROPOSING A CONSTITUTIONAL AMENDMENT PROVIDING FOR THE ELECTION OF THE PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES

Mr. CANNON. Mr. President, I introduce, for appropriate reference, a joint resolution proposing a constitutional amendment providing for the election of the President and Vice President.

Mr. President, the debate which took place on the floor of both Houses of the Congress on January 6, 1969, involving the counting of electoral votes proves that, first, presidential electors are free agents and could, if the spirit moved them, cast their votes for Snoopy for President—and from the number of bumper stickers I saw advocating his candidacy, I would say that would be a real possibility; second, electors who are not legally bound to vote in accordance with the wishes of the people of a given State could thwart and frustrate all of the citizens of that State; and, third, the presidential elector under our present system is not an officer charged with responsibility, serves no useful purpose, and ought to be removed entirely from the process of choosing the President and Vice President of the United States.

However, I believe in the constitutional provisions allotting to each State a certain number of electoral votes in accordance with the total number of Senators and Representatives.

Each State has two Senators serving all of the people of the State plus one or more Representatives depending upon the population of the State. Proportional representation guarantees each State a weighted vote in the Congress of the United States. Consequently, the electoral votes should be retained.

The provisions of my joint resolution are in keeping with the wishes of the drafters of the Constitution except for the abolition of presidential electors who could no longer perform the functions intended by the original drafters of the Constitution.

The population of our Nation is too large today for an elector to be able to exercise the peculiar personal choice of candidates for President and Vice President that was intended at the latter part of the 18th century.

Millions of voters now have the right to expect that their votes will be honored in choosing the country's two highest officers. This resolution, therefore, abolishes the presidential elector but not the electoral vote.

Following the casting of votes by all of the people on election day, the lists of all persons for whom votes were cast on election day for the offices of President and Vice President, the responsible election official for each State, and the District of Columbia would transmit all that information to the President of the Senate.

Thereafter, the President of the Senate at a joint session of the Congress, would open all certificates and count the votes.

Each person for whom votes were cast for President in each State and the District of Columbia would be credited with such proportion of the electoral votes as he received of the total vote cast by the electors of that State for President. In making computations, fractional numbers less than one one-thousandth would be disregarded.

The person having the largest number of electoral votes for President would be President if he received at least 40 percent of the total electoral vote. If no person received 40 percent of the electoral vote or if two persons received an identical number of such votes which is at least 40 percent of the total electoral vote, then from the persons having the two greatest numbers of electoral votes the Senate and House, in joint session, would choose by ballot the President. A majority of the votes of the combined membership would be necessary for a choice.

The same procedures would apply to the choosing of a Vice President.

Mr. President, a great many different proposed amendments have been introduced in the past and will, I am sure, be offered this year.

In my opinion, however, the electoral votes should be preserved but cast not on a winner take all basis, as is done under the existing law, but on a proportional basis in accordance with the votes cast by our American citizens.

My bill preserves the historical structure of the Constitution, yet eliminates the "unfaithful elector" and fairly distributes the electoral votes to reflect in a truly democratic manner the wishes of the voters.

The VICE PRESIDENT. The joint resolution will be received and appropriately referred.

The joint resolution (S.J. Res. 33) proposing an amendment to the Constitution of the United States providing for the election of the President and the Vice President of the United States, introduced by Mr. CANNON, was received, read twice by its title, and referred to the Committee on the Judiciary.

ADDITIONAL COSPONSORS OF BILLS

Mr. AIKEN. Mr. President, I ask unanimous consent that, at its next printing, the name of the Senator from New Mexico (Mr. ANDERSON) be added as a cosponsor of the bill (S. 111) to amend title XVIII of the Social Security Act so as to provide a more uniform, orderly, and economical method for the payment for physicians' services under the supplementary medical insurance program for the aged established by part B of such title.

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

Mr. PEARSON. Mr. President, when I introduced the Rural Job Development Act of 1969 (S. 15) on January 15, 1969, I was particularly pleased to have the senior Senator from South Dakota (Mr. MUNDT) joining as one of the 36 cosponsors of the bill. Thus, I was distressed to learn later that due to error Senator MUNDT was not listed in the official record as a cosponsor. Therefore, Mr. President, I ask unanimous consent at this time that Senator MUNDT be added as a cosponsor at the next printing of S. 15.

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

Mr. METCALF. Mr. President, I ask unanimous consent that, at its next printing, the name of the junior Senator from Nevada (Mr. CANNON) be added as a cosponsor of the bill (S. 500) to amend the Internal Revenue Code of 1954 so as to limit the amount of deductions attributable to the business of farming which may be used to offset nonfarm income.

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

SENATE CONCURRENT RESOLUTION 5—CONCURRENT RESOLUTION TO PRINT ADDITIONAL COPIES OF HEARINGS ON THE NOMINATION OF WALTER J. HICKEL, TO BE SECRETARY OF THE INTERIOR

Mr. JACKSON submitted the following concurrent resolution (S. Con. Res. 5); which was referred to the Committee on Rules and Administration:

S. CON. RES. 5

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Interior and Insular Affairs five thousand additional copies of the hearings entitled "The Nomination of Governor Walter J. Hickel, of Alaska, to be Secretary of the Interior" held January 15–18, 1969.

SENATE CONCURRENT RESOLUTION 6—CONCURRENT RESOLUTION RELATING TO THE ADJOURNMENT OF CONGRESS

Mrs. SMITH submitted the following concurrent resolution (S. Con. Res. 6); which was referred to the Committee on Rules and Administration:

S. CON. RES. 6

Resolved by the Senate (the House of Representatives concurring), That section 132 of the Legislative Reorganization Act of 1946 is amended to read as follows:

"SEC. 132. (a) Effective with the first session of the Ninety-first Congress, in each even-numbered year in which the two Houses have not adjourned sine die by August 15, they shall stand adjourned on that date, or on the next preceding day of session, until 12 o'clock meridian on November 15 in that year, or the following Monday if November 15 falls on Saturday or Sunday; and in each odd-numbered year in which the two Houses have not adjourned sine die by August 1, they shall stand adjourned on that date, or on the next preceding day of session, until 12 o'clock meridian on November 1 in that year, or the following Monday if November 1 falls on Saturday or Sunday.

"(b) The consent of the respective Houses is hereby given to an adjournment of the other for the period specified in subsection (a)."

SENATE RESOLUTION 60—RESOLUTION AUTHORIZING THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO INVESTIGATE CERTAIN MATTERS WITHIN ITS JURISDICTION—REPORT OF A COMMITTEE

Mr. JACKSON, from the Committee on Interior and Insular Affairs, reported the following original resolution (S. Res. 60); which was referred to the Committee on Rules and Administration:

S. RES. 60

Resolved, That the Committee on Interior and Insular Affairs, or any duly authorized subcommittee thereof, is authorized under sections 134(a), and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate, to examine, investigate, and make a complete study of any and all matters pertaining to the jurisdiction of the Committee on Interior and Insular Affairs, including national parks and recreation areas; Indian affairs; irrigation and reclamation; water and power resources; minerals, materials, and fuels; public lands; environmental studies; and territories and insular affairs.

SEC. 2. Pursuant to its authority under section 134(a) of the Legislative Reorganization Act of 1946, as amended, the committee is authorized to require by subpena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, documents, and to take such testimony on matters within its jurisdiction as it deems advisable.

SEC. 3. For the purposes of this resolution the committee, from February 1, 1969, to January 31, 1970, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ, upon a temporary basis, technical, clerical, and other assistants and consultants: *Provided*, That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,400 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 4. Expenses of the committee under this resolution, which shall not exceed $160,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 61—RESOLUTION TO CREATE A SPECIAL COMMITTEE ON FILM CLASSIFICATION

Mrs. SMITH submitted the following resolution (S. Res. 61); which was referred to the Committee on Commerce:

S. RES. 61

Resolved, That there is hereby created a special committee to be known as the Committee on Film Classification and to consist of five Senators appointed by the Vice President of whom not more than three shall be members of the majority party.

SEC. 2. It shall be the duty of such committee to study and survey by means of research and investigation all of the problems of film classifications as they have appeared or may appear both in this country and elsewhere throughout the world, and to obtain all of the facts possible in relation thereto which would not only be of public interest but which would aid the Congress in enacting remedial legislation contemplating limitations upon the exhibition of certain motion pictures to minors, and to report to the Senate at the earliest practical date but not later than January 31, 1970, the result of such studies and surveys. No proposed legislation shall be referred to such committee and such committee shall not have the power to report by bill or otherwise have legislative jurisdiction.

SEC. 3. Said committee, or any duly authorized subcommittee thereof, is authorized to sit and act at such places and times during the session, recesses, and adjourned periods of the Senate, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures, not to exceed $25,000 as it deems advisable.

SEC. 4. A majority of the members of the committee, or any subcommittee thereof, shall constitute a quorum for the transaction of business, except that a lesser number, to be fixed by the committee, shall constitute a quorum for the purpose of taking testimony.

SEC. 5. For the purposes of this resolution the committee is authorized (1) to make such expenditures as it deems advisable; (2) to employ upon a temporary basis, technical, clerical, and other assistants and consultants: *Provided*, That the minority is authorized to select one person for appointment and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,200 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SENATE RESOLUTION 62—RESOLUTION RELATING TO THE DEATH OF REPRESENTATIVE ROBERT A. EVERETT, OF TENNESSEE

Mr. BAKER (for himself and Mr. GORE) submitted a resolution (S. Res. 62) relative to the death of Representative ROBERT A. EVERETT, of Tennessee, which was considered and agreed to.

(See the above resolution printed in full when submitted by Mr. BAKER, which appears under a separate heading.)

SENATE RESOLUTION 63—RESOLUTION AUTHORIZING THE COMMITTEE ON POST OFFICE AND CIVIL SERVICE TO MAKE CERTAIN INVESTIGATIONS—REPORT OF A COMMITTEE (S. REPT. NO. 91-4)

Mr. McGEE, from the Committee on Post Office and Civil Service, reported an original resolution (S. Res. 63); and submitted a report thereon, which report was ordered to be printed, and the resolution was referred to the Committee on Rules and Administration, as follows:

S. RES. 63

Resolved, That the Committee on Post Office and Civil Service, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction specified by rule XXV of the Standing Rules of the Senate to examine, investigate, and conduct such studies as may be deemed necessary with respect to any and all aspects of—

(1) the postal service, including studies of mechanization, modernization, personnel policies, utilization of manpower, hours, wages, work schedules, and management techniques, designed to improve postal service in the United States;

(2) the Federal civil service, including retirement, life and health insurance, and general consideration of legislation to improve the quality of Federal employment and Federal personnel policies and practices; and

(3) committee jurisdiction concerning the census and the collection of statistics.

SEC. 2. For the purposes of this resolution the committee, from February 1, 1969, until January 31, 1970, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ on a temporary basis technical, clerical, and other assistants and consultants: *Provided*, That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,400 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the departments and agencies concerned and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. The committee shall report its findings, together with its recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1970.

SEC. 4. Expenses of the committee under this resolution, which shall not exceed $250,000, shall be paid out of the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 64—RESOLUTION TO PROVIDE FOR A STUDY OF MATTERS PERTAINING TO THE FOREIGN POLICY OF THE UNITED STATES—REPORT OF A COMMITTEE

Mr. FULBRIGHT, from the Committee on Foreign Relations, reported the following original resolution (S. Res.

64); which was referred to the Committee on Rules and Administration:

S. RES. 64

Resolved, That the Committee on Foreign Relations, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdictions specified by rule XXV of the Standing Rules of the Senate, to examine, investigate, and make complete studies of any and all matters pertaining to the foreign policies of the United States and their administration.

SEC. 2. For the purposes of this resolution the committee, from February 1, 1969, to January 31, 1970, inclusive, is authorized (1) to make such expenditures; (2) to employ upon a temporary basis, technical, clerical, and other assistants and consultants; (3) to hold such hearings to take such testimony, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Senate, and to require by subpena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents; and (4) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government, as the committee deems advisable.

SEC. 3. In the conduct of its studies the committee may use the experience, knowledge, and advice of private organizations, schools, institutions, and individuals in its discretion, and it is authorized to divide the work of the studies among such individuals, groups, and institutions as it may deem appropriate, and may enter into contracts for this purpose.

SEC. 4. Expenses of the committee, under this resolution, which shall not exceed $275,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 65—RESOLUTION TO AUTHORIZE THE SENATE TO RESPOND TO OFFICIAL INVITATIONS RECEIVED FROM FOREIGN GOVERNMENTS OR PARLIAMENTARY BODIES AND ASSOCIATIONS—REPORT OF A COMMITTEE

Mr. FULBRIGHT, from the Committee on Foreign Relations, reported the following original resolution (S. Res. 65); which was referred to the Committee on Rules and Administration:

S. RES. 65

Resolved, That the President of the Senate is authorized to appoint as members of official Senate delegations such Members of the Senate as may be necessary to respond to invitations received officially from foreign governments or parliamentary bodies and associations (including the Commonwealth Parliamentary Association) during the Ninety-first Congress, and to designate the chairman of said delegations.

SEC. 2. (a) The expenses of the delegations, including staff members designated by the chairmen to assist said delegations, shall not exceed $25,000 for each such delegation, and shall be paid from the contingent fund of the Senate upon vouchers approved by the chairmen of said delegations.

(b) The expenses of each delegation shall include such special expenses as the chairman may deem appropriate to carry out this resolution, including reimbursements to agencies for compensation of employees detailed to each delegation and expenses incurred in connection with providing appropriate hospitality to foreign delegates.

(c) Each member or employee of each delegation shall receive subsistence expenses in an amount not to exceed the maximum per diem rate set forth in section 502(b) of the Mutual Security Act of 1954, as amended by Public Law 88-633, approved October 7, 1964.

TRIBUTE TO LYNDON BAINES JOHNSON

Mr. MANSFIELD. Mr. President, the Senator from Washington (Mr. MAGNUSON) has prepared a tribute to President Johnson. In his absence from the Senate today, I ask unanimous consent that his statement may be printed in the RECORD.

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

STATEMENT BY SENATOR MAGNUSON

In paying tribute to President Johnson, I join my colleagues, not as a historian, but as a friend who will miss the warmth and companionship of this great man.

In the thirty-two years since Lyndon Johnson and I stood together and were sworn in as freshman Congressmen, I have had the privilege of working with him almost daily, and of sharing some of his rare moments of leisure.

During this time, Lyndon Johnson has impressed upon me the qualities he brought to American politics: immense energy, passionate commitment, and enormous personal strength.

These qualities marked President Johnson as a truly big man. His departure leaves a special void for us and for the Nation.

We will miss him.

THE PORTSMOUTH NAVAL SHIPYARD

Mrs. SMITH. Mr. President, the members of the Navy League of the United States, Portsmouth chapter, at their annual Navy Day meeting on October 24, 1968, passed the following resolution:

It was moved, seconded and passed unanimously, that the Portsmouth Naval Shipyard be kept open and in operation for the needed defense of our great country, these United States, and that the representatives in Washington be so advised, that this motion be presented before the Congress of these United States and be placed upon the Congressional Record.

In response to the language of this resolution and to the request of Rear Adm. George E. Peterson, president of the Portsmouth chapter, I have thus read the resolution into the CONGRESSIONAL RECORD and presented this motion before the Congress of the United States.

EQUAL EMPLOYMENT OPPORTUNITY IN FEDERAL-AID HIGHWAY WORK

Mr. RANDOLPH. Mr. President, on Friday, January 17, the Subcommittee on Roads of the Committee on Public Works concluded a series of hearings reviewing the implementation of the equal employment opportunity provisions enacted as part of the Federal-Aid Highway Act of 1968. This comment is in the nature of an interim report on those hearings and the manner in which the law is being administered.

The timing of our hearings, begun so soon after the 91st Congress convened, highlights the intense interest of the members of the Committee on Public Works in this subject. Our purpose is to assure that the objectives sought by the Congress and the actual implementation of the EEO program are not lost in an overly complicated and unresponsive administration of the statutory requirement that employment in highway construction be open to all persons without regard to race, color, creed, or national origin. The language of section 22 of the Federal-Aid Highway Act of 1968 emphasizes the need that opportunity for employment be accorded to all qualified applicants.

The hearings were undertaken in an effort to make certain that at the beginning of the implementation of this law no situation develops which could make it impossible or unnecessarily difficult to carry out the Federal-aid highway program. During the months since Congress adjourned we received repeated complaints that the proposed method of implementation was so uncertain that it was difficult to achieve the established goal and, as a result, the construction program was being unduly delayed. As a concomitant result, employment in highway work was being severely curtailed. The hearings brought out with clarity and without question the high commitment of most of the people concerned with the highway program to the principles underlying the equal employment opportunity provision. With equal clarity it was established that, as with all new programs, there is a wide difference of opinion as to how this worthy goal could best be achieved.

The committee heard 29 witnesses representing those engaged in the construction industry, persons and agencies seeking employment opportunities, and officials responsible for administering the program at the State level and in the Federal Highway Administration.

So that there is no misunderstanding, I reemphasize that all the witnesses acknowledged, without question or condition, the propriety of the equal employment opportunity policy. All the witnesses stated clearly for the record that they wanted to assist in making the program succeed.

The staff of the Committee on Public Works, at the direction of the members of the committee and under my supervision, is reviewing the record in detail to ascertain the facts and circumstances surrounding the program at this time. In the meantime, it is my understanding that a number of the parties to the problem have begun to meet to see if they can arrive at a workable method of implementing the program.

Pending the development of our committee report on the hearings and pending the outcome of on-going meetings, the members of the Committee on Public Works, individually, are seeking to assist wherever and however they can. It is my intention to convene a conference of Federal and State officials, representatives of the highway construction industry, labor union executives, and the leaders of private organizations interested in making equal employment opportunity a reality. The purpose will be to move this program from the arena of public discussion to day-to-day implementation as early as possible.

I commend our witnesses for their valuable contributions to a better understanding of the problem. And I acknowledge the plea for assistance made to us by the 21 contractor witnesses who wish to fulfill their obligations as enlightened employers while, at the same time, carrying out their responsibilities in the national highway construction program. I am impressed with the reservoir of good will and high purpose which the testimony revealed. It is my hope that the solutions we hopefully will achieve will provide guidelines for other Federal agencies likewise struggling with the implementation of equal employment program objectives.

TRIBUTE TO LYNDON BAINES JOHNSON

Mr. COTTON. Mr. President, I wish to join my colleagues on both sides of the aisle in words of appreciation to our former President, Lyndon Johnson.

When I came to the House of Representatives, he was still a Member of that body, though he shortly moved to the Senate. Like others here I served with him during his entire career as majority leader. I doubt if, in the history of this body, there has ever been a more skillful and adroit leader. Some Senators have claimed that he handled the Senate as a chess player moves his pawns about the board. That, of course, is exaggerated. He always reminded me more of a football coach pacing up and down the sidelines, calling his players from the field and whispering in their ear with his arm across their shoulders, or sending in new ones with a slap on their back.

I sometimes wonder if, when he became President, he was a bit baffled and bewildered because he could not move millions at home and foreign nations into line by the same tactics. He made a good stab at it, however, and might have succeeded in thawing the cold war and making strides toward peace at home and abroad had it not been for the tragedy of Vietnam.

In his own words, he "tried." No President ever tried harder. No President ever worked harder. No President has been more devoted to the welfare of his country and mankind. We who served with him here in the Senate knew this. Though some of us disagreed with him at times, we never questioned his ability or doubted his dedication.

He came to the Presidency under tragic circumstances. We will always remember how well he conducted himself following the events in Dallas. He was fated to meet with unusual difficulties. He gave of himself unstintingly, and history may well accord him laurels as it has other Presidents who seemed to struggle vainly in times of stress.

We owe him our gratitude. We owe him our prayers for a long and happy life.

PLANNING-PROGRAMING-BUDGETING—PPB

Mr. JACKSON. Mr. President, the Subcommittee on National Security and International Operations has been making a nonpartisan study of the planning-programing-budgeting system—PPBS—in the national security area.

In its study, the subcommittee has sought to get the basic issues relating to the use of program budgeting and systems analysis methods out in the open, to encourage, to the extent possible, a sound estimate of their worth.

The subcommittee solicited the views of eminent authorities, published studies and memorandums on the issues of the inquiry, and held a series of hearings during which informed witnesses testified from their differing perspectives. These hearings and our subcommittee publications have found a wide audience in this country and abroad among government officials, in business circles, and in colleges, universities, and research centers.

Drawing on this testimony and counsel, the subcommittee staff has made certain interim comments on the application of program budgeting and analysis in national security affairs.

Mr. President, I ask unanimous consent to have printed in the RECORD the substance of these staff comments.

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

PLANNING-PROGRAMING-BUDGETING—INTERIM OBSERVATIONS

(From a study submitted by the Subcommittee on National Security and International Operations to the Committee on Government Operations, U.S. Senate, December 2, 1968)

The quest for national security is not the work of a year or a decade. It is an unending task—and in a world in which technologies and expectations are changing rapidly and in which our Nation faces powerful and unpredictable adversaries, it is a task where mistakes in policy can ill be afforded. Procedures and arrangements that were scarcely adequate even for a simpler and safer time will not necessarily do, and those whom we place in positions of responsibility need better help than ever before.

As one step in the continuing effort to improve our national policy processes, President Johnson decided in August 1965 that a Planning-Programing-Budgeting System (PPBS) should be introduced throughout the Executive Branch, along the lines of the system introduced into the Department of Defense starting in 1961.

Stripped of the technical verbiage which characterizes the imperialism of specialists in all fields, PPBS is an effort to help policymakers make better policies.

A key element is the *program budget*, that is, a budget which links the goals the policymaker hopes to accomplish to the expenditures by which he proposes to meet these goals. In theory, a program budget would display not only initial, first-year costs but also full costs over the life of the proposed program, or at least over a period of several years.

A second key element in the PPB approach is analysis, and, in particular, an art-form known as *systems analysis* that attempts to provide the policy-maker with a comprehensive and orderly measure of the advantages and disadvantages of alternative means of accomplishing a given end, relying heavily on quantitative data.

It is still too early to reach definitive judgments on the contributions program budgeting and systems analysis can make to the improvement of the national policy process. It is not too early, however, to derive some lessons from DOD experience and from the initial experiments with PPB in other departments and agencies concerned with defense and foreign policy.

Drawing on the testimony and counsel presented to the subcommittee, the following observations seem appropriate at this time:

One: PPB is a tool. Like any tool, it can be useful in experienced hands—and dangerous in unqualified and injudicious hands.

It is *not* a device by which a policy-maker can safely delegate his decisions to subordinates, advisers, and consultants, in the belief that the system will produce "scientific" (and therefore unassailable) solutions. Given Ptolemaic assumptions, a computer will produce geocentric conclusions. The analyses generated by the PPB approach involve conjectures or assumptions of critical importance. A responsible decisionmaker will want to make or assess these conjectures for himself—and no responsible analyst would have it any other way.

Two: Modern management techniques have obviously come to the Department of Defense to stay. Without them the direction of the world's largest single enterprise would impose impossible burdens on its chief.

The law puts the Secretary of Defense in charge of his Department. It does not tell him how to take charge. To be chief in more than name, he must see to it that key policy issues and key conflicts of judgment among Indians in and out of uniform are presented to him in intelligible form.

Military requirements will continue to exceed the resources a President and a Congress will be prepared to provide: hard choices are inevitable, and the use of cost-benefit criteria will help a Secretary on certain of these choices.

Historically, program budgeting has been applied mainly, and most successfully, in decisions that are chiefly budgetary. Though many decisions in the Defense Department are not primarily matters of resource allocation, the defense budget is so large that the scope for skillful budgetary practice is considerable.

Moreover, for a Secretary of Defense the budgetary process can provide a powerful means of exercising his general authority over defense policy. As Thomas Schelling emphasized to the subcommittee:

"Some people have more instinct than others, or better training than others, for using the purse strings as a technique of management and a source of authority . . . but almost anyone concerned with administration sooner or later discovers that control of budgetary requests and disbursements is a powerful source of more general control."

The programming-budgeting system as introduced and developed in the McNamara tenure has already been adjusted and modified, and further changes will be made as future Secretaries of Defense bring their unique talents and styles of operation to the Department.

For example, a Secretary may wish to retain the program-budget approach and the capability it provides for control of those matters on which he wishes to act, yet decentralize many detailed decisions that were brought to a predecessor. Another Secretary may also rely less on a central systems analysis staff as strong and sophisticated centers of analysis develop in other elements of DOD.

Three: PPB was extended to all major federal departments and agencies in August 1965 without a period of selective experimentation and testing in non-defense departments and agencies. At that time, some BOB officials argued for a step-by-step approach, and with the advantage of hindsight it is now apparent that this advice was wise.

The top management of some agencies, such as AID, was ready for PPB. For many years, in preparing foreign aid budgets, AID had been trying to relate American assistance more closely to country development programs looking several years ahead and to economic aid available from international agencies and other outside sources. In principle, program budgeting should be able to contribute to an improvement of economic assistance programs, for AID is engaged in

the kind of resource allocation problems suited to this approach. As William S. Gaud, Administrator of AID, told the subcommittee: ". . . in August 1965, when President Johnson announced Government-wide adoption of the PPB system, the directive came to AID not as a shock, but as a fillip. In fact it was a confirmation of what we were already doing."

Top management in some other agencies, however, was not persuaded that PPB was well suited for their tasks. Yet for PPBS to work there must be a responsible person or body that wants this tool to help provide the organized data and arguments on which to base a decision. Thomas Schelling expressed it this way:

"PPBS works best for an aggressive master; and where there is no master . . . the value of PPBS is likely to be modest and, depending on the people, may even be negative."

Even for some willing and interested consumers it was difficult to learn what PPB could do for them and how to comply with the requirements set by BOB. As Frederick Mosher put it to the subcommittee:

"Clearly, in most areas of federal activity, the Defense model of PPBS could be helpful only in peripheral ways. Most would have to develop their own blueprints, adapted to their own subject matter, their own power structure, their own environment, and their own culture."

Furthermore, there had been little or no preparatory work in the foreign policy field (or most domestic fields) in any way comparable to the decade of study and experience at the RAND Corporation and elsewhere that provided techniques and trained analysts for the application of PPB to defense problems.

Whatever the reasons may be, the exaggerated hopes of some that PPB would enable the Executive Branch to identify national goals with precision, determine which goals are most urgent, and measure exactly the costs and benefits of alternative policies, have died away.

Four: In the application of PPB, it is important to take careful account of the special circumstances and needs of different agencies and not to force all into the same Procrustean bed.

While the new techniques may be mutually supporting in some cases, a caution is in order. As Charles Hitch has said: ". . . We are not dealing here with a matter of either/or. There is an infinity of degrees. Not only may one introduce a program budget without systems analysis or vice versa, but each may be used in limited areas or ways, and sometimes quite productively."

Inflexibility could be the *rigor mortis* of PPB.

It is encouraging that PPB requirements have become more elastic since 1965:

Initially, federal agencies were required to submit comprehensive five year projections of all their programs; this unrealistic demand was changed in 1967 to require such projections *only* for programs already approved.

By all accounts, the elaborate and stereotyped BOB requirements for "program memoranda" on matters small and large, peripheral and central, back-burner and front, tended to produce archives of superficial and uninteresting papers—unread by busy officials, who do, on the whole, try to make good use of their time. In 1968 it was decided to require agencies to prepare "program memoranda" not for all "program categories" but *only* for programs within which major policy issues have been identified.

Confusion and unnecessary work for both agency and BOB staffs resulted from the two-track system of budget presentations, one geared to program budgeting and the other to conventional appropriation categories. In 1968 agencies were encouraged to make adjustments that would assist in integrating program and appropriations structure, where this could be done without impairing the usefulness of the program budget format for Executive Branch program decisions.

The effort to impose a PPB structure on State's budget was suspended in 1967 (except in connection with international educational and cultural exchange programs) and has not been resumed. The hard decisions in foreign affairs are laden with value judgments that elude quantification and are typically little affected by the constraints of State's own budget.

Adaptation, experimentation and selectivity are now on the PPB menu.

Five: A major issue today as in the past is how best to generate more coherence in the planning and operations of the several departments and agencies in the field of foreign affairs.

Would the installation of an interagency foreign affairs program budget be a promising way to extend and strengthen the authority of the Secretary of State over the conduct of foreign affairs? Is this what a President and his Secretary of State want? And is this what Congress wants? Would the expected advantages of central direction and control justify the move away from the real, or fancied, advantages of the decentralized initiative and responsibility of agencies like USIA, AID, the Peace Corps, the Department of the Treasury, and others?

Considering the complexities and ambiguities of these issues, it is not surprising that the Bureau of the Budget and the Department of State have been, to use the words of BOB Director Charles Zwick, "moving forward pragmatically and deliberately."

Interesting experimental efforts underway include:

The ongoing CASP project (County Analysis and Strategy Paper), which is being tried in State's Bureau of Latin American Affairs and which attempts to relate, systematically and explicitly, our policies and programs to our objectives, country by country, throughout the region;

An interagency effort, sponsored by the State-chaired Senior Interdepartmental Group (SIG), to develop a model foreign affairs program budget for one country; and

Participation by the SIG in the review of programs and budgets of agencies with overseas responsibilities.

Six: Nowhere is the need for improved policy analysis more critical than in foreign affairs.

Given the fashionableness of quantitative analysis and the magic aura surrounding the computer, it is unfortunately the case that some analysts are tempted to employ quantitative methods where they are clearly inappropriate, may introduce distortions, and can do positive harm.

Policy analysis need not be dominated by methods that risk short-changing, ignoring, or misreading non-quantifiable costs and benefits. But it sometimes is; some people seem to believe there is safety in numbers. The good foreign affairs analyst has of course always attempted an "advantage-disadvantage" (as contrasted to a "cost-benefit") analysis of alternative policies for pursuing foreign policy goals.

It may be that a concerted effort by the Department of State would reveal methodological insights and techniques that could improve foreign policy analysis. For example, much might be gained if the Department of State worked out arrangements with a few universities and organizations like RAND where pioneer work in policy analysis is underway. Promising officers could be assigned to these centers for training and experience in a variety of analytical techniques, as a means of seeking new skills that might add to the Department's capabilities.

Seven: Members of Congress clearly have not welcomed all the implications of PPB.

Under our Constitution, Congress is responsible for the authorization of programs and the appropriation of funds. Congress is obviously concerned when an Executive Branch official steers away from careful analysis of his pet projects. James Schlesinger posed the issue in these words for the subcommittee:

"Will the decisionmaker tolerate analysis—even when it is his own hobby horses which are under scrutiny?

"How many hobby horses are there?

"Are they off limits to the analysts?"

It would be helpful for the Executive Branch to provide Congress with more high quality studies in support of program proposals. Provided that the needs of security can be satisfied, and experience suggests that they can be, an independent evaluation by Congress of the rationale for key programs should make a net contribution to the quality of our national policy process. Members of Congress would, of course, look at supporting studies skeptically, since they are well aware that figures can be used to mislead as well as to clarify. Analyses are bound to vary in quality, some are designed more to support a preconception than to challenge it, and critical assumptions will often be hidden or unstated.

Meanwhile, Congress needs to increase the capabilities of its own committees and their professional staffs for the analysis of policy problems, and to take better advantage of consultants and other sources of advice and counsel to improve its contributions to the decisions on which the safety and welfare of the nation depend.

FREE PRESS, FAIR TRIAL

Mrs. SMITH. Mr. President, Col. G. O. Ashley, U.S. Air Force, retired, has written a very succinct and perceptive paper on the conflict between the press and the courts, known as the free-press, fair-trial issue.

Having written an article on this subject myself for the American Bar Association Journal, I have a keen interest in this subject. In addition to such interest, as a former member of the press, both with a weekly newspaper and as a nationally syndicated columnist and as a successful plaintiff in a libel suit, I find his paper to be very cogent.

I invited the attention of all Members of this body to it and I ask unanimous consent that it be placed in the RECORD.

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

FREE-PRESS, FAIR-TRIAL

(By G. O. Ashley)

It is awkward with the typography we own to give equal billing to the vain protagonists in a dispute now evident. An overprint is possible, which has both press and trial on a same line: as Press. Notice how clearly the "r" stands out. Let it stand for reason, and let us apply that to the present dispute.

The dispute now over billing, and adjectives, may demean us, if it goes on much more. We have been caught up in a verbal harangue. It is time we undid the parts of the dispute about "free press" and "fair trial" that we are able to undo. For signs exist in the present dispute that it has become one of "which of the two shall prevail" over the other. Reflectively, we know neither may safely or should prevail. For they are two legs of a tripod of social sense and reason. If effective media do not inform the people, from whom jurys are drawn, then the jury system of the law could become a charade of ignorance. Thus, hear this from one of the people, sided now neither way, above.

It would be prudent for us to notice now that most of the verbal trouble lies in the modify words. The two adjectives, "free" and "fair," were put on the key words once as a

poetry. They were put on also as expressive of a noble goal, toward which there ought to be honest striving. At a time, the people indorsed tacitly both modifyers, from seeing their advantage in the ultimate of each. Now the people see a wrangle of words.

Much of the present bellicosity has developed because one side or the other is condemning the other for not having achieved more, toward its noble striving. A time has come then for both the pot and the kettle to desist from calling each other black, lest the people who have an interest in the dispute become supplied with so much defamation of both they lose confidence at the tarnish of each.

Two examples of many in public domain ought to make a point about the snide level comments have come to, from both sides. ANPA said of legal jargon, "It must be remembered that technical criminal charges often, absent counsel, appraise neither the accused nor the public of the crime alleged." If true, that does not flatter the law, the national level of learning helped by the press, or an educational system that might have instilled more language wisdom. From the law, by Prof. Barron, we find . . . "Thus, we are presented with the anomaly that the protagonist of the "absolute" view of free speech has helped fashion a protective doctrine of greatest utility to the owners and operators of the mass communications industry." Neither example may be said to be soothing or complimentary, surely.

It does not engender sensible dispute if we drop adjectives and speak of the "press," by itself. The literate among us know straightaway what the subject is about. We know straightaway of the arrangement of men and facilities and investment and tradition of it. We know of the requirement for profit and effectiveness, since today the press is one of four important media. And the same knowledge comes to us directly if the subject is a "trial." We know of its adversary nature, of its troubles with interpretation, and its tradition.

It is only when one puts the present adjectives on—free and fair—that the present petulant and snappish conflicts of meaning and intention begin. We all know that some of the press, ennobled as it may be in its striving to be fully "free," has not been always so. And it is only when we put the other adjective on trial that we are aware some trials have fallen short of their ennobling goal of being fully "fair."

The peevishness of the present dispute has been noted. Some lawyers have taken to billing placement, insisting on the order in print "fair trial-free press." Some journalists want it the other way around. Publications by each side show this present nitpickery.

This is construed by some of the people as a sign this matter has come down to a carping stage, an effort at some trivial one-upmanship, and that the lofty principles have been lost sight of. So it could be useful to note that the adjectives at issue could stand to have three things said about them.

As noble goals, they served awhile. There is now evidence they are becoming misused.

They could be retired as words without loss or harm. Retired, they may become refurbished of better meaning, for a later more fit usage.

Other constituted words do fit as well, which if used might extract some of the venom from present disputes.

We have the liberty, if we will it, to go forward once more thinking together using words from our mutual Constitution. We may take from it the more potentially useful adjectives, for our next effort on noble striving by both sides, in which an admiring public then might join. We would clearly tolerate no dampening of the earnest desire for perfection of form, either of the press or of trials or of ourselves.

And if seen correctly as desirable, adjectives from the Constitution do not preclude this. If seen correctly, their use could sponsor a new surge of nobility, to replace the quibble of committees and study groups and ad hoc et cetera there is now.

From the Constitution, we notice the motive word for the press in Amendment I is "abridging." So let's begin striving now for a more "unabridged press," one hopefully not even abridged by itself, from a lack of talent.

And of the courts and trials and the law, Amendment V makes it clear that trials should strive to become a "due process." So we could begin striving now for a more full and due process, a process prepared and eager to submit itself to inquiry from any source at any time, from it being so sure its process has been a due one, and fitting, that no injury could fault it. Using "unabridged press" and "due process trial" is wholly constitutional, for those of that emphasis. Both may inspire men poetically, and stimulate men toward perfection, as the mind of man may conceive any words having that capability. And they may unhook us in a timely way from the two other adjectives that have helped to create polarization and bad-naming of other's motives.

Now it remains to be seen if there are enough well-meaning men among us. An alternative has been offered, now.

MAYOR ROLL OF DISTRICT HEIGHTS, MD.

Mr. TYDINGS. Mr. President, in an article published on January 2, 1969, the Washington Post paid tribute to one of Maryland's outstanding mayors—Mayor E. Michael Roll, of District Heights. Because the article, written by Peter Osnos, will serve as an example of the kind of dedication it takes to be a good mayor, I request that it be printed in the RECORD.

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

HAS 275 MEETINGS A YEAR

(By Peter Osnos)

Emmett Michael Roll, the genial mayor of District Heights and newly-elected president of the Maryland Municipal League, is the consummate civic activist. By his own calculation, 65-year-old "Mike" Roll attends upwards of 275 meetings a year, despite the fact that he has a full time job as a sales representative with the Humble Oil Co.

"He would rather go to a meeting than do almost anything else," Malinda Roll said recently, "About the only day we stay home is Christmas."

Roll, who sports a patriotic red, white and blue hankerchief in his breast pocket and a Lions Club 20-year perfect attendance pin in his lapel, beamed broadly in agreement.

Since moving to District Heights from Washington in 1941, Roll has served six terms as mayor and two terms as a city commissioner. He has been president of the Prince George's Municipal Association, president of the District Heights P-TA and president of the Prince George's Board of Trade.

He has also been vice president of the District Heights Citizens Association, director of the Prince George's Chamber of Commerce, lay adviser to the County Community College, judge of elections and chairman of several committees in the Prince George's Democratic Club Inc. And this is only a partial list.

Now, at an age when a man could reasonably be expected to start to run down, Mike Roll, with characteristic zeal, has taken on the important job of president of Maryland's Municipal League.

The League, made up of more than 90 percent of Maryland's towns and cities, represents the interests of the municipalities in the State's legislative councils. It also offers technical assistance in such things as the drafting of ordinances and acts of liaison for the communities through meetings and conventions.

In Maryland, the function of the municipalities is limited by law and the strength of the local County government. The problems of the municipality are the fundamental ones of trash collection and street repairs. The more complex responsibilities of zoning and planning, schools and the courts belong to the counties.

Inevitably, rivalries develop in services where there is overlap, police protection and recreation, for example.

As far as the County government is concerned, Mike Roll has a more precise relationship to it than his fellow mayors. County Commissioner Chairman Francis J. Aluisi is Roll's brother-in-law and neighbor. In 1964, when Roll made an unsuccessful bid for the Democratic nomination for Congress, Aluisi, then a relative unknown in County politics, was campaign manager.

Having a brother-in-law in the top job in Maryland's Municipal League shouldn't hinder Aluisi's stated intention of improving cooperation between the County government and the municipalities—from marginal Upper Marlboro to exploding Bowie.

Now ⅔ of the County's estimated 630,000 residents live in unincorporated areas and rely on a central government which has grown ever larger.

In the past, tensions between County and local leaders developed over division of responsibilities. But both sides have become more sophisticated about their relative capacities and relations have improved.

Roll, whose disposition is relentlessly positive, anticipates no difficulties working with the County. His chief concern is that the municipalities are reaching the outer limits of their expansion possibilities and could use some additional land—and taxpaying citizens.

The Vice Chairman of the Commissioners, Francis B. Francois, however, thinks the municipalities should remain small. "In a County like this," Francois said, "the most important role of the municipality is to give the residents a feeling of local identity and a vehicle for electing representatives to deal with County and state officials."

In effect, said Francois, the municipality is a legally constituted citizens association."

Roll, understandably, sees his positions as something grander than the representative of a citizens association. He views himself as the overseer of almost 9000 inhabitants of District Heights—"the president of the corporation," was the way he put it; "father of his people," suggested a District Heights resident.

Mike Roll is extravagantly proud of District Heights and especially of its municipal center built in 1962.

Roll's small, stocky frame veritably soars from room to room as he ushers a visitor through the building. For each passer-by there is a greeting, often by name. There can be no doubt: the mayor of District Heights and the president of the Maryland Municipal League revels in his duties.

THE CRISIS IN THE POSTAL SYSTEM

Mr. BAKER. Mr. President, I have today written to Mr. Winton M. Blount, the new and distinguished Postmaster General of the United States, with respect to what I believe is a crisis in our postal system. I think that now is an appropriate time for me, a Republican, to speak on a matter about which I feel very strongly—the removal of the postal system from the political structure.

I have written to the Postmaster General as follows:

I feel that postal service in America is in crisis, and I have publicly expressed my support for an extensive overhaul and re-

vision of the postal system, including its removal from politics completely.

My letter continues in part:

I am perfectly willing, indeed I would be most pleased, to see postal appointments in Tennessee made on a non-political, non-partisan basis, but rather on the basis of merit and qualifications.

I think it only fair to point out that I believe such a plan should not operate to freeze a pre-existing partisan political situation, nor should it be designed to create a new one, but rather to preserve and protect the efficiency of the system by the creation of a non-partisan postal service.

INAUGURAL ADDRESS BY THE GOVERNOR OF DELAWARE

Mr. BOGGS. Mr. President, on January 21, 1969, Russell W. Peterson became Governor of the State of Delaware. In his eloquent inaugural address he revealed to the people his "people oriented" philosophy of government.

Mr. President, I ask unanimous consent that the text of his address and an editorial in the Wilmington Morning News of January 23, 1969, praising him, be placed in the RECORD; and I commend its reading to my colleagues.

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

TEXT OF GOV. RUSSELL W. PETERSON'S INAUGURAL ADDRESS

I become your governor with humility, with pride, and with confidence in the future of our state and its people.

The humility stems from the knowledge that I am today assuming the mantle of tremendous responsibility, greater than ever before in my life.

The pride comes with the realization that you have chosen me as your governor in what undoubtedly is one of the most trying periods of our lifetimes.

And the confidence is rooted not in my own abilities, but in my faith in the greatest natural resource Delaware has—its people.

I will not during these brief remarks discuss specifics of programs to be offered by my administration. That will come later in addresses to the General Assembly.

BROAD OBJECTIVES, PHILOSOPHY

Instead, I want to discuss broad objectives and philosophy upon which my administration will be based.

We aspire to many goals, but one rises above all others. Unity. Without unity, we can have no real strength, no lasting progress.

Unity. A word. An approach. A philosophy. The dictionary calls it a "condition of harmony."

As we look over our state today—ideologically splintered and emotionally scarred—there is no unity. People are divided. There is unrest. There is suspicion. There is fear.

What can be done about it? There is very little that I can do. But there is no limit to what we can do.

MUST WORK AT UNITY

Yes, we can have unity. Not by just wishing for it. Not by just talking about it. But by doing something about it. By working at it. By living it.

Each of us must become actively involved in creating the climate that leads to unity—the climate based on brotherhood, respect for individual human dignity and faith in the other ideals upon which this nation was founded.

Our disunity today results from our failure to observe these ideals, our failure to realize that every individual—regardless of social or economic status—must have not only the opportunity but the incentive to progress towards a worthy goal.

When one sees the turmoil wracking this nation, it's obvious that this failure is not limited to Delaware.

PROBLEMS SOLVABLE

I firmly believe that people, working together, can solve virtually any problem. I dedicate my administration to seeking such cooperation and unity not only from individuals but from all segments of community life—government, business, labor, citizens' groups, social and religious agencies and private foundations.

With such support, we can form a dynamic partnership for progress that can be especially potent in Delaware, a state of only half a million people with an abundance of human and physical resources.

I firmly believe that Delaware has the potential to become a model state, to set an example for the nation.

MICROCOSM OF NATIONS

Delaware is much more than just a small piece in the great mosaic of America. We are in many respects a microcosm of this great country, a little America with bits of its strengths and weaknesses, its problems and potential.

We have its rural and urban areas, its industries and its farms, its northern traditions and its southern traditions, and its people of every race, color and creed and every economic and educational level.

We have its problems—mounting fear and frustration, rising crime, soaring costs, persistent poverty and dangerous social prejudices and conflict.

The major difference is that Delaware is small enough to make a noticeable impact in solving its problems. A dollar wisely spent in Delaware will have much greater results than one wisely spent in a large state. One individual's talent in Delaware can yield significantly more results than one person's efforts in a larger state.

OPPORTUNITY GOLDEN

So here in Delaware we have a golden opportunity. There is no shortage of ideas or talent or dedicated people in this state. We have tremendous talents, tremendous human resources, but they have been weakened and wasted by our inability to put these resources to work on common objectives.

Once that is done, we can find solutions to our problems. We can show the nation how to attack poverty, how to reduce crime, how to change a welfare system into an incentive system, how to bring more efficiency and economy into government.

And in the process, we can show America how to build a better life, a better future for all of its citizens.

But we must face this future with realism. Glowing promises that dim and die merely build new frustrations.

So I do not say that the road ahead will be smooth. I do not say we will solve all our problems. There will be disappointments and failures. I offer no panacea, no quick solution. Because there is none.

IDEALISM, REALITY

We must seek the same meld of idealism and reality that is reflected in a quotation I read about brotherhood. "Brotherhood," it said, "is in essence a hope on the road—the long road—to fulfillment. To claim it to be already a full-grown fact is to be guilty of hypocrisy. To admit it to be always a fiction is to be guilty of cynicism. Let us avoid both."

This meld of idealism and reality is the middle road we must travel.

It will be difficult, but it can be done. It must be done.

There are those today who would tear down our American system of government because it is not perfect. There are those who would use the principle of law and order as a weapon of repression and persecution, and those who would distort our right to dissent into the right to destroy.

REJECT EXTREMES

We must reject both extremes, because they are dangerous and degrading both to our people and their traditions. Our American system has worked for 80 per cent of our people. Admittedly, it has failed for the other 20 percent.

It does not have to be so. Our system can—indeed it must—be made to work for all of the people.

There are those who would have us believe that the black man is the enemy of our society. The real enemy is that man—black or white or whatever his race—who would destroy our society, who would destroy the successes as well as the failures of the free enterprise system.

We must recognize these people, and we must reject them. And we must reject all those other elements—indifference, petty politics, fear, cynicism—that divide the people and dissipate their power.

HOPE IS NEEDED

We need to provide hope—hope for the fulfillment of the American dream that each person can move forward to a better tomorrow.

We can reach this fulfillment not by tearing down America, but by building on the great foundation it provides—a democratic system based on justice under law and powered by free enterprise.

This is America. It offers the best hope for the disadvantaged of today just as it did for the disadvantaged millions of yesterday.

Destroy it? No! We must strike from this giant of a nation the shackles of prejudice and ignorance and fear that threaten to dwarf its potential. Nurture it with your faith and confidence, with your talents and ideals, with yourselves. Protect it.

And you will find that our America will provide the justice, the opportunity and the human dignity so desperately needed by those yet to realize its full benefits.

DISADVANTAGED HERE

The only natural resource we have that is large enough to cope with the problems of the disadvantaged is the disadvantaged themselves. We can unlock this potential with the same keys that have been used since this nation was founded—a voice in our joint affairs, justice under law, freedom of enterprise. And then they will take care of themselves.

With this will come fulfillment and hope and an end to many of the frustrations that lead men to strike out at their fellow men.

The power of people helped build this nation into the greatest in the world. This same power can make Delaware the greatest state in the nation.

We must create in Delaware a climate that recognizes the intrinsic worth of every individual, that protects not only his physical being, but his self-respect and dignity, that has no room for the concepts of second-class citizens or second-rate ideals, that realizes the joining of hands is an empty gesture unless there is also a joining of hearts and wills, that proclaims faith in, not fear of, our fellow man and the democratic process.

AMERICAN DREAM

Let's commit Delaware to fulfillment of the American dream. This then is our charge, our challenge—and our opportunity.

I need, I want, I ask for the commitment of each Delawarean. I challenge you to embark on this long, difficult and exacting journey.

I challenge you to give more of yourself to the community, and you will reap a hundredfold return from the blessings of brotherhood and fulfillment.

For my part, I commit every ounce of energy and talent that I possess.

With your help, and with God's help, we shall succeed.

[From the Wilmington (Del.) Morning News, Jan. 23, 1969]

PEOPLE-ORIENTED MAN TAKES OVER

There is a new and well-founded awareness in the state that Delaware has a modern man for all seasons in Russell W. Peterson as governor. Clearly he seems equipped for the office in the world of today.

This is a man who drove himself out of a Depression boyhood high into industrial science and administration and now addresses himself, in his maturity, to the problems and challenges and opportunities of Delaware in 1969. One need only point to the sweeping reform of the state's correctional system as an evidence of the kind of goals he sets for himself in civic effort. He is the man who went into every corner of the state and stirred a movement that got results in the Legislative Hall.

It is no surprise that Gov. Peterson's inaugural address is deeply people-oriented. His spirit and his idealism both show in this sentence: "We can show the nation how to attack poverty, how to reduce crime, how to change a welfare system into an incentive system, how to bring more efficiency and economy into government." He sees Delaware as "a state of only half a million people with an abundance of human and physical resources," awaiting new catalytic action for abating disunity and fears among the people and providing opportunities for those who have seen too many closed doors.

If the Peterson inaugural address was devoted almost entirely to the social problems attributable to poverty, crime, and attendant ills, the weeks ahead are sure to show him getting down to work on many issues. His position papers of the campaign are now up for action. Just how will he propose to put incentives into the welfare system for the benefit of people? Education from kindergarten on up will be a special interest along with improvements in corrections and mental health, to name a few targets.

Mr. Peterson's gifts for communicating with other people are sure to serve him well. His placing Mrs. Arva Jackson in his Wilmington office as an assistant for urban affairs suggests the wisdom of further expansion of the executive branch up here.

It should not be necessary to await a new state office building in Wilmington for doing here what (for example) the Maryland government has done in Baltimore. The new "complex" of state offices in or near Baltimore is the base for the agencies in the fields of education, welfare, highways, state police, motor vehicles, taxation, corrections, and public health. Traditionally, Annapolis remains the base for the governor, the legislature, and a few agencies including those for natural resources and recreation. For the best of reasons, most of the year-round state governmental services are headquartered in metropolitan Maryland—where most of the people are.

Meanwhile Delaware is so small a state that better communications between Gov. Peterson and the people, wherever they live, can be expected to shape up fast enough. Those who know the man's caliber, his intensity of thought and action, will testify he was in earnest when he said Tuesday at Dover: "I firmly believe that Delaware has the potential to become a model state, to set an example for the nation."

The new governor deserves the chance to try to help make that kind of dream approach reality.

THE USE AND ABUSE OF STATISTICS

Mr. JACKSON. Mr. President, the Subcommittee on National Security and International Operations has recently conducted a major inquiry into the planning-programing-budgeting system in the national security area. In its hearings, studies, and reports the subcommittee has explored the hazards as well as the opportunities in the use of quantitative methods of analysis, including the danger that statistics and numbers will be used by Government officials to distort issues and to mislead.

In this connection, I should like to call to the attention of the Congress a particularly able discussion of the misuse of statistics by Government officials. This article is authored by Arthur M. Ross, who served as Commissioner of Labor Statistics from 1965 until 1968, and is now vice president for State relations and planning at the University of Michigan.

Mr. Ross' analysis appeared in the first issue of the new magazine entitled the Washington Monthly, February 1969.

I ask unanimous consent that the article be printed at this point in the RECORD.

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

THE DATA GAME

(By Arthur M. Ross)

I

Three years in Washington taught me that men of integrity, brains, and diligence can have an alarming capacity for self-deception.

The reason is quite clear:

The issues which lodge themselves in Washington are generally vast, ambiguous, intractable—the indissoluble residue of history. In dealing with such complexities, high federal officials must commit themselves, decide, and act. Because they must risk their reputations and self-esteem—and often millions of dollars or thousands of lives besides—their psychic need for certainties may lead them, all too easily, into deluding themselves. A man of exceptional courage can look ambiguity in the face and still maintain his capacity for action. But a man with only commonplace courage will demand clear and certain guideposts; if they are lacking, he may discern them in mirages.

We in the general public, for our part, want to believe that men in government act on the basis of objective, ascertainable verities. We like to think that these men always base their decisions on a rational array of relevant facts. If a bad decision is made, we prefer to believe that it derived from an improper weighing of hard facts, rather than from an insufficiency of such facts or, worse still, from instinct. Our desire to believe that each action is based on a clear-eyed appraisal of facts is by no means limited to the way we view the government. When we are medical patients, we do not want to know how often we are treated on an experimental basis; when we are clients, we do not want our lawyers telling us that our case could go either way; when we are parishioners, we do not want our ministers airing whatever doctrinal misgivings they may have. We want the doctor's bedside manner, the lawyer's grave self-assurance, and the clergyman's outward serenity to minimize whatever anxieties may be stirring within us.

Although most such men project infallibility in their workaday professional lives, they frequently ventilate their doubts with wives and colleagues. Government leaders, on the other hand, are not able to detach themselves from their official utterances to the same extent. Such qualities as combativeness, assertiveness, "ego-involvement"—almost prerequisites for public life—are rarely combined with skepticism. The official, like the voter, has a need to believe. Credibility gap notwithstanding, his hazard is not so much that he will knowingly fool the public; it is, far more often, that he will fool himself.

In an earlier era, federal officials could delude themselves about society through ideology, dogmatism, and bombast. But politics and government have now entered the Age of Science. Today it is the seemingly neutral instruments of statistics and systems analysis which organize the chaos of society into some intelligible pattern. It is because these instruments allow fallible man to interpret them that the federal administrator carries within him the seeds of his own delusion.

II

There are many jokes on the subject of crooked statistics. A current one in Washington is that "It's hardly worthwhile to lie any more without statistics." When I was sworn in as Commissioner during the middle Johnson years, William F. Buckley, Jr., observed that I might not have enough muscle "to cope with a President and Administration that have shown no compunction when it comes to controlling or suppressing facts." Buckley suggested that a Bureau of Labor Statistics which would move a decimal point to the right or left might be very helpful in bolstering the poverty program.

Actually there is nothing dishonest about government statistics. To my knowledge, no suggestions are made that facts be suppressed or decimal points moved. The distortions are more subtle and do not lend themselves to cops-and-robbers reporting. The real problem is not in the statistics themselves but in their subsequent careers.

If you are measuring the number of cows in Nevada, nothing more is reported or implied than what has been counted: 6,000,000 cows. A cow exists in a state of nature and is directly observable. But suppose you administer an intelligence test to a group of children. The test is one thing, a mechanical instrument; intelligence is something else altogether, an abstraction devised by psychologists. While the scores of a test can be calculated, that which is measured remains an abstraction. Educators have been learning the painful lesson that great care must be used in drawing inferences from one to another.

When government officials call for statistics, they seldom want anything as palpable as the cows of Nevada. They want measures of inflation, or poverty, or hard-core unemployment, or criminal activity, or American prestige abroad, or the progress of the Vietnam war. These are man-made concepts, *socially defined*. It is man who invents the categories; it is man who decides to characterize them in terms of one or two measurable dimensions. But as in the case of I.Q. tests, the people who read government statistics—the press, the public, and the officials—are prone to regard partial or statistical truths as objective realities.

Thus shadow is confused with substance. Essentially this is how public officials deceive themselves with statistics of impeccable quality. The officials are vulnerable because they are searching desperately for ways to clarify and simplify the protean problems of government. Statistics enable them to do this at the cost of heroic oversimplification: one or two dimensions, which happen to be measurable, serve to symbolize an elusive, many-sided phenomenon.

The trouble is that the unmeasured, or unmeasurable, aspects of a problem may be vastly more important than those which have been, or can be, measured. And even with measurements that are known to reflect on the core of a problem, the rate of change in the United States has become so swift that "good" statistics, intelligently used in decision-making, may be rendered irrelevant or obsolete by the time action results from an official's decision.

These margins for misjudgment are not always stressed to the policy-maker. Attracted by the appearance of objectivity and precision, he keeps his eye fixed on charts and tables which may be incomplete, obsolete, or both. Eventually he may come to believe that poverty really is a condition of having less than the current cutoff point of $3,335 in annual income; that full employment really

is a situation where the national unemployment rate is four per cent or less; and that Vietnam really is a matter of body counts and kill ratios.

III

The official definition of poverty serves as a good example of how a misleading statistical concept can have mischievous results.

When eradiction of poverty became a leading national goal it made sense for the government to seek a unit of measure that would define the size of the job and permit us to chart the amount of progress. The unit of measure, arrived at by the Council of Economic Advisers in 1964, decreed that a family of four was in poverty if its annual income was below $3,000 and that a single person was in poverty if his income was below $1,500. According to Professor Richard Tobin of Yale, a former member of the Council:

"No detailed scientific justification was, or could be, offered for these round numbers. But few would deny that people with so little money were poor, and the one-fifth of the nation so described were not so many as to make the problem seem unmanageable."

What do we learn from this arbitrary definition of poverty? For one thing, that there is less poverty in America than ever before. The proportion of poor families has fallen from 18.4 per cent in 1959 to 10.6 per cent in 1967, the last year for which statistics are currently available. In the case of Negroes, improvement has been even more dramatic: 49.6 per cent of Negro families were poor in 1959; only 30.6 in 1967. Moreover, the Office of Economic Opportunity has said that the complete abolition of poverty is possible by the year 1976.

With the poverty problem ostensibly marching toward statistical victory, it is small wonder that the government bristled when it was confronted by claims of widespread hunger and malnutrition in the United States or that the Secretary of Agriculture joined the rural county commissioners in contending that there was plenty of food for all. Nor is it surprising that the government was caught unawares by the rising hostility and violence of urban Negroes.

What is wrong with the poverty concept? A "poverty line" based on annual income, while a useful statistic for many purposes, is a simplistic boundary for separating the non-poor from what most of us mean by "the poor"—i.e., those who are left out of things in a generally affluent society. Poverty is the sense of failure and despair eating at a man who cannot make the grade (and who knows that his family knows it). Poverty is lack of opportunity for adequate housing, whether or not a family finds itself on the right or wrong side of the poverty line. Poverty is lack of access to good schools, good medical care, good police protection, and the other community services, attentions, and courtesies that society has come to expect.

The poverty line, then, is an economic indicator that often masquerades as a social indicator. It is reliable and accurate in telling us what percentage of the population has more than x amount of purchasing power and what percentage has less. As a gauge for "poverty," however, it is gross at best; inadequate and misleading at worst.

The poverty line made its debut in 1964. In the five years since then, it has won a place in our culture as an accurate boundary between the non-poor and the poor. It has sometimes been extended—at least by implication—to serve as a dividing line between the content and the discontent.

Perhaps an example from my own experience will illustrate the fatuous lengths to which poverty statistics can be carried. In the fall of 1967, the White House asked the Bureau of Labor Statistics to join with the Bureau of the Census in producing a report on the economic and social conditions of Negroes. We issued a workmanlike, well-balanced, but undistinguished, report. The White House received it with what struck me as excessive enthusiasm and then flooded the mails with thousands of copies.

Last spring, when I was preparing to leave the government, the White House asked us to "bring the report up to date." This time I sensed a determined effort to persuade Negroes that they had never had it so good. On the ground that not enough time had passed since the original document came out, I declined to participate in the study. However, last July, shortly after my departure, an updated version of the earlier report appeared. According to the introduction, most of the figures showed "important gains in the level of living for Negroes in the United States." The *pièce de résistance* was the dramatic statement that—on the basis of the poverty-line definition—"most non-white families in poverty areas of large cities are not poor."

Think about it for a minute. "Poverty areas of large cities" are the worst 25 per cent of census tracts in metropolitan areas of 250,000 or more: the slums. The conditions of Negroes in slums are worse than those of whites. Yet the government solemnly reported the statement above. The only logical inference to be drawn from it is that most of the Negroes in the slums of America's large cities are reasonably well off and, if one chooses to infer further, content.

Another feature of the poverty line that tends to keep poor people in a statistical isolation ward is its unswerving constancy. Although the poverty line is adjusted regularly to reflect price changes, its cut-off point remains static from year to year; that is, the line is always drawn at a virtually fixed amount of purchasing power. But poverty is relative and getting "more relative" all the time. Rising aspirations at the bottom of our economy and rising affluence at the middle tend to make a static poverty line misleading, even if it is viewed primarily as an economic indicator. Some additional statistics may illuminate this. In 1950, the median family income in the United States was only fractionally higher than the family income at the poverty line (as reconstructed from the 1964 definition). By 1959, the ratio was 2:1; by 1966, it was 2.5:1; and by 1976, when the war on poverty is due for statistical victory, median income will be three times as great as the poverty cutoff.

Poverty is also highly subjective. Our cave-dwelling ancestors did not feel impoverished, broke as they were; nor do people in certain foreign countries where most family incomes fall far below our magical boundary line. Poverty, then, is as much a feeling of deprivation (a social fact) as it is deprivation itself (an economic fact). Although statistics, wisely used, can help to delineate poverty, the federal administrator must remember that poverty is to be found in the eye—or in this case, perhaps, the psyche—of the beholder.

These are the kinds of things statisticians seldom point out.

IV

A number of people have been asking lately: how can unemployment constitute a major domestic social problem at a time when we have full employment?

The answer is that full employment is another statistical concept that has developed a large capacity for misinterpretation. Like the poverty-line measurement, full employment is an economic measure susceptible to misuse or misreading as a social weathervane. In short, full employment does not mean everyone who wants a job has one. And here again, social changes and accelerating expectations have rendered the old measure incomplete.

Full employment, as officially defined, is a national unemployment rate of four per cent or less. What this means is that the national unemployment rate, whatever it may be at a given time, is always a statistical fact, whereas the term "full employment" is always an abstraction drawn from a policy judgment. The concept of full employment, designed by economists to serve as a distant early warning on the state of the economy, developed from an attempt to prevent a recurrence of the economic stagnation of the 1930's.

When the unemployment rate is four per cent or less—that is, when we have "full employment"—we know that we are not in a recession or depression. We also know that most married men with substantial training or experience, even those who are black, have jobs. But even in times of full employment, there is bound to be considerable unemployment among women, teenagers, single men, and people with little education or training. This has always been true. But now, with social aspirations swiftly on the rise, four per cent is less valid as an indicator of the general welfare than it used to be, although its value as an economic index may not have diminished much. It is partly for this reason that many believe full employment should be pegged at an unemployment rate of three per cent or less.

Today the demand is for decent, rewarding jobs with a promising future. Yet in figuring the employment rate, *all* jobs still count: part-time jobs, casual and intermittent jobs, dead-end jobs, menial and degrading jobs. It cannot be denied that exaggerated hopes have been stimulated and that some job-seekers make unrealistic demands. Nor can we expect the government to guarantee everyone a job to his liking. It seems clear, however, that an element of quality, as well as quantity, has been irreversibly imported into the way we regard the economy and society. When social changes proceed as rapidly as they have over the past decade, cultural lag prevents such venerable statistical concepts as full employment from catching up to the times.

V

Is it a coincidence that the most elaborately measured war in American history has also been our least successful?

I do not think so.

For many months we were "winning" the war, steadily and inexorably. All the statistics told us so: the body counts, the kill ratios, the bombing toll, the infiltration estimates, the captured documents, the pacification figures.

Gradually it became obvious that we were not winning and that the abuse of statistics had contributed directly and substantially to the strategy, tactics, and outcome. Some of the statistics are now conceded to have been pulled out of the air, and some were done violence through palpably absurd interpretation (for example, the claim that 2,000,000 refugees had "voted for freedom with their feet"). Perhaps the major error in the conduct of the war was that key decisions were based too heavily on those kinds of military activity which could be counted, calculated, and computerized.

Had this calculus of measurable elements not yielded such voluminous and comforting food for thought, it would have been impossible to disregard so flagrantly all the nagging, contrary "gut" factors which could not be computerized. Science, despite its wonders, has not yet put history, ideology, religion, color, colonialism, nationalism, sectionalism, or cynicism on the computer. Since these could not be quantified, they received little, if any, weight in the equations. Or the briefings.

George Romney was by no means the only high official to be brainwashed in Saigon. Dozens of powerful Congressmen and Senators made tours of inspection, sat in on top-secret briefings, and came home with their misgivings allayed.

By coincidence, a technical assignment took me to Vietnam at the end of June, 1967, only a few days before Secretary McNamara's final visit to Saigon. In preparation for the trip I read all the serious accounts of the war that I could lay my hands on. After I reached Saigon, the American authorities ar-

ranged dress rehearsals of briefings prepared for McNamara.

Three solid days of briefings, replete with maps and statistics, left me convinced that I was learning little about the true state and nature of the war. I began ducking out of the Embassy to chat with correspondents from *The New York Times, The Washington Post,* and *Newsweek,* all of whom were in considerable disfavor at the time. These were the "grunts"—working reporters who lacked easy access to inside information and had to rely on horse-and-buggy methods of covering the war. Nonetheless, they had one distinct advantage: they could see what was going on. In their view, the war was going badly militarily, no matter what the battle statistics had to say.

Then too, there was "the other war"—the hearts-and-minds struggle known as Revolutionary Development in its current incarnation. As in the military side of the war, subjective and unscientific methods of appraisal had been left far behind. In Saigon I was introduced to the wonders of a computerized data bank known as the Hamlet Evaluation System and operated by Robert Komer, the former White House assistant who had been put in charge of "the other war." Each of thousands of hamlets had received one of six security designations. The designation for each hamlet evolved from about 15 criteria, each of which, in turn, had been measured on a quantitative scale.

I remember having been struck by the fact that the progress of pacification had never before been charted so scientifically. It seemed to me, however, that the criteria had little to do with hearts and minds and even less to do with Revolutionary Development. Since the whole thrust of our intervention was counterrevolutionary and since economic and political development was impossible under the circumstances, this almost had to be the case. While the information fed into the computer may have been narrowly factual, the inferences that resulted were wholly insupportable. And yet it was understandable that President Johnson and others in his Administration were impressed, halfway around the world from Saigon, by the progress Komer reported right up to the eve of the Tet offensive.

VI

If such statistical concepts as the poverty line, full employment, and body counts have caused misinterpretation in the past, so have the full-blown analytical systems that are based on quantitative data. The most widely used of these in the government is the Planning-Programming-Budgeting System, known familiarly, if not lovingly, as PPBS.

PPBS, briefly stated, is a system of planning whereby each individual agency or department is required to identify the specific goals of its programs, discuss the alternative ways in which those goals might be achieved, and then quantify the results of the programs it is pursuing. It imposes upon each agency a requirement for disciplined thinking that did not exist before, and it is clearly a more useful way of looking at governmental expenditures than was the old line-item basis (personnel, supplies and materials, travel, etc.). Because PPBS had been widely and efficiently used in the Department of Defense under Secretary McNamara, President Johnson ordered that it be installed throughout the government in 1966.

But here, as in the world of statistics, there are subtle and treacherous pitfalls: faulty assumptions, the downgrading or distortion of matters which cannot be quantified, and the fatal error of supposing that technical procedures can eliminate the agony of decision.

Its inherent dangers have been recognized by two of the foremost scholars in the field of national security. Dr. Thomas C. Schelling of Harvard University has warned that PPBS is a procedure "whose worth depends on the skill and wisdom of the people who use it" and that "quantitative data can be subtly made prominent to the detriment of important qualitative considerations." Dr. James R. Schlesinger, director of strategic studies at the RAND Corporation, has emphasized that "analysis is not a scientific procedure for reaching decisions which avoids intuitive elements, but rather a mechanism for sharpening the intuitions of the decision-maker."

As PPBS spread throughout the government, most agencies found that their most difficult task was the attempt to quantify the benefits of its programs. The danger was and is that the areas which do not lend themselves to accurate measurement—who can quantify the benefits of diplomacy, national parks, education?—will be regarded as less important than those areas which do.

VII

When Wilbur J. Cohen was Secretary of Health, Education and Welfare, he once said that the chief statistician of HEW and his staff "do more to determine HEW programs than all the other officials in the Department."

Was he kidding? Maybe he was, and then again maybe he wasn't. In either case, his statement dramatizes the fact that statistics carry great weight in determining government policies and programs.

I myself find it amazing, and sometimes frightening, to observe the extraordinary prestige of statistics both inside and outside of the government. For a recent example of its national pervasiveness, we need go back only as far as the recent Presidential campaign, in which the Gallup and Harris polls played such a decisive role in shaping the candidates' respective strategies that their role in determining the outcome clearly exceeded that in any previous Presidential campaign.

Within the government, statistics in the '60's have reached such a pinnacle that men of affairs often become known by the statistics they keep. Until the last two years or so of his Administration, President Johnson's imposition of the latest popularity polls upon his visitors was a mark of his style. John F. Kennedy's attack on the Eisenhower Administration in 1960 centered on statistical comparisons of economic growth and missile stockpiles. President Nixon's discussions of law and order during the recent campaign rarely failed to mention statistics concerning the increase in crime.

When I emerged from the obscurity of academic life to become U.S. Commissioner of Labor Statistics, I was startled to discover that I was good copy because I issued the figures on inflation and unemployment. To the amusement of my colleagues and the gratification of my wife, I was often described as "the Nation's leading expert" on subjects about which I knew little.

I did discover, however, that positivism has triumphed in statistics, as it has in other sciences, so that statistics consists of technical procedures quite independent of content or purpose. I found that most government statisticians are principally concerned with techniques, which have greatly improved in recent decades. But their outlook is often too narrow to encompass the larger role of numbers in public life. Like horses who obediently pull a wagon over a cliff, they exercise great skill in producing numbers but have little sophistication concerning their use and misuse. Although statisticians like to think that they are constantly warning policy-makers against misuse, what they usually warn them about is the limited sample or the possible range of error, rather than the one-dimensional quality of the statistics themselves.

What I have said in these few pages may strike the reader as anti-statistical and anti-intellectual, but that is not my intent. I strongly believe that leaders need every available aid to understanding the murk and chaos of life. My concern is not with science, but with the abuse of science. It is human ignorance, indolence, and incuriosity which permit statistical data to be perceived as objective verities rather than as the shadowy hints and clues they most often are.

We need more and better statistics in order to illuminate our problems more fully. But we must remember that statistics, indispensable as they are and improved as they may become, cannot substitute for the intuitive feel of a problem resulting from first-hand exposure. Shoe leather and the human mind will always be needed more than statistics when complex and qualitative judgments must be made. So will leaders who can confront ambiguity without heading for the nearest statistical escape hatch.

THE "PUEBLO" INQUIRY

Mr. CURTIS. Mr. President, I rise to pay tribute to a great American and a distinguished son of Nebraska. I refer to Comdr. Lloyd Bucher of the ill-fated U.S.S. *Pueblo.*

Nebraskans are proud of Commander Bucher for his years of distinguished service to his country. We point with pride that Commander Bucher grew up and graduated from high school at Father Flanagan's Home for Boys at Omaha, Nebr., and that later he graduated from the University of Nebraska. His rise to a place of responsibility is in the noblest of American traditions.

For some days, Commander Bucher has been giving forthright testimony. The fact that no help was sent to him is just as historically true as the fact that the *Pueblo* was seized. I suggest that Commander Bucher not be harshly judged by Monday morning quarterbacks who were so silent and inactive on the fateful day—January 23, 1968—when the *Pueblo* was attacked, chased, fired upon, and seized by Communist vessels.

I am sure that Commander Bucher wants to be helpful, not only now but also in the future, in cooperating with various agencies of our Government. But I do point out the great suffering that this man already has endured, and I would express the hope that he not unnecessarily be subjected to repetitious congressional or other investigations.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE REPORTS SCHOOL DESEGREGATION PROGRESS

Mr. HART. Mr. President, the Office for Civil Rights of the Department of Health, Education, and Welfare recently reported a significant increase in the desegregation of formerly dual school systems in 11 Southern States. The percentage increase—from about 14 percent in September 1967 to more than 20 percent a year later—may not seem particularly impressive unless one looks behind the statistics.

A brief summary of what has happened in the area of school desegregation will illustrate what I mean. In 1963, 9 years after the Supreme Court had declared that dual, racially-segregated school systems were unconstitutional, 1 percent of the Negro students in the Southern States attended school with whites. School segregation—unconstitutional separation of youngsters by race—was widespread, the decision of the

Supreme Court to the contrary notwithstanding. In 1964, the Congress enacted the Civil Rights Act with its prohibition in title VI against using Federal funds to assist programs which discriminate on the basis of race, color, or national origin. Title VI was implemented on a small scale at HEW in 1965 and provided with the appropriations needed for a larger staff a year later.

In September 1968, little more than 3 years after the implementation of the title VI program at HEW, the school desegregation figure in the 11 Southern States stood at 20 percent. And in school systems desegregating under plans negotiated to meet the requirements of title VI, the figure was higher—25.6 percent.

In other words, Mr. President, the school desegregation figure between 1954, the year of the landmark Brown decision, and 1963, the year before the enactment of the Civil Rights Act, rose to only 1 percent. In the next 5 years, it increased 20 times that figure. This is significant progress and a credit to the administration of a difficult program by HEW's Office for Civil Rights.

I should point out, Mr. President, that the statistics on desegregation for last September represent for the most part only progress toward the goal of an end to the dual racially segregated school system. The Office for Civil Rights program requires that districts, which formerly assigned students and faculty on the basis of race, adopt desegregation plans ending the dual system in most cases by September 1969 or—at the latest—September 1970 in cases where there are legitimate administrative reasons why the 1969 deadline cannot be met. September of this year should see another substantial increase in school desegregation in the Southern States.

Mr. President, for the information of readers of the CONGRESSIONAL RECORD, I ask that the school desegregation press release issued recently by HEW's Office for Civil Rights be included as part of my remarks at this point in the RECORD.

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

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, OFFICE OF THE SECRETARY,
Washington, D.C., January 16, 1969.

Preliminary analysis of the 1968 data on school desegregation in the 11 Deep South States shows that 20.3 percent of the 2.5 million Negro students in these districts or a total of 518,607 Negro children are attending schools with white children. (Table 1) This figure compares with 13.9 percent for the 1967–68 school year.

At the same time, the data reveals that in the school districts desegregating under the requirements of Title VI of the Civil Rights Act of 1964, 25.6 percent of the one million Negro children in those districts or 272,281 are attending schools with white children.

The overall desegregation figure, 20.3 percent, includes districts desegregating under court orders as well as those desegregating under voluntary plans.

The voluntary plans under which the districts are desegregating have been developed locally and have been submitted to the Office for Civil Rights of the Department of Health, Education, and Welfare.

The 25.6 percent figure, contained in survey data released today by the Office for Civil Rights, HEW's Title VI compliance agency, compares with the 19 percent or 202,794 Negro children reported in desegregated schools in the same districts during the 1967–68 school year. The districts are in the following States: Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas and Virginia.

All of the school districts in the 11th Deep South State, Alabama, are desegregating under court order.

A comparison of the voluntary plan desegregation progress in the 10 Deep South States for 1966–67, 1967–68 and 1968–69 is shown in Table 2. A desegregated school is defined, as in 1967–68, as one attended by minority group children in which at least 50 percent of the students are white.

TABLE 1.—PUPIL DESEGREGATION IN 11 SOUTHERN STATES, ALL DISTRICTS REPORTING, FALL 1968

State	Number of districts reporting	Enrollment		Desegregation [1]	
		Total	Negro	Number of Negro students	Percent of Negro students
Alabama	89	588,639	204,365	15,039	7.4
Arkansas	173	376,470	94,791	22,048	23.3
Florida	57	1,160,644	282,226	67,961	24.1
Georgia	144	883,287	268,044	38,196	14.2
Louisiana	50	774,140	299,152	26,354	8.8
Mississippi	100	398,725	193,602	13,839	7.1
North Carolina	143	1,120,602	330,449	92,028	27.8
South Carolina	76	486,509	196,203	29,198	14.9
Tennessee	120	843,525	140,287	34,098	24.3
Texas	501	2,264,881	306,648	119,259	38.9
Virginia	115	992,047	236,023	60,587	25.7
Total	[2] 1,568	9,889,469	2,551,790	518,607	20.3

[1] The Office for Civil Rights estimates that the data on which the 1968 preliminary analysis is based accounts for 85 percent of the estimated 11,677,684 public school students in the 11 Southern States.

[2] Includes all districts with total enrollment over 3,000 students and a sampling of districts with less than 3,000 students enrolled.

TABLE 2.—PUPIL DESEGREGATION IN 10 SOUTHERN STATES (3-YEAR COMPARISON), VOLUNTARY PLAN DISTRICTS [1]

State and year	Number of districts reporting	Enrollment		Desegregation [2]	
		Total	Negro	Number of Negro students	Percent of Negro students
Arkansas:					
1966	99	173,130	73,545	6,058	8.2
1967	124	217,378	82,215	13,821	16.8
1968	97	179,755	66,199	14,417	21.8
Florida:					
1966	47	296,344	81,917	11,018	13.5
1967	41	264,273	76,226	14,213	18.6
1968	42	297,726	78,772	25,253	32.1
Georgia:					
1966	114	543,254	149,117	11,081	7.4
1967	125	588,291	141,208	19,128	13.5
1968	115	567,991	146,739	26,975	18.4
Louisiana:					
1966	3	20,482	4,301	454	10.6
1967	3	19,502	3,853	623	16.2
1968	3	20,351	4,168	1,001	24.0
Mississippi:					
1966	34	133,234	52,459	2,200	4.2
1967	35	150,058	59,898	3,768	6.3
1968	40	161,588	65,322	7,842	12.0
North Carolina:					
1966	102	774,225	244,770	31,339	12.8
1967	97	836,452	243,081	40,236	16.6
1968	90	724,322	232,896	63,554	27.3
South Carolina:					
1966	72	467,868	180,922	9,433	5.2
1967	57	349,835	143,975	10,257	7.1
1968	70	459,043	182,987	28,207	15.4
Tennessee:					
1966	40	171,802	23,466	7,699	32.8
1967	43	160,457	30,223	11,550	38.2
1968	31	155,674	25,240	12,051	47.7
Texas:					
1966	334	886,046	166,341	47,936	28.8
1967	323	989,704	177,798	63,008	35.4
1968	177	850,013	142,071	62,374	43.9
Virginia:					
1966	50	371,386	107,311	18,410	17.2
1967	54	431,799	117,148	26,190	22.4
1968	53	370,799	119,676	30,607	25.6
Total:					
1966	895	3,837,771	1,033,693	145,628	14.1
1967	902	4,007,749	1,075,625	202,794	18.9
1968	718	3,787,262	1,064,070	272,281	25.6

[1] The Office for Civil Rights estimates that the data on which the 1968 preliminary analysis is based accounts for 86 percent of the estimated 10,846,023 public school students in the 10 Southern States. (All districts in the State of Alabama are under Federal court order to desegregate.)

[2] For 1966, a desegregated school was defined as one which had 5 percent or more white enrollment. For 1967 and 1968 this definition was changed to schools which had 50 percent or more white enrollment.

Preliminary analysis also showed that:

1. Desegregation progress in Deep South school districts desegregating under court orders was sharply below the voluntary plan desegregation figure. Data from court order districts showed that only 11.5 percent or 149,000 of the Negro students in those districts are attending school with white children. (Table 3.)

2. In those school districts in the 10 Deep South States which have submitted forms certifying they have eliminated their dual systems (Form 441), 51.6 percent of the Negro students are attending schools with white children.

These preliminary figures account for approximately 85 percent of the students attending schools in the 11 Deep South States. The reports were to be completed and returned to HEW by October 15, but school districts which account for approximately 15 percent of the students in these States failed to return reports or returned incomplete information.

The only large system which has not yet reported data is **Dallas, Texas. Dallas is under court order.**

A breakdown of the extent of school desegregation in the 11 Deep South States for all types of school districts (voluntary plan, 441, court order) is shown in Table 4.

TABLE 3.—PUPIL DESEGREGATION IN 11 SOUTHERN STATES (2-YEAR COMPARISON), COURT ORDER DISTRICTS [1]

State and year	Number of districts reporting	Enrollment		Desegregation [2]	
		Total	Negro	Number of Negro students	Percent of Negro students
Alabama:					
1967	113	690,393	232,021	12,528	5.4
1968	89	588,639	204,365	15,039	7.4
Arkansas:					
1967	10	60,055	20,426	3,516	17.2
1968	10	61,503	21,427	3,629	16.9
Florida:					
1967	16	766,494	164,894	30,507	18.5
1968	12	617,412	143,881	31,149	21.6
Georgia:					
1967	4	163,121	83,564	5,730	6.9
1968	10	251,367	114,169	8,966	7.9
Louisiana:					
1967	43	644,041	255,784	16,771	6.6
1968	47	753,789	294,984	25,353	8.6
Mississippi:					
1967	36	131,176	78,998	2,405	3.0
1968	55	226,811	126,002	5,408	4.3
North Carolina:					
1967	14	186,697	59,041	10,496	17.8
1968	18	214,199	71,807	17,286	24.1
South Carolina:					
1967	2	14,549	6,473	401	6.2
1968	6	27,466	13,216	991	7.5
Tennessee:					
1967	25	365,166	124,571	11,365	9.1
1968	19	302,125	100,992	9,495	9.4
Texas:					
1967	13	445,928	124,903	12,163	9.7
1968	11	429,178	116,836	18,975	16.2
Virginia:					
1967	22	240,653	96,681	12,961	13.4
1968	20	215,699	91,381	12,709	13.9
Total:					
1967	300	3,708,273	2,273,127	118,843	9.5
1968	297	3,688,188	1,299,060	149,000	11.5

[1] The Office for Civil Rights estimates that the data on which the 1968 preliminary analysis is based accounts for 85 percent of the estimated 11,677,684 public school students in the 11 Southern States.

[2] For 1966, a desegregated school was defined as one which had 5 percent or more white enrollment. For 1967 and 1968 this definition was changed to schools which had 50 percent or more white enrollment.

TABLE 4.—PUPIL DESEGREGATION IN 11 SOUTHERN STATES, TOTALS BY CATEGORY, FALL 1968

Category	Number of districts reporting	Enrollment		Desegregation [1]	
		Total	Negro	Number of Negro students	Percent Negro students
Voluntary plan	718	3,787,262	1,964,070	272,281	25.6
441's [2]	553	2,414,019	188,660	97,326	51.6
Court orders	297	3,688,188	1,299,060	149,000	11.5
Total	[3] 1,568	9,889,469	2,551,790	518,607	20.3

[1] For purposes of this fall 1968 tabulation, Negro students are considered to be enrolled in a desegregated school only when the white population of that school is at least 50 percent.

[2] Includes all districts with total enrollment over 3,000 students and a sampling of districts with less than 3,000 students enrolled.

[3] The Office of Civil Rights estimates that the date on which the 1968 preliminary analysis is based accounts for 85 percent of the estimated 11,677,684 public school students in the 11 Southern States.

INTERGOVERNMENTAL PERSONNEL ACT OF 1969

Mr. SCOTT. Mr. President, I am pleased to be a cosponsor of S. 11, the Intergovernmental Personnel Act of 1969, which was introduced on January 15 by the distinguished junior Senator from Maine (Mr. MUSKIE).

If we are going to cope successfully with the problems of our cities, the initiative for positive action is going to have to come from the States and the communities themselves. Fortunately, steps are being taken to strengthen the capacity of the States and localities to act. The Intergovernmental Cooperation Act of 1968, which I cosponsored, is now on the statute books. I hope Congress will act this year on my bill, which I shall reintroduce shortly, to encourage the ability of States and local governments to plan comprehensively for the development of their human, physical, and economic resources. None of this legislation will be of value, however, unless the quality of State and local government personnel is upgraded. That is the objective of the Intergovernmental Personnel Act.

In a recent letter to me, Donald C. Stone, the distinguished dean of the Graduate School of Public and International Affairs of the University of Pittsburgh, offered some useful comments on the Intergovernmental Personnel Act. I ask unanimous consent that this letter and an earlier statement on the legislation by Dean Stone be printed at this point in my remarks.

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

UNIVERSITY OF PITTSBURGH, GRADUATE SCHOOL OF PUBLIC AND INTERNATIONAL AFFAIRS,
Pittsburgh, Pa., January 9, 1969.

Senator HUGH SCOTT,
U.S. Senate,
Committee on Commerce,
Washington, D.C.

DEAR SENATOR SCOTT: Thank you for writing about the draft of the Intergovernmental Personnel Act of 1969. I am pleased to have the opportunity to comment on it.

1. In my view, the bill represents a most resourceful and constructive effort to strengthen the recruitment, training, and development of state and local government personnel. The development of greater understanding and competence on the part of federal, state, and local officials who increasingly deal with common tasks entailed in the administration of our domestic programs is one of the most crucial needs to make the federal systems function effectively. The proposed bill would make a substantial contribution to this objective, and I hope you will co-sponsor it with Senator Muskie.

2. While the provisions of the bill have been modified since the hearings were held on its predecessor version, S. 3408, I believe the statement that I submitted at that time is relevant in respect to the new draft. A copy is enclosed.

3. The Intergovernmental Personnel is a fine companion to the education for the Public Service Act passed by the last Congress. The provisions of the two have been well integrated. I hope that you will also help encourage appropriations to implement that Act. No legislation, no matter how meritorious, can accomplish anything if there are no appropriations.

4. In respect to the Intergovernmental Personnel Act, some state and local organizations have feared federal encroachment and the possibility that the U.S. Civil Service Commission might apply limiting procedures on State and local governments. I have no fear of this. The federal civil service system has been modernized and made extremely flexible, reflecting advanced personnel practices in industry as well as government. The paralyzing practices are those currently incorporated in many state and city civil service provisions. Much of this so-called civil service reform legislation was designed to provide detailed procedures for the recruitment and retention of employees, often in a manner that prevented enlistment of the most competent persons. The elimination of incompetence was made difficult or impossible.

5. In any event, Title II of the Intergovernmental Personnel Bill keeps the initiative

and responsibility for state and local policy and practice in the hands of state and local officials, but places a high premium on their formulating a positive plan of action if they hope to secure grant funds. This is the right way to do it.

6. I consider Title III—Training and developing state and local employees, to be very important. An enormous amount of training is needed for such emplyees to develop both adequate understanding of the problems and tasks entailed in serving an urban society as well as to produce skills and technical competences presently required for which no training has been available. In general, the provisions are good. Section 304 doesn't mention the utilization of universities and other educational agencies for training purposes. Section 305 dealing with grants to other organizations does not mention universities, although they would be covered by sub-item (b)–(3) where reference is made to nonprofit organizations. The major universities with a public service orientation need to expand greatly their nondegree in-service training programs as well as academic work, for public service. This will not get done unless federal, state, and local agencies insist on it and make funds available to help cover additional costs.

7. The establishment of government service fellowships under Section 306 is one of the most important provisions of the bill. Cities and most states will not take the initiative to assign employees for graduate professional work like the federal government and business establishments do unless they are given some inducement. The provision for the federal government to reimburse one-fourth of the salary of each fellow is just about the right amount of inducement. Subsection (a)–(3) of 306 provides for a payment to the educational institution in which a fellow enrolls of $3,000 per academic year. This would cover most of the cost of education beyond that provided by tuition if the academic year is defined as the equivalent of two semesters. Under some present federal fellowship programs, universities which provide two semesters or two terms of academic work in a twelve-month period are treated far more favorably than those on an accelerated three or four-term basis in which a year and a half or a year and a quarter of academic work is done in a twelve-month period.

8. Title IV dealing with mobility of federal, state, and local employees provides a most resourceful and imaginative way to maintain fair treatment and to avoid a tendency for a one-way movement of persons from local and state government to the federal level on a permanent basis.

9. The text under Section 506 dealing with the distribution of grants warrants some caution. While the aim should be to stimulate initiative in the improvement of personnel systems and training programs in all states, many states do not have a substantial enough population to support high quality and varied educational and training programs. Cooperation among such states and utilization of institutions in larger states that have adequate programs will need to be relied upon.

10. The amount of funds authorized for the next three years is minimal. When one considers the enormous range of administrative, professional, and technical fields to be covered and compares this with the amount of funds the U.S. government is putting into education and training in such fields as agriculture, science, medicine, public health, and space exploration, the figures seem very modest. The main need, however, is to get started.

I hope these comments are useful to you.

Sincerely yours,

DONALD C. STONE,
Dean.

STATEMENT FOR THE SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

(By Donald C. Stone)

Enactment of legislation along the lines of S. 3408 to improve the quality of personnel responsible for public services at state and local levels is most critically needed. Such a program would contribute in many important ways to the achievement of the society and conditions of life in this country to which our citizens aspire.

In this statement I wish (1) to stress the critical need for measures to upgrade and strengthen present personnel systems, (2) to comment on several aspects of S. 3408, (3) to assess the adequacy of certain related legislation, and (4) to outline categories of public service personnel for which federal educational assistance is long overdue.

I make these comments from the background of the experience of the Graduate School of Public and International Affairs of the University of Pittsburgh, the main functions of which are to provide pre-service education and in-service training for public service personnel at local, state, and national levels, and to conduct research and advisory assistance to improve the quality of public service. Having devoted most of my years to the improvement of municipal, state, and federal administration as an official, consultant, researcher, and teacher, I naturally have a very special interest in the purposes of S. 3408.

URGENCY OF IMPROVING THE QUALITY OF PUBLIC SERVICE PERSONNEL

Action contemplated in S. 3408 has become critical because rapid urbanization under the impetus of technological developments is changing the character of our society and the role of government in relation to it. While we have become a highly urbanized society, our administrative arrangements and personnel practices are mostly designed for a previous era. The character of public services and facilities now required are radically different from those of earlier generations, and changes of equal magnitude can be foreseen in the future.

The administrative structures of local and state government and the capabilities of public services have lagged far behind the challenge of these changes. Part of the problem relates to the outmoded character of local government systems, but even without changing these systems, major advances can be made in the quality of public service administration by modernizing internal management in local and state governments and by administrative measures to link local, state, and federal agencies in effective cooperative endeavors. S. 3408 would facilitate such cooperation and enhance the quality of public service administrative functions as they affect the quality of life in communities, cities, and metropolitan areas throughout the nation.

Many cities, a few counties, and a number of states have made noteworthy progress in applying modern methods of management, resource and program planning, personnel methods, budgeting, and technical practice in their efforts to provide the kind of public services and facilities essential for modern urban life. The federal government has made striking progress in the quality of its administration and personnel since World War II. However, it is interesting to note that the more capable the public official or the governmental organization may be, the greater is the recognition given to its shortcomings and to the dearth of professionally educated personnel for the complex tasks of modern public service.

Having worked on the improvement of local, state, and federal administration for many years, I can testify that an enormous gap exists between the quality of personnel and the effectiveness of public service as now practiced in comparison to what is readily achievable by the application of modern management standards. To the extent that we fail to take measures to close this gap, we are wasteful of hard-to-come-by resources and are compounding problems for future generations. The failure to secure a dollar's worth of service for a dollar of public expenditure because of inept and inefficient performance by personnel is just as much a waste as outright corruption and political patronage. The failure to apply effective systems of classifying, recruiting, training, promoting, and evaluating performance of public service personnel is a major cause of such waste.

The strength of this nation lies largely in its urban industrial might. Our posture abroad, our demonstration of the effectiveness of democracy, as well as our economic and social well-being require that we parallel our genius in scientific, industrial, agricultural, and medical fields with equivalent attention to public management.

Urban local governments have been the stepchildren of our governmental system. State governments were designed to serve a rural society and most of them have been controlled by legislators and administrative organizations whose interests were focused primarily upon rural life and small communities. Until recently, the development of effective structures and administration for local governments has been of little interest to many state and federal legislators.

Finding that local government reform was blocked by disinterest at the state level and by inappropriate and outmoded constitutional and legislative provisions, I early became the advocate of home rule for municipalities. While the citizens of cities and counties do need to have authority to develop local government organization and administration under a broad authorization of state legislation, the early idea of home rule is not applicable to modern society. In urbanized society the primary role of a state government and of the federal government is to foster policies, programs, arrangements, and conditions which create a dynamic, effective, livable society. Thus the federal, state, and local governments all share in the same objective. There must be partnership all along the line.

S. 3408 represents application of the partnership principle at the most crucial point, namely cooperation and mutual support among the federal, state, and local governments in improving the quality of personnel to carry out functions in which all three kinds of government share a concern and responsibility. I hope that the Subcommittee on Intergovernmental Relations will unanimously recommend S. 3408 and that the Congress will enact it. Its principles of cooperation and mutual assistance will be contagious for many other areas where there must also be close partnership between local, state, and federal administration. Only with this kind of partnership can our federal system be adequate to cope with the almost overwhelmingly complex and critical changes that are taking place in our urbanizing society.

S. 3408 WELL DRAFTED

I have examined in detail the provisions of S. 3408. It is extremely well drafted. While refinements could be made, the essential features of the Bill in my view are well designed. Cooperative and constructive relationships between the federal, state, and local governments are conceived in a flexible and effective manner. The principle of federal assistance for improving administrative practice and initiating programs of personnel modernization incorporated in the Bill is compelling.

The Bill appears to have drawn well on the lessons we have learned in the conduct of grant-in-aid programs. It recognizes that

apathy, ignorance, as well as inadequate financial resources at state and local levels can be surmounted only with the inducement of financial assistance. Since a viable urban society is a national concern, it is essential that the Congress and federal agencies take initiative in encouraging and assisting state and local governments in fulfilling their sectors of national responsibilities.

In many states progressive cities are better managed and have higher quality personnel than their state governments. The state governments are modernizing, but in some cases it may be a long time before the states will have either much interest in or competence to foster management improvement in their municipalities. Under a dynamic federalism, our national government must of necessity be concerned with the quality of local government administration as well as with that of the states. It must not let national obectives and responsibilities be destroyed by inept state administrations when progressive municipalities in such states wish to keep in step with the nation. Thus the provisions in S. 3408 which authorize local governments to submit plans directly to the federal government when the states do not act are highly desirable. Indeed they are crucial.

ADEQUACY OF RELATED LEGISLATION

As emphasized by the statement of Senator Muskie in introducing S. 3408, the bill is primarily concerned with training within the service after appointment, not with education for public service prior to appointment. His statement mentions the hope that "Title I of the Higher Education Act of 1965 will resolve some of the problems in this area," and also makes reference to the potential of Title VIII of the Housing Act of 1964.

Title I of the Higher Education Act is little more than a blind stab to do something about communities. Most states are not organized in a manner that enables provisions of the Act to be effectively implemented. Departments of education which in many states have been assigned the administration of the Act are not competent to deal with overall community and municipal problems. Their staffs know very little about city, county, and state administration, about present programs, or the potential of universities in providing public service education. A review of what is happening under Title I of the Higher Education Act is discouraging. Moreover, the fellowship provisions of the Act are not focused on critical urban professional fields. Whenever legislation is put in the hands of persons who are ignorant or disinterested, the purposes of the legislative body are inevitably thwarted.

Title VIII of the Housing Act of 1964 could be very beneficial to the purposes of S. 3408, but it has not been implemented because of the denial of appropriations. While conceived in too limited a framework, this Title has considerable possibilities. Moreover, it is the responsibility of a federal department which is concerned with the broad development of urban communities.

Recognizing that as much progress as possible should be made under both the Higher Education Act and the Housing Act, new legislation is essential to focus upon the many gaps in the range of categories of personnel of crucial urgency to local, state, and federal agencies in serving an urban society. President Johnson's Princeton speech emphasizes the character of the problem, and many of us in public service education are heartened that studies are under way to cope with it. Since the problem involves intergovernmental relations, I trust that the Subcommittee on Intergovernmental Relations will give sustained attention to it.

CRITICAL CATEGORIES OF PERSONNEL

A major deficiency in the Higher Education Act, in the Housing Act, and in most other federal approaches to this problem of developing qualified personnel for public service in an urban society is the failure to take into account the variety of categories of personnel and the kind of professional education needed, both pre-service and in-service. To illustrate how federal, state, county, municipal, and private agencies all are involved in providing the functions and facilities of an urban area, I have prepared the attached chart on "The Community Organization Complex." Two-thirds of our national population now live in such community complexes. The upper portion of the chart illustrates the interplay of official and voluntary agency leadership as well as the diversity of government and voluntary organizations immediately responsible for urban affairs. The central city structure is duplicated to a considerable extent in the satellite communities and in the county or counties of the region. State and federal agencies not only provide significant services to the same areas, but increasingly are involved as partners in a variety of financial and administrative arrangements.

The functions depicted in the boxes on the chart comprise those which are especially crucial to achieving the attributes of the Great Society in urban complexes. Most of them require cooperation among federal, state and local administrations.

Only fragmentary university education has been developed to prepare qualified personnel to administer most of the principal functions shown on this chart. For some fields no significant graduate educational programs exist. The cultural lag in modernizing university education to fulfill the needs of urban public service is enormous.

During the past few years the Graduate School of Public and International Affairs has made three surveys of this problem. The most recent resulted in the preparation of a handbook on "Career and Educational Opportunities in the Urban Professions." Under separate cover I am sending a sufficient number of copies of this handbook to be provided to the members of the Subcommittee on Intergovernmental Relations. The purpose of the handbook is to interpret to college and university instructors, placement officers, students, and other appropriate persons the challenging career opportunities in 19 major fields of public service. University programs to prepare personnel for each field are listed as are fellowship resources.

The most important fact revealed by the handbook is the fragmentary character of educational programs for most of the 19 urban fields. These fields are as follows:

Urban public administration.
Administrative staff officers.
City and regional planning.
Urban renewal and community development.
Housing administration.
Community action and opportunity development.
Industrial-economic development.
Public Works engineering and administration.
Urban traffic and transportation: engineering, planning, and administration.
Administration of law, safety, and justice.
Social service and welfare administration.
Employment-social security, administration.
Community recreation and park administration.
Public health administration.
Hospital administration.
Education planning and administration.
Public library service.
Culture and the arts.
Research and teaching in urban affairs.

Professional education for a few of these 19 fields has been nationally fostered and accorded some financial support, notably public health, social welfare, and education administration. However, most have been overlooked or ignored by government and by educational philanthropy. No federal legislation recognizes the scope and diversity of these professional fields and the need for fostering university programs, for providing fellowships, and for establishing in-service training to supply the manpower requirements.

The enactment and implementation of S. 3408 would result in immediate upgrading of federal, state, and local personnel already engaged in many of these 19 fields. Since the majority of employees in most fields have not had professional education initially, the deficit of properly trained personnel is enormous. Thus the long-term objectives of S. 3408 cannot be fulfilled without a vast expansion in pre-service education to enable channeling a new generation of young men and women into these fields of service to fill vacancies. Moreover, there will not be suitable professional schools to carry out in-service training needs under S. 3408 unless the federal government provides financial assistance to assure the establishment of such schools for both pre-service and in-service education. Continuing education for physicians would not amount to much if there were no medical schools. Similarly, efforts to provide mid-career course work in such fields as urban administration, public works, or industrial-economic development will be ineffective unless professional schools are created with qualified instructors, research programs to prepare teaching materials and supporting assistance for university resources.

Many universities are ready to establish new programs or expand present ones to meet this national need, but they lack funds. Universities respond to the demands of society as reflected by financial inducements, public and private. The federal government has appreciated this in the fields of science, agriculture, and health. The stakes in filling this educational (and research) vacuum in public service professions are no less crucial. They consist of achieving in the United States a tolerable urban-industrial society for 150 to 200 million urban dwellers during this century.

I do not know how many university centers of education are needed for these various functions. In the field of public works in which my School is about to launch a graduate program jointly with the School of Engineering and the Graduate School of Public Health, we believe a minimum of 25 comprehensive university programs will be needed, and that civil engineering departments generally should give more attention to urban applications and to public administration.

We have found at the University of Pittsburgh that many mutual benefits and economies derive from engaging in a number of related professional fields. For example, the new public works curriculum will be greatly strengthened by the companion programs of the Graduate School of Public and International Affairs in Public Administration, Urban and Regional Planning, Urban Development and Renewal, Urban Management, Metropolitan Studies, and Economic and Social Development. These in turn are advantaged by the availability of expert staff and courses in the Schools of Public Health, Business, Social Work, Education, Law, and Engineering, and such departments as Economics, Political Science, Geography, and Sociology.

Thus the aim of the federal government should be to foster a network of universities which are committed to education, research, and services in most of the 19 fields listed above. Only comprehensive universities which feature graduate and professional education are capable of doing this.

The simplest way the federal government can foster professional education in deficient fields is to provide fellowships to enable qualified persons to secure the requisite education, and also to allocate to the university attended a supplement to help

finance its educational costs. This supplement should be at least $1000 for an academic term or semester of study. The availability of such supplements will encourage universities to expand or initiate new programs, and to secure additional resources. Such a system also avoids involving the government in making grants-in-aid for operation. This is the principle used by NDEA, Merit, and numerous other fellowship programs, although in many cases the supplement is insufficient.

Two additional elements are important in cooperative endeavors to upgrade public service personnel and to modernize structures and methods of administration: (1) professional associations of public officials and (2) foundations.

Much has already been achieved in federal-state-local coordination through functional associations which enlist officials of all levels. Examples of these are the American Public Works Association, the American Public Welfare Association, the Public Personnel Association, the American Society of Planning Officials, the National Association of Housing and Redevelopment Officials, and many others. They need to foster programs of professional education as well as assist in carrying out the provisions of S. 3408.

Foundations are essential initiators of new programs and demonstrations. By cooperating with universities and professional associations, they can help create prestigious professional education programs which will point the way for other universities and pave the road for federal support.

CONCLUSION

The enactment of S. 3408 is thus strongly advocated. It will help greatly to strengthen our Federal system of government. It will foster public administration at the municipal and county levels capable of discharging the leadership and operational responsibilities required for local self-government and for achieving effective partnership with State and Federal governments.

But the implementation of S. 3408 will be seriously handicapped without the establishment by universities of programs or schools of professional education in the major public service fields. Otherwise there will not be qualified places in which to conduct the more advanced and difficult training contemplated under S. 3408, nor will the necessary network of professional schools be created to recruit and prepare the best of the Nation's youth for Federal, State, and local government service.

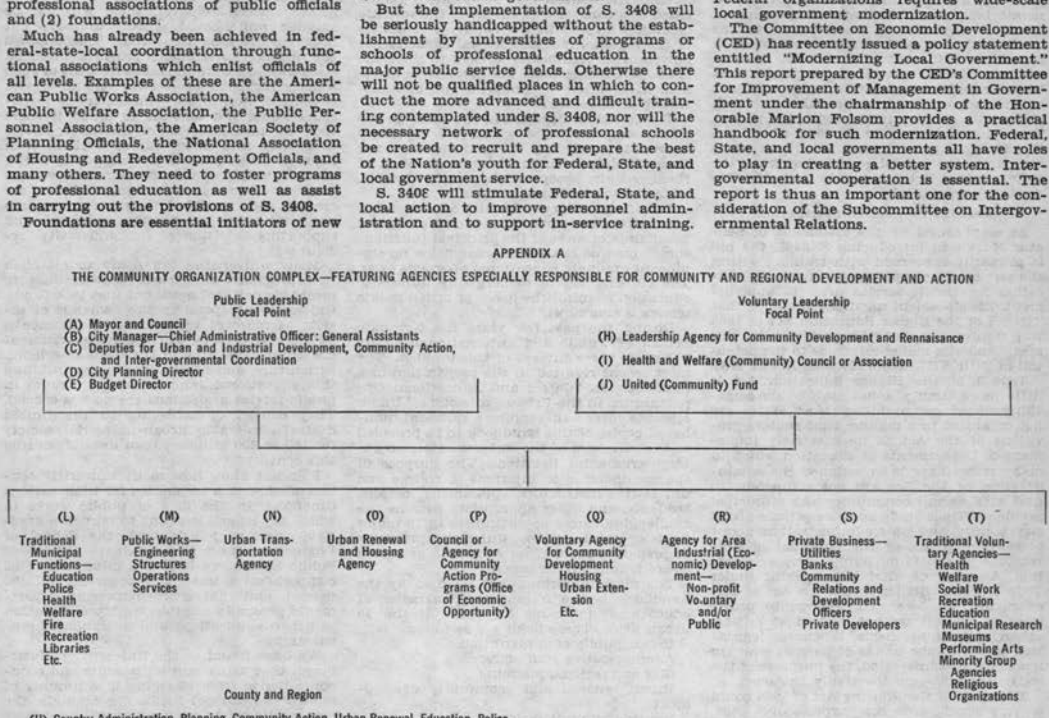
S. 3408 will stimulate Federal, State, and local action to improve personnel administration and to support in-service training. Additional legislation is needed to enable universities to provide the educational and research underpinning on which high standards of personnel and performance in the public service professions must ultimately rest.

Finally, major revisions in the organization and administrative systems of local government are essential. The present apparatus was designed for a rural—and, from a technological standpoint, a primitive—society. A glance at the attached Community Organization Complex Chart makes it abundantly clear that the achievement of efficient urban administration and of effective partnership among local, State, and Federal organizations requires wide-scale local government modernization.

The Committee on Economic Development (CED) has recently issued a policy statement entitled "Modernizing Local Government." This report prepared by the CED's Committee for Improvement of Management in Government under the chairmanship of the Honorable Marion Folsom provides a practical handbook for such modernization. Federal, State, and local governments all have roles to play in creating a better system. Intergovernmental cooperation is essential. The report is thus an important one for the consideration of the Subcommittee on Intergovernmental Relations.

APPENDIX A

THE COMMUNITY ORGANIZATION COMPLEX—FEATURING AGENCIES ESPECIALLY RESPONSIBLE FOR COMMUNITY AND REGIONAL DEVELOPMENT AND ACTION



Source: Graduate School of Public and International Affairs, University of Pittsburgh.

DIRECT ELECTION OF PRESIDENT AND VICE PRESIDENT

Mr. RIBICOFF. Mr. President, I have joined my distinguished colleague from Indiana, Senator BAYH, in sponsoring a joint resolution to amend the Constitution by providing for the direct popular election of the President and Vice President.

The events of 1968 have shown us the dangers and pitfalls of the present electoral system. Now, with almost 4 years before the next presidential election, and without the attendant pressures of an election year, we must act to correct the weaknesses and inequities in the system.

The most overriding weakness is the continued existence of the electoral college. This institution is an anachronism that reflects a basic mistrust in the ability of the American voter to decide who should be President. Its very existence violates the spirit of our democracy.

The American voter needs no assistance in selecting a President. He needs no agent to cast his ballot. Throughout our Nation our citizens vote directly for selectmen, county officials, Congressmen, Senators, and Governors. It is ironic and demeaning to our society that the American voter cannot cast his ballot directly for the two highest offices in the land.

The recent memory of a duly chosen elector who disregarded clear public mandate to cast his vote for someone other than the choice of his State is a blot on our election system. We can no longer condone this loophole in our democracy.

Numerous suggestions have been put forward to revise the present system. But the only meaningful change is an amendment to abolish the concept of electoral votes completely. The only votes that should count in our Nation's most important election are those cast directly by the individual voter.

An amendment providing for direct

popular election will avoid the possibility of a President being elected on the basis of fewer votes than his opponent. Our Nation can no longer tolerate the inconsistency in our system that allows a candidate to win over an opponent who has more votes.

Recent analyses have proven that the electoral college system discriminates against the voters of some States. Because most States count all of its electoral votes in the column of the candidate with a plurality, the voters in States with large electoral blocs have more power to decisively affect the outcome of a national election.

This simply is not fair. We in Congress have made great strides in enlarging the franchise and protecting the right to vote. We ought to take a further step and insure that this power of the ballot is an equal power. By amending the Constitution in favor of direct popular election of the President we can give life to this belief in fairness.

HICKENLOOPER SAYS FAREWELL—ARTICLE BY CLARK MOLLENHOFF

Mr. MILLER. Mr. President, on January 3, my senior colleague from Iowa, Bourke B. Hickenlooper, voluntarily bowed out of a distinguished career of public service—24 years in the Senate, 2 years as Governor of Iowa, 4 years as Lieutenant Governor, and 4 years as a State representative.

In these 34 years, Senator Hickenlooper gave his State and the Nation dedicated, principled, hard-working service. "Service Above Self" was his motto, and it was only natural that personal integrity was his reputation.

A firm believer in the constitutional institutions and safeguards of our Government, he sought progress for our people on a sound and lasting basis. He believed strongly in the preservation of States rights consistent with the exercise by the States of their responsibilities, and he felt keenly about the excessive concentration of power in Washington to the detriment of the viability of the States.

His Senate career spanned the administration of five Presidents, and he was often called upon by these leaders of our country for his wise and well-informed counsel. He well understood that compromise is the art of the legislative process, but fundamental principles of good government were not within his area of compromise.

As ranking Republican on the Senate Foreign Relations Committee, he constantly devoted his energies to the search for a just and lasting peace within the family of nations. At the same time, this was carefully balanced by his recognition that the security of our country must never be compromised. He was not one to take the hard line of belligerence, but, rather, the firm line of straightforward commonsense.

On January 2, the distinguished Washington reporter for the Des Moines Register, Clark Mollenhoff, wrote a fitting summation of the public life of the man known far and wide as "Hickenlooper of Iowa." I ask unanimous consent that the article, entitled "Hickenlooper Says 'Farewell,'" be placed in the RECORD.

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

HICKENLOOPER SAYS FAREWELL: ONLY ONE IOWAN HAS SERVED LONGER IN THE U.S. SENATE

(By Clark Mollenhoff)

WASHINGTON, D.C.—The cavernous gray office safe is empty and the walls of the fifth floor office are stripped bare of the mementos of 24 years Bourke B. Hickenlooper served in the United States Senate.

Today the 72-year-old Iowa player will bow out of the Senate after nearly a quarter of a century in which "Hickenlooper of Iowa" was recognized in Washington and throughout the world.

He is a little heavier and somewhat slower moving than he was 15 or 20 years ago, but there is remarkably little change in the face or the demeanor of the man who has served longer than any other political figure in the last half-century. Only former Senator William B. Allison, a Republican who served from 1873 to 1908, served longer than Hickenlooper.

STARTED IN 1934

When he relinquishes his seat today to Senator-elect Harold Hughes, a Democrat, Hickenlooper will end a public career that started when he was elected to the Iowa House in 1934.

Although Hickenlooper, the third ranking Republican in the Senate, made a decision not to seek re-election because of a possible tough Republican primary fight, he has found it easy to reconcile himself to the philosophy that it was wise to retire.

His time in office spanned the administrations of five presidents—from Franklin D. Roosevelt through Lyndon B. Johnosn—and he was intimately acquainted with Iowa-born President Herbert Clark Hoover and President-elect Richard M. Nixon.

Although the late Senator Brian McMahon (Dem., Conn.) has the technical title of the first chairman of the Joint Congressional Committee on Atomic Energy, McMahon never actually served as chairman in late 1946, and it was Hickenlooper who headed that important congressional body in January, 1947, as the first active chairman in the dawn of the nuclear age. He has continued as a senior member of that committee in the 22 years it has been in existence.

It has been a period of controversy, with triumps and a few stinging defeats. He was allied with Gen. Leslie R. Groves, head of the Manhattan Project, in pushing for further nuclear developments in the period immediately following the explosion of the first atomic bombs.

Later, Hickenlooper was allied with other congressional leaders in forcing the Navy to promote Hyman Rickover from captain to rear admiral and from rear admiral to vice-admiral.

NUCLEAR POWER

Rickover, a tough, bright and outspoken advocate of nuclear power for submarines and surface vessels, periodically found himself in bitter battles with the "battleship admirals" and political civilians at the Pentagon.

Rickover has periodically paid tribute to Senator Hickenlooper as a leader in Congress in forcing the executive branch to move forward with the nuclear submarine program and later the nuclear surface ship program.

While Hickenlooper's role in the development of nuclear power was of historic significance, his role in the foreign affairs field was even more important in recent years.

The boy who was born and reared in the little town of Blockton, Ia., toured more than 65 countries and talked with presidents, prime ministers, and kings in his role as ranking Republicans on the Senate Foreign Relations Committee.

If Blockton had been any more than five miles from the Missouri border, it is doubtful if Bourke Hickenlooper could have claimed to have been out of Iowa until he was 20 years of age.

He was 20 when he made his first long trip to Richmond, Va., where he attended a national convention of his University of Iowa college fraternity, Sigma Phi Epsilon.

On the same trip he made his first visit to Washington, and the son of a small town hardware merchant kept traveling. After receiving his bachelor of science degree he joined the Army as a second lieutenant, and in 1917 went to France with a field artillery unit.

PRACTICED LAW

After graduating from law school in 1922, Bourke practiced law in Cedar Rapids until 1934 when he was elected to the Iowa House. Two two-year terms in the Iowa House were followed by two terms as lieutenant-governor, and one term as governor before he was elected to the Senate in 1944.

Although he is regarded as a conservative Republican, Hickenlooper pushed the first aid to dependent children program through Iowa at a time when the Hawkeye state was one of only two states without ADC programs.

In the Senate, Hickenlooper has regarded himself as "for social programs that can be properly administered and do not create dependency."

In recent years he has been distressed by "the lack of standards and the lack of safeguards" in the laws providing for foreign aid and for a broad range of poverty programs.

He said he has "never been opposed to social programs that will actually help people get on their feet."

"I do oppose these open-ended giveaway programs that have no standards and are an invitation to mismanagement and corruption," Hickenlooper said "It is bad government."

AGAINST FRAUD

It is on the same basis that Senator Hickenlooper said he has periodically questioned the amount of foreign aid or the laws under which foreign aid was being administered. While he usually ended up voting in favor of foreign aid, his objections were "based on the need for better management and more safeguards against frauds."

In his period of time in the Senate, he has most resented "the oversimplification" by various groups in analyzing votes in Congress. "Votes against poverty programs or other social programs are too often pictured as votes against poor people when in fact those votes are an attempt to get some common sense into a program so poor people will be benefitted," Hickenlooper explained.

In the same manner, Hickenlooper said votes against foreign aid are too often characterized as "a return to isolationism and a retreat from world responsibility, when in fact it is simply an effort to get better management into these programs."

In Senator Hickenlooper's first years in the Senate, the great bipartisan figure was the late Senator Arthur Vandenberg, a Michigan Republican, who was an important figure in getting Republican support for President Truman's first foreign aid program, the Marshall Plan.

In more recent years, Hickenlooper has been regarded as "Kennedy's Vandenberg" and later as "Johnson's Vandenberg."

Because of opposition of the Vietnam War by Foreign Relations Committee Chairman J. William Fulbright (Dem., Ark.), Hickenlooper was often the strongest supporter that either Kennedy or Johnson had on the committee.

NO PATSY

It was a title that Senator Hickenlooper wore uneasily, for he was wary of being the Republican patsy for a Democratic administration. He managed to handle it with just enough wariness that he was usually able to

give the Democratic administration support against the most vociferous doves without relinquishing his right to criticize.

Hickenlooper's periodic rose garden walks with President Kennedy were an important part of American foreign policy in the 1961–63 period. The personal relationship was excellent and Hickenlooper "trusted his (Kennedy's) motivations and liked him as a person."

"I had some serious reservations about his maturity and his judgment from time to time, but I never doubted his good intentions," Hickenlooper said.

President Johnson has been another case. While Hickenlooper has given general support to the stated aims of the administration in Vietnam, he has been constantly wary of fast political dealings.

Even as he criticized the "unrealistic doves" of the Senate, Senator Hickenlooper has usually voiced his own sharp differences with the Johnson administration on the manner in which the war was being fought.

BOMB PAUSE

One of the most disappointing aspects of the Johnson administration's performance was in the period immediately prior to the election, Hickenlooper related last week.

Hickenlooper said that while there were numerous rumors of a possible bombing pause just before the election, he received a call from an unnamed high figure in the Johnson administration assuring him there would be no bombing pause.

Hickenlooper said he had some reservations about the assurances at the time, but since there was no way to effectively challenge such a private assurance merely accepted it with "thanks."

"The announcement of the bombing pause a few days later did not surprise me, but it certainly did disappoint me to find such misrepresentations being made by high level spokesmen on such an important matter," Hickenlooper said.

Hickenlooper said, "There is no point in identifying the man at this time." At the proper time, he expects to try to make available more details of the unwritten story of his years in Washington.

Dozens of cartons of Hickenlooper's papers have been sent to the Herbert Hoover Library at West Branch, Ia., where they will be available for examination by students and authors interested in the early years of the Atomic Energy program and the tumultuous story of foreign affairs in the period since World War II.

Senator Hickenlooper finished the last bit of discarding of papers from his desk late Tuesday, and tossed aside two copies of a small brown covered history of "Mormontown"—the early name of Blockton.

NO MENTION

The little history was printed in 1961 at the time of the centennial for the little Taylor County village. It contained no note on the boy from Blockton who served as Iowa's governor and U.S. senator.

There was only one small picture of a teenage boy and a huge black setter dog captioned simply, "Bourke B. Hickenlooper and his dog."

Hickenlooper is saving the two small centennial pamphlets for his two children, not because they tell any great story about their father but to demonstrate "it takes quite a bit to impress some of the folks down there in Blockton."

Senator Hickenlooper who will have a pension of more than $20,000 a year has had a number of offers to join law firms in Iowa and Washington, but has made no decision on the future. Mrs. Verna Hickenlooper has a serious heart condition that in recent weeks has confined her to her bedroom.

Hickenlooper said he will delay any decision on whether to remain in Washington or return to Iowa until after Mrs. Hickenlooper's health has improved.

LET THERE BE NO MORE "PUEBLOS"

Mr. YOUNG of Ohio. Mr. President, it is of utmost importance that President Nixon, as Commander in Chief of the Armed Forces of the United States, direct a complete separation of the operation of our spy or intelligence collecting ships from the U.S. Navy, even to the extent of honorably discharging enlisted men, and encouraging some officers to resign from the Navy.

The *Pueblo* operation was a disgrace from the outset to the moment that Commander Bucher without offering even a show of resistance suffered the North Korean boarding party from a small North Korean naval vessel to back against our armed naval vessel and board and capture it without any resistance whatever. During 2 hours of harassment preceding that, Commander Bucher never even had the covers removed from the ship's .50-caliber guns, nor did he proceed out to sea away from about 13 miles off the coast of North Korea at full speed.

The first lesson that officials of the executive branch of our Government must take to heart from this is that we must without delay completely separate the operations of all our intelligence collecting factories, such as the sister ships to the *Pueblo* and others, from the U.S. Navy. The Soviet Union has at this time more than 100 spy or intelligence collecting vessels. They are in evidence at practically all times off the coast of the United States and wherever and whenever on the seven seas U.S. warships are maneuvering, engaging in target practice or mock combat maneuvers. The spy ships of the Soviet Union are disguised as fishing trawlers. Many, probably most of them, have no fish nets whatever nor other strictly fishing equipment. All of them are equipped with radar and highly sensitive detection devices for underwater surveillance as well as listening-in devices. They are everywhere in evidence.

At the time of the *Pueblo's* capture, Soviet trawlers were operating beyond our 3-mile limit off Norfolk, Charleston, Guantanamo Naval Base, Cuba, and various ocean areas off our Pacific coast from San Diego to the Alaskan waters. If the commanding officers of these Russian trawlers, so-called, are in fact officers of the Navy of the Soviet Union that is entirely unofficial and secret. We must follow the example of the Soviet Union. Our 10 or more intelligence collecting, or spy, ships must be commanded and staffed with officers and crew being civilians and paid by the Central Intelligence Agency as civilians. True, the commanders and executive officers and most of the seamen would undoubtedly be men whose past records as officers and enlisted men of our Navy have been excellent, during their period of former service in our Navy.

Director Helms of the CIA, replete with a sad record of blunders such as the U2 affair and the poorly planned Bay of Pigs operation, must bear the responsibility for the disgraceful *Pueblo* disaster. It is evident that this was an unnecessary and an ill-timed operation from the outset. He and the admirals of our Navy are to be condemned for this risky intelligence collecting operation just outside the 12-mile limit back and forth along the coast of North Korea at a time when we were so heavily involved in a major war in Vietnam and Thailand. It is evident not only that it was ill timed but poorly planned.

As a Member of the Armed Services Committee of the Senate, I am asking for a complete investigation of this entire affair from its inception to the disgraceful moment that a commanding officer of an armed U.S. naval warship suffered his ship to be boarded and captured without firing a shot, without making even a show of resistance and without even removing the covers from the .50-caliber guns on the forward deck of the *Pueblo* and in plain view of the officers and men of the small boats of the North Korean Navy surrounding the *Pueblo* and threatening its officers and men.

There must be an investigation of this sordid affair. There are so many unanswered questions. Why, for example, should an American ship engaged solely on a CIA operation be commanded by a U.S. Naval Reserve commander then on active duty? Spying is and always has been an operation conducted by either civilians or by men who are ostensibly acting as civilians and have been separated from duties as army or naval officers. Furthermore, we have a duty to ascertain from the admirals of the U.S. Navy the reason for their failure in misinforming the Armed Services Committee of the Senate as to the facts surrounding the mission and the capture of the *Pueblo*.

Last year at 2:30 p.m. on Tuesday afternoons we on the Armed Services Committee of the Senate listened sometimes for as long as nearly 2 hours to highly secret intelligence briefings, usually made by officers of our armed services. Following the capture of the *Pueblo*, in one of these highly secret briefings I recall the officer telling the fact, or at least he alleged his statements to be facts, that only one of the 83 officers and men aboard the *Pueblo* was killed. He stated that in destroying highly secret and classified material and instruments an explosion blew off the leg of this one crewmember. He later died.

Now Commander Bucher testifies that small arms fire from the North Koreans mortally wounded this crewmember. We must have the facts. Otherwise, what reliance can we place on such briefings? My conclusion is that this briefing regarding the *Pueblo* involved a waste of our time. It was inaccurate in my judgment on many counts. Even the chart displayed on the screen referred to the U.S. warship *"Pubelo"*.

Now, many citizens write that Commander Bucher should be awarded a medal. A medal for what? Let us think of John Paul Jones, Decatur, Preble, and Capt. James Lawrence, of the 44-gun American frigate *Chesapeake*, mortally wounded when his frigate was boarded by officers and men of the English 44-gun frigate *Shannon* outside of Boston oceanfront in 1813 at a time when he was valiantly seeking to repel the British boarding party. The last words of Captain Lawrence as he was carried be-

low deck mortally wounded were, "Don't give up the ship."

During the War Between the States and down through World War II, no warship of our Navy was ever captured or sunk or scuttled without a fight. Furthermore, of thousands of Americans imprisoned and on numerous occasions tortured by the Japanese in World War II, following the death march from Bataan, and elsewhere, no one, but no one, ever knew of an officer of our Armed Forces or of an American civilian taken captive signing a confession or statement denouncing his country.

North Korea has a nonaggression treaty with the Soviet Union. According to the provisions of this treaty the Soviet Union is obligated to send its armed forces to the aid of North Korea in event another nation attacks that country. This nonaggression treaty is similar to that our Nation has with West Germany. The fact that North Korea indulged in more than twice as many intrusions into the demilitarized zone in 1967 than during the previous year was an insufficient reason for CIA officials to undertake this risky surveillance operation by the *Pueblo* along the North Korean coast for more than 10 days and nights at a time our Nation was heavily involved with more than half a million of our Armed Forces in and off the shores of Vietnam and Thailand. In drifting with the engines off the CIA technicians on board the *Pueblo* could no doubt better intercept the messages and radio communications, and the closer the *Pueblo* was to the shore the more information could more easily be obtained. In this period of our radio silence it was assumed and hoped at the Pentagon and at the CIA offices that orders not to intrude further than 13 miles off shore had been followed. North Korean authorities claimed the *Pueblo* had intruded into their territorial waters and on some occasions was but 5 or 6 miles from the nearest North Korean island.

It is certain that both the United States and the Soviet Union will continue to employ spy ships. In view of the *Pueblo* blunder, our Nation must devise a new policy for handling any future incidents like that of the *Pueblo*. Spying is a risky business. The risks ought to be well considered in advance.

There must be no more *Pueblo* incidents. The Congress and President Nixon should give priority to straightening out and reforming our Central Intelligence Agency and its spying operations. Commencing with President Eisenhower there has been a pattern of CIA blunders, humiliating to our Presidents and to the American people. Will President Nixon be the next to be afflicted by some horrendous CIA blunder? Let there be no more *Pueblos*.

CONFLICT-OF-INTEREST RULES SHOULD BE REVIEWED

Mr. MATHIAS. Mr. President, the current transfer of power from one administration and one group of Cabinet officers to another has reopened discussion of the complicated question of conflicts of interest. Several cases have spurred us to reassess the current ways of insuring that the private interests of a high government official will not have an improper influence on his decisions in matters of public policy.

In the case of men entering Cabinet posts, stringent rules have been applied, as a condition of confirmation, to preclude potential conflicts of interest. These nominees have opened their personal accounts to close public and congressional scrutiny, and have been required either to divest themselves of certain holdings, or to place their funds in blind trusts for the duration of their public service.

In the case of men leaving the Government for private posts, we are now confronted with the difficult case of the Department of Transportation's approval of a $25.2 million mass transit grant to the Illinois Central Railroad shortly before the former Secretary of Transportation left that office to become president of the Illinois Central. In this instance, Secretary Boyd did refuse to become involved in that application, precisely to avoid any conflict-of-interest possibilities. But his action, while well motivated, left only the unsatisfactory alternative that he effectively abdicated his departmental responsibility to review the largest single mass transit grant made to date by DOT. Secretary Volpe has properly initiated a full review of this case.

These events have emphasized the size of the challenge we face in trying to make more sense out of a tangled and often grey area of policy. Our task is made more difficult by the human factors involved, such as the fact that Cabinet officers and other high officials have to earn a living and feed their families after they end their Government service, and must become job seekers as their terms expire.

In my judgment, we should review the current laws, enacted in 1962, governing the business activities of former public officials and those who, while still in office, are considering private offers. For example, we should consider legislation to require that any relevant employment offer made to an official with jurisdiction over any case, application or contract award should be made part of the public record of that matter.

This would be similar to proposals long pending to include in the public record of every case before an administrative agency a full report on all written and oral communications about the case from Members of Congress and all other outside parties.

Other amendments might be in order as well.

Second, we should develop more clear and consistent standards for incoming officials. This month various committees have required one step for one nominee and a different course for another, depending on the size of the holdings involved and the degree of concentration of one's capital in a given industry. More consistent rules would be helpful both to this body and to all individual citizens who will have to measure the financial impact of possible Government service in the future.

Finally, the current cases raise questions reaching beyond the executive branch. As Joseph R. L. Sterne pointed out in an excellent article in this morning's Baltimore Sun, we are operating under a double standard, since there is no requirement for public disclosure of outside income and holdings by Senators, much less any rule requiring us to divest ourselves of any holdings which might raise conflict-of-interest questions.

I have discussed in the past the importance of removing this double standard, and of giving the public the facts on which to weigh any potential or apparent conflict of interest on the part of Members of Congress as well as executive officers of the Government. Last year Mrs. Mathias and I made full public disclosure of our own assets and the sources and amounts of our outside income during my entire period of service in the other body. I intend to bring this public report up to date this year, and will also press for legislation to strengthen the Senate rules by requiring public disclosure by all Senators.

Mr. President, this is a field in which there are no easy answers, and only hard thought can produce sound policies. I hope that the appropriate committees will take up these problems without delay.

I ask unanimous consent to include in the RECORD at this point the article from today's Baltimore Sun which I referred to above.

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

SENATE DOUBLE STANDARD REVEALS ITSELF ONCE AGAIN

(By Joseph R. L. Sterne)

WASHINGTON, January 26.—The Senate's double standard was showing once again during the ritual leading to last week's confirmation of the Nixon Cabinet and the new deputy defense secretary.

Executive branch officials, one after the other, paraded before Senate committees to discuss how they planned to divest themselves to certain holdings or to establish trusts in order to avoid conflict of interest.

NO SUCH REQUIREMENTS

Sitting in judgment were lawmakers who have imposed no such requirements on themselves.

The new Senate ethics code will require senators to file public statements listing campaign contributions they have received for the first time this year. By May 15, they will also have to file with the comptroller general—but not for public scrutiny—copies of their income tax returns and lists of their assets and liabilities.

But there was never any serious move during last March's debate on the new ethics code to require the divestiture of holdings that might arouse conflict-of-interest questions.

MOST IMPORTANT REASON

And given the present mood of the Senate, no such move is in prospect.

Perhaps the most important reason for this state of affairs is the sincerely held belief in some Senate circles that a double standard is justified.

A senator has to answer for his conduct in primary and general elections, it is argued, while members of the executive branch face no such cleansing process.

Legislators, with rare exceptions, are confined to the establishment of broad, general policy, while administrators have a direct control over the awarding of contracts.

And there is a theory that the whole legislative process quite rightly involves an interplay of conflict among geographical areas and

economic groups from which a lawmaker cannot and should not stand apart.

KERR AND WILLIAMS

The late Senator Robert S. Kerr (D., Okla.), one of the most powerful Senate operators in modern times, felt no compunction about voting for oil-depletion allowances despite his own large oil holdings. He figured the people in his oil-rich state wanted the depletion allowance and believed his holdings would make him fight zealously for them.

The opposite of the coin is represented in Senator John J. Williams (R., Del.), a self-appointed watchdog of ethics in government, who will not accept any federal agriculture benefits for his farm even though he does not object to his colleagues obtaining subsidies on the same basis as the ordinary citizen.

Although there have been a few rare appeals to force senators to divest themselves of holdings in a manner comparable to requirements for Cabinet officials, there has been a growing demand for mandatory disclosure of financial assets.

During last year's ethics debate, for example, a proposal to require public statements failed by a vote of only 40 to 44.

MORSE SPOKE OUT

One of the blunter attacks on the present secrecy was made at that time by former Senator Wayne Morse (D., Ore.).

"The Congress continues to be the one branch of the federal government where public confidence in honesty and ethical practices has never been firmly earned and probably not deserved," Mr. Morse declared. "It is the fault of the Congress itself."

"We have written statutes to codify ethical practices in the executive civil service, and among the judiciary. But we have neither statutes nor codes for standards of Congress in which the public can have any confidence.

"It would be impractical to apply the same statutes to Congress as apply to the civil service, since there is no tenure in Congress . . . but there is one protection which we continue to deny the public. It is the knowledge upon which to pass the judgment of public opinion."

Countering these arguments was the observation by Senator Karl E. Mundt (R., S.D.) that not even presidential appointees have to disclose their financial position publicly. They merely have to file confidential memoranda with the Civil Service Commission and the Senate committees dealing with their confirmation.

Senator Everett M. Dirksen (R., Ill.) frequently told newsmen during that period that he did not favor public disclosure because he had not sought public office "in order to become a second-class citizen."

One reason for the obvious Senate embarrassment over "conflict of interest" lies perhaps in the phrase itself.

CONFLICTS OF ATTITUDE

It literally evokes an image of a senator casting a vote or using his office for his personal financial gain, but in actual political use, it has been applied rather carelessly to much less reprehensible conduct.

For in addition to literal conflicts of interest, government by its very nature provokes conflicts of obligation and conflicts of attitude.

The conflict of obligation can be seen when senators promote projects that are helpful to their constitutents (or some of their constituents) but may be contrary to the national interest.

The conflict of attitude deals with the inclinations or training of public officials. If a man is a liberal or a conservative, a businessman or a farmer, a conservationist or a cold warrior, his attitudes may be regarded in hostile quarters as contrary to public interest.

The last conflict was very much in evidence during Senate consideration of three controversial Nixon appointees—Walter J. Hickel, the Secretary of the Interior; David Packard, the Deputy Secretary of Defense, and David M. Kennedy, the Secretary of the Treasury.

Mr. Hickel quickly eliminated personal financial conflict of interest in his case by promising to divest of certain holdings—particularly a $1 million investment in natural gas pipelines—in whatever way the Senate Interior Committee might direct.

But he aroused controversy in his attitude toward conservation.

"I am afraid that Governor Hickel as Secretary of the Interior, would be tempted to remove the reins from unlimited private exploitation of our natural resources," declared Senator Alan Cranston, (D., Calif.).

"I do not suggest that he would do so in order to further his own interests. . . . Rather, I fear he would tend to favor freer commercial exploitation in the belief that doing so would further the national interest."

Similarly in the David Kennedy case, most personal financial questions were removed when the Treasury Secretary agreed to get rid of most of his holdings in the Continental Illinois National Bank.

This, however, failed to relieve misgivings in some Senate quarters that Mr. Kennedy, because of his background, would be overly concerned with the banking industry itself.

Senator Albert Gore's lone vote against David Packard was based on his belief that there was a financial conflict of interest in the decision to permit the deputy defense secretary to retain—in a trust he will not control—a $300 million investment in the electronic company he founded.

Yet the Tennessee Senator publicly, and other senators privately, questioned whether a man whose whole life had been spent in the "military-industrial complex" could bring a broad, dispassionate attitude to the Pentagon.

In dealing with other Nixon appointees, Senate committees continued to apply stringent rules.

LITTLE MENTION

William P. Rogers, the Secretary of State, was told to sell his shares in Flying Tigers Airlines, an overseas freight-hauling company. John A. Volpe, the Secretary of Transportation, sold his interest in the construction company he founded. Maurice H. Stans, the Secretary of Commerce, placed his investment portfolio in the hands of a "blind trust." George Romney, the Secretary of Housing and Urban Development, continued the trust arrangements he set up as Governor of Michigan.

And so it went, with hardly a senator mentioning the double to be their own judge in handling their own financial affairs.

Senator Charles H. Percy (R. Ill.) said he had lost "many hours of sleep" wondering if he should vote on the Packard nomination since Mr. Packard headed a firm competitive to Mr. Percy's old company, Bell & Howell.

But Senator Percy never raised the question of whether he should divest himself of his Bell & Howell holdings before voting on defense appropriations that are at least of indirect benefit to that company.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The VICE PRESIDENT. Is there further morning business? If not, morning business is closed.

AMENDMENT OF RULE XXII

The VICE PRESIDENT. The Chair lays before the Senate the pending business, which will be stated.

The BILL CLERK. A motion to proceed to consider Senate Resolution 11, to amend rule XXII of the Standing Rules of the Senate.

The VICE PRESIDENT. without objection, the Senate will resume the consideration of the motion to proceed to the consideration of the resolution.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, without losing my right to the floor.

The VICE PRESIDENT. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. President, the winds of change are blowing throughout the world, throughout the Nation, and throughout this Senate. We will face up to this fact, recognize it, or be blown away by it.

Change is in the air, and we cannot avoid it much less ignore it. New voices are being heard and they will and should be listened to. If they are not then I warn the Senate that in time—in my opinion, a short time—the principle of majority rule to invoke cloture—which I do not favor—will become a fact and the basic character of the Senate as a deliberative body, and I stress the word "deliberative," will be a thing of the past. If that happens, and it can and will happen unless some of us change our rigid positions, this institution, unique among all the parliamentary bodies of the world, protected to a degree from the public pressures of the moment, will be changed fundamentally and in a way detrimental to the best interests of the Republic and the Senate.

Last week the vote was 45 to 53 on the appeal from the cloture ruling which was made by the former President of the Senate, Mr. Humphrey. On the basis of 100 Members voting, it would seem that the Senate was not more than five votes away from sustaining the chair. As compared with the last test on this issue, the vote represents a probable increase of eight in favor of a rules change by majority vote at the outset of the session. When a similar maneuver was attempted in 1967, the vote was 37 to 61.

In my judgment, a majority procedure to bring the issue of rule XXII to a vote has gained favor because of a certain rigidity of attitude which still exists in the Senate on the question of cloture. It exists notwithstanding the fact that two-thirds cloture has been invoked four times in the past 8 years and without calamity in the Senate. On the contrary, these four actions have helped to keep the Senate attuned to national needs.

It seems to me that if Senators would view cloture for what it is, a sensible procedural method for bringing discussion to an orderly close in 100 hours at a reasonable point in a prolonged debate, then the present rule XXII would not have to be changed at all. The two-thirds requirement for cloture would then perform the legitimate function of delaying a vote until—not a bare majority—but a substantial part of the

Senate's membership was satisfied that the issue was fully understood and was prepared to vote one way or the other. At the same time the two-thirds requirement would be sufficient to prevent a determined minority from interposing for years on end a Senate rule between a Senate majority and the Constitutional duty of the Senate to make its contribution to the resolution of the issues which confront the Nation.

In my judgment, legislative questions which generate great emotion throughout the country and which affect the fundamental structure of our society should be resolved only after a widespread and prolonged educational campaign. Extensive consideration serves not only to test the rightness of a proposed change but also to provide to those who feel most strongly about the status quo a full airing of their viewpoint. In that sense, extended debate in the Senate contributes usefully to stopping ill-advised and precipitous action even as it educates and cushions adjustments of attitudes to essential change.

Regrettably, some have not always seen cloture as a rational procedural device of this kind. Senators have been known to become emotional about this procedure, to castigate it as something evil and to refuse under almost any circumstances and on any issue to consider voting affirmatively for what has been termed by some great stretch of imagination "a gag rule." Even on such issues as repeal of the one-man, one-vote decision and the prayer amendment, wherein some Members may have favored the substantive issue, the ingrained resistance to the procedure has been such as to inhibit them from voting for cloture in order to bring about a vote. This position may be consistent but consistency is not necessarily a virtue if it denies the functional use of about the only orderly means of moving legitimate business in the Senate, long, long after an exhaustive debate has assured that the issue is fully understood. Carried to the extreme, a refusal by a substantial body of Members to vote for cloture even when such a vote would accord with their position on the substantive issue tends to reduce the Senate to a debating society and it might well precipitate in time a drastic reordering of the constitutional structure of the Government.

The present cloture rule, in theory, permits one-third of the Senate to delay action of the whole Senate. In my judgment that is not an inappropriate procedure. A concerned minority of such size on profound issues should be given great latitude so that the matter at stake may be clarified through exhaustive discussion—in some instances, even from one session to the next. However, the practical effect of a rigidity of attitude which regards cloture—even two-thirds cloture—as some sort of inadmissible evil, often makes it possible for far fewer than one-third of the Senate's membership to prevent a vote on substance. Indeed, a score of determined Members or even fewer can tie up the Senate, not for weeks, not for months, but indefinitely. And I will say, as I have said for years, there is no remedy for this situation in around-the-clock sessions or any other kind of parliamentary buffoonery or quackery. The only rational remedy under the present rules remains the procedure of cloture.

In my judgment, it is the factor of rigid opposition to cloture in all forms which has done much to bring the requirement of a two-thirds vote greatly into question. It has led many Members to consider, as a remedy, a three-fifths cloture or even a majority cloture. As one who has favored modification to three-fifths, it seems to me that unless the present rigidity gives way it is only a matter of time until rule XXII will be changed. Unless the stereotyped view of cloture as some form of "gag" is replaced by its acceptance as a rational procedure, a drastic action such as "moving the previous question" on a basic rule change may well be the response of a Presiding Officer of the Senate and a majority of the Members. If rule XXII is changed in this fashion—in desperation, one might say—the consequence could ultimately be to reduce the requirement for cloture, not to three-fifths but to a simple majority which would appear to me to be ill-advised. The alternative, as I see it, is to recognize promptly the trend of increasing discomfort in the Senate with rule XXII as it now stands. At this time, a compromise might well be worked out which would permit the adoption of a three-fifths rule in this session. That, I would suggest, might be a sensible way out of the present dilemma in which a majority of the Senate apparently desires a three-fifths cloture rule, but is reluctant, as I have been, to take the route of a presidential ruling and a simple majority at the outset of the session to achieve it.

I must add that I have discussed a possible compromise along these lines with various Senators on both sides of the aisle and I regret to say that the results to date have been negligible. Therefore, in the light of the practical situation which confronts the Senate at this time, it is, as it should be, the responsibility of each Senator to make his own decision and to express it in the vote which will occur tomorrow on cloture.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement I made on cloture on January 18, 1967, at the time the distinguished Senator from South Dakota (Mr. McGOVERN) had a motion pending.

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

STATEMENT OF SENATOR MIKE MANSFIELD, JANUARY 18, 1967

Mr. President, the motion of the Senator from South Dakota (Mr. McGovern) demands cloture by a simple majority; it thereby denies the continuing nature of this body. It is imperative that all of us clearly understand the full implications of this issue. It has much more significance than a direct and easy way to extricate the Senate from the parliamentary maze in which it finds itself now and at the beginning of each new Congress. The questions posed by this motion reach to the very heart of the Senate as an institution.

The underlying question is the motion to proceed to the consideration of S. Res. 6, a resolution to change rule XXII to require three-fifths of those present and voting, instead of the present two-thirds, to close debate. I have always favored this proposition—not because I believe that there is anything magical about the choice of three-fifths but because I feel it draws an equitable balance while still protecting the rights of a minority position in the Senate.

I very strongly urged this change in the past. I must admit, however, that with the achievement of the Civil Rights Acts of 1964 and 1965 a great deal of the urgency for this change has been removed. Nevertheless, I still feel that a three-fifths rule would strike a proper balance between the present two-thirds requirement and a more far-reaching proposal. The present three-fifths resolution would preserve the essential nature of the Senate as an institution and its adoption should put to rest the biennial parliamentary parlor games which open each new Congress.

But the urgency or even wisdom of adopting the three-fifths resolution does not justify a path of destruction to the Senate as an institution and its vital importance in our scheme of government. And this, in my opinion, is what the present motion to invoke cloture by simple majority would do. The proponents would disregard the Rules which have governed the Senate over the years simply by stating that the rules do not exist; that until the rules are changed to their liking and in the manner they choose, the Senate is confined to oblivion. They insist that their position is right and any means used is therefore proper. I cannot agree!

This biennial dispute for a change in the Rules has brought to issue the question of the Senate as a continuing body. The consent is really symbolic of the notion of the Senate in our scheme of government.

Numerous reasons are given to support the continuity of the Senate: the fact that two-thirds of its members carry forward from one Congress to the next; the fact that committees of the Senate meet even after sine die adjournment of a Congress; the fact that States themselves by their own laws require the filling of vacancies in this chamber even after sine die adjournment; the fact that the Senate itself by an overwhelming vote in 1959 attested to the continuation of the rules from one Congress to the next—and 47 members who voted for that proposal are still serving in this chamber. But these reasons, though compelling, have not resolved the issue. They do demonstrate, however, that the Senate as an institution is very different from the House, that its function in our scheme of government is distinct and unique. What should be considered is whether the motion at hand—the motion for simple majority cloture—would destroy the character of the Senate as a parliamentary body.

Our consideration should be directed therefore to the destructive effect the pending procedure would have upon these distinct and historical features which distinguish the Senate as an institution.

First of all, the motion to cut off debate immediately has never been used in the Senate. This fact does not in itself make the motion improper, but it does justify questioning why the Senate has never before chosen to cut off debate in this manner. If a simple majority votes to sustain the availability of this motion at this time, it necessarily means that henceforth *on any issue, at any time,* and during any *future session* of *any Congress* a simple majority, with a cooperative presiding officer, can accomplish any end they desire without regard to existing rules of process and without consideration or regard to the viewpoint of any minority position.

Unquestionably, majority rule is basic and vital to our democracy. And a simple majority should and does decide the merits of virtually every issue raised in this body—including a change in our rules. But that is not the question here; the question is whether the simple majority can cut off debate in the United States Senate. And be-

cause of the earnest zeal of the advocates for a change—and their frustration in facing a prolonged debate, they insist that in this case debate must be shut off by a simple majority so that a majority rightfully can accomplish a proper change.

I think the issues are distinct. I simply feel the protection of the minority transcends any rule change, however desirable, if attempted in this manner.

The issue of limiting debate in this body is one of such monumental importance that it reaches, in my opinion, to the very essence of the Senate as an institution. I believe it compels a decision by more than a majority. I believe it ranks with other fundamental issues which by their very nature are elevated to a level above the dictates of a majority. This is not a novel concept. This is not heresy! Our Constitution itself specifies that nine distinct issues shall require more than a majority for adoption. The Constitution of the United States is not undemocratic!

In other words, I consider the issue of whether a Senator representing his State has spoken long enough to be of such transcendent scope that it should be decided by more than a bare majority vote. I believe this is vital for the protection of any and every minority—for the protection of every State large or small—it should not be taken from either.

It has been suggested in this debate that the majority should decide the relative importance of this issue and the sufficiency of the debate—not the minority. But giving this choice to the minority has one redeeming feature—the minority can never impose its changes on the majority. The minority can but say to the majority—you are going about it in the wrong way—the need for a change may exist but your solution is defective. This negative power of a minority plays a critical role in our scheme of government.

As a practical matter, our everyday experience in this chamber shows how the last minute shift of two or three votes changes a majority. Far be it from any of us to admit these last minute changes are not proper and in response to valid and sincere argument on the merits. But when the issue itself concerns each member's right to continue to urge in debate valid and sincere arguments for or against the merits of a proposal, I feel the issue so vital as to warrant a Senate endorsement based on a less tenuous foundation than a single vote margin.

In 1964 a great majority of the present members debated and resolved one of the most comprehensive pieces of legislation enacted in this century, on an issue which generated deep emotion and conflicting conviction. The distinguished occupant of the Chair, the Vice President, played an essential and leading role in that great debate on the Civil Rights Act of 1964. You will recall that the debate proceeded on this Senate floor 83 days. I cannot help but wonder what would have been the result if a majority could have imposed cloture on that debate. I know it could have been accomplished in a month or less. I doubt very much if the bill would have been nearly as comprehensive. I do not believe that this law's observance today would be nearly as uniform, nearly as great a source of pride for all Americans without that debate. The Senate then demonstrated its unique and distinct character. The conflicting convictions were expressed in an atmosphere of open and free debate where the result was not a foregone conclusion.

Attention was focused on this body as the safety valve for an emotionally charged issue in our scheme of government. The country as a whole regarded the Senate as the one institution that would test for all, the urgency and propriety of that measure. The fact that the law is now fully observed in all parts of our country attests abundantly to the vital service performed in this chamber. After all, any law is only as good as its observance. I think the Senate as an institution should continue to play this critical role on issues of this nature, when emotions are so highly charged. It provides the only forum where calmness, coolness and reflection may be demanded of even a majority. The experience of 1964 and 1965 removes, in my opinion, a great deal of the sting for the urgency of a change in Rule XXII. I do not mean to say that a change to three-fifths would not strike a more equitable balance and still preserve the institution of the Senate in our governmental system. At the same time, there is basis for belief that such a limited proposal would assuage the demands for further change. However, I do not agree that the basic nature of the Senate should be destroyed in reaching the end. I urge each member to consider carefully the implications of his vote. I urge you strongly to vote against the anticipated motion to table the point of order.

Mr. HART. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I yield.

Mr. HART. I want to express my appreciation to the distinguished majority leader for the thoughtful comments he has just made.

The Senator from Montana is not given to extreme remarks, nor does he paint scare pictures. The counsel he has voiced is sound. Our colleagues should—as I know they will—give thoughtful consideration to his recommendation.

With him, I hope that we will be permitted tomorrow, as a result of the cloture vote, to take up consideration of modification to three-fifths of rule XXII.

Constant denial of the majority's efforts even to take up for debate a moderate rules-change proposal could result in and be the reason ultimately that this Chamber adopt a much sharper, a lower formula.

The suggestion the Senator from Montana has just made should appeal to a very great majority of Senators on both sides of the aisle. I only wish that he had been able to report more optimistically on his efforts to achieve the compromise.

I thank him very much for his efforts and for the concern and leadership he has demonstrated.

Mr. MANSFIELD. I thank the Senator. I too, wish that I had been more successful; but I was being quite conservative when I used the word "negligible" in trying to tell the Senate the results of my efforts among various Senators and with various groups.

Mr. HOLLAND. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I yield.

Mr. HOLLAND. Mr. President, I appreciate the moderate tone which has been employed by the distinguished majority leader. There is one little correction I should like to make in the last paragraph of his remarks. The 37-to-61 vote of last year was not upon a change from two-thirds to three-fifths, but upon a motion made by the distinguished Senator from South Dakota (Mr. McGOVERN) to apply the previous question to the debates then going on, which is a very different matter.

Second, I should like to remind the distinguished Senator from Montana that the last time we made a substantial change and liberalization of rule XXII—which, after all, is a rule of limitation and not a filibuster rule as some term it—it was done upon a meeting of the minds of the leadership on both sides of the aisle, of which the distinguished Senator from Montana was a part at that time.

The Senator will recall that the final effort which was successful at that time, not following a cloture vote but by agreement of 72 Members of the Senate, when led by their leadership, was based upon a negotiation which the RECORD shows was led on the Democratic side at that time by the majority leader, Mr. Johnson of Texas; by the then majority whip, Mr. MANSFIELD of Montana; by the then President pro tempore, Mr. Hayden of Arizona; and which was led on the minority side by the then minority leader, Mr. DIRKSEN; and by the two other Republican leaders in the Senate at that time, Mr. Saltonstall of Massachusetts and Mr. Bridges of New Hampshire.

Having made that statement, again I remind the Senator that it was after long and careful negotiations, first as to the substance of what should be in that rewritten rule, and second upon long polishing of the wording of that rewritten rule, that the action was taken which I have just described.

I had hoped that we would find a tendency toward leadership on both sides which would lead to some such course this time.

I invite the attention of the distinguished majority leader to the fact that already, even though we have not taken up Senate Resolution 11, there is one amendment to that resolution which has been offered by the distinguished Senator from Iowa (Mr. MILLER), calling for a certain percentage vote as a minimum in both parties, on both sides of the aisle.

I ask unanimous consent to have the amendment printed in the RECORD at this point.

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

Strike out the third paragraph of section 2 and substitute in place thereof the following: "And if that question shall be decided in the affirmative by three-fifths of the Senators present and voting and also by a majority of the Senators affiliated with each of the two major political parties present and voting, then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of."

Mr. HOLLAND. I should also like to remind the majority leader that the Senator from Florida has suggested and strongly recommended for some 20 years now, amendments which would take the important matter of national defense out from under the present provisions of the cloture rule and permit a much speedier reaching of such a question, in the event there came a long discussion on any such matter of great importance to the national defense.

I think other amendments will be offered. I have reason to think so, because I have heard of them. It seems to me, then, quite clearly, that this is a matter which ought to go to committee and follow the regular procedure of the Senate,

and which ought to be given a chance to be worked out by the leadership on both sides.

I personally have been grateful for the attitude of the Senator from Montana, who has not only stated his desire to bow to the winds of change, so he called them, from time to time, but also, as he has stated his feeling, that it would be a real tragedy—I do not think he used that word—for us to get around to the matter of closing debate by a mere majority vote. I have so understood the Senator's view in many remarks, both on the floor and off the floor.

I think he would be the ideal person to head up such a matter of negotiation while this measure was pending in the appropriate committee.

I simply suggest to him that there may not be as great a change in the feeling of the Senate as he may think, because the vote he referred to as taking place in 1967 was on the motion to invoke the previous question. Insofar as the Senator from Florida has knowledge, there has never been such a motion made before, in modern times, and it certainly was not a motion to adopt a three-fifths vote instead of a two-thirds vote.

I thank the Senator for yielding.

Mr. MANSFIELD. Well, the distinguished senior Senator from Florida is basically correct in what he says, but the substance of the vote 2 years ago was, I think, the same as it was earlier this year. To me, the trend has been toward a majority vote to invoke cloture; and I do not favor, and will not favor, a majority vote on that basis. I do think three-fifths of those present and voting is a reasonable safeguard. I think it allows a reasonable amount of flexibility. I am encouraged by the remarks made by the distinguished Senator that, if the leadership would get together, it might be possible to work out something along those lines. I hope I am not putting words in the Senator's mouth, but I am referring to the general trend which I think he indicated in his remarks.

So I am indebted to him for his fairness, his understanding, and his statesmanlike approach to this particular question, a question which I know he feels very strongly about, and a feeling which I can understand thoroughly.

Mr. HOLLAND. I thank the Senator; and if he will allow me to make one more statement very briefly, the Senator knows that during many years of his membership in the Senate and of the membership of the Senator from Florida, the membership in one party, on one side of the aisle, has been approximately two-thirds of the entire membership—for long years, as I recall it, over three-fifths. I would never want to see any cloture by which one party could, by the exertion of the brutal force of its membership, whether that party were on the other side or on this side, by compulsion force legislation into enactment, because I think that would bring about partisanship here in a way that has never been brought in; and I am afraid that a three-fifths rule would permit just such action. I thank the Senator for yielding.

Mr. MANSFIELD. The Senator has a valid point; but while we may have had a large majority, I point out that it was only a majority on paper, and we never had the unity which a party is expected to have.

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

Mr. MANSFIELD. I yield to the Senator from Idaho.

Mr. CHURCH. Mr. President, first of all, I want to thank the distinguished majority leader for his statement and the leadership he brings to this question.

A few days ago the Senate voted, by a vote of 51 to 47, to limit debate on a motion to take up consideration of Senate Resolution 11. I think a fair interpretation of that vote is that it indicates a majority of Senators favor adoption of the three-fifths rule. Indeed, because of the habit of some Senators always to vote against cloture, regardless of the issue, the probabilities are that a very substantial majority of the Senate favors a three-fifths rule. Yet we are unable to get a vote on the merits of that question. We are now entering the third week of debate on the motion to take up for consideration the three-fifths rule so that we can then proceed to debate it on its merits. This is extremely frustrating to the majority who feel that the best interests of the Senate would be served by a modification of rule XXII.

I understand how deeply the majority leader and others feel, who oppose the constitutional proposition that it lies within the power of a majority, at the commencement of a new Congress, to alter the rules; but for 10 years we have been trying to modify rule XXII by going the regular route, and every time we end up right back where we are now, in a situation where a filibuster is itself employed to prevent any modification of the filibuster rule.

It does not matter whether the proposal goes first to committee or whether it comes directly to the Senate at the beginning of a session. Ten years demonstrate that, in the end, we have a filibuster to face. That is why those who believe the rule should be modified have been forced to raise the constitutional proposition.

I concur wholeheartedly in what the distinguished majority leader has said. The trend indicates that a frustrated majority, growing in numbers, and repeatedly denied the opportunity to work its will, is moving in the direction of adopting the constitutional proposition that it lies within the power of the majority to act at the commencement of a new Congress.

As I have said before in this debate, I would prefer that we not go through that constitutional door, but those who presently defend rule XXII by resort to filibuster give us no alternative.

So, Mr. President, I would hope that the appeal of our distinguished majority leader is given thoughtful and deliberate consideration. Perhaps it could lead to a negotiated settlement of this question. I hope so. But under the existing circumstances we can do no other but try to invoke cloture within the rule, try to secure a two-thirds vote tomorrow, so we can then proceed to debate the merits of the proposed change. That is the purpose of our filing the cloture petition, and I hope that two-thirds of the present membership will join to close debate on this preliminary motion so we can then proceed, within the rules, to consider the proposition before us.

Again I commend the distinguished majority leader for his leadership and initiative in trying to cut the Gordian knot. No one has the interests of the Senate more at heart than Senator MANSFIELD, and I think all Members of the Senate should take heed of what he has said today.

Mr. MANSFIELD. I thank the Senator.

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

Mr. MANSFIELD. I yield to the Senator from Kansas.

Mr. PEARSON. On behalf of the minority who hold a common view with the statement the distinguished majority leader has made today, I want to say that I think he offers wise counsel to the Senate. He is speaking really of the trend of tomorrow. I appreciate his leadership in this issue, as in all others, and commend the statement which he has made today.

Mr. MANSFIELD. I thank the Senator.

THE NIXON RECORD

Mr. AIKEN. Mr. President, I had intended to speak this morning on the failures of the Nixon administration; of how, after a week in office, we still have crime in the streets; of how the war in Asia is still continuing, in spite of the fact that many people expected that it would have stopped before now; of how there are lots of people who are still poverty stricken in this country; and of how the housing program is nowhere near completed.

After a week in office, he has had plenty of time to do all these things, according to some folks' advice.

I found, on getting the paper yesterday morning, that Mr. Art Buchwald had in some way found out about my contemplated speech and incorporated it in his column. So wanting to show the President up, the least I can do is ask to have the article printed in the RECORD. Therefore, I ask unanimous consent to have printed in the RECORD the article entitled "The First 5½ Days: Nixon Fails To Solve Problems During His First Week in Office," written by Art Buchwald, and published in the Washington Post of Sunday, January 26, 1969.

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

THE FIRST 5½ DAYS: NIXON FAILS TO SOLVE PROBLEMS DURING HIS FIRST WEEK

(By Art Buchwald)

Richard Nixon has now been President of the United States for 5½ days, and so it is not too early for historians to judge what kind of President he has been.

So far, the Nixon Administration has failed to make any gains in the fight against crime. If anything, the crime rate has gone up since he has been in the White House, and when historians write about his first 5½ days, they will have to say that Mr. Nixon was unable to solve law and order, the No. 1 problem in the country.

As far as the economy goes, President Nixon has not been able to bring about any great tax reforms during his first week in

office. But here he cannot be held solely to blame. A recalcitrant Democratic Congress has been sitting on its hands since Tuesday and has refused to take up any of Mr. Nixon's legislation.

The peace talks have been moving at a snail's pace in Paris and many Americans are disappointed that they may go on another week. It was hoped that when Mr. Nixon moved into the White House we'd have a peace treaty with the North Vietnamese by Friday.

Also, President Nixon's promise to improve relations with the Soviet Union has yet to bear fruit. Critics of the Nixon Administration feel something should have been started by now, and the big question they are asking is: "How much time does he need to get the ball rolling?"

We are no nearer the moon today than we were when Mr. Nixon was sworn in on Monday.

This has many people concerned, as it was hoped that we would have an American on the moon as soon as a Republican President took office.

When historians write their books about President Nixon's first week in office, they will also point out that he was unable to resolve the Middle East crisis by Sunday. People close to President Nixon say this was one of his biggest disappointments, because he wanted to get that part of the world settled so he could go on to other things.

Other areas where the Nixon Administration has failed are Latin America, Biafra and San Francisco State. Defenders of the Administration said that Mr. Nixon would turn his attention to these problems in his second week. But opponents of the Nixon policies say he's had enough time to get them resolved already.

On the plus side, Mr. Nixon's relations with the press have been excellent, and no President has been treated as well during his first 5½ days in office.

While his legislative record, so far, leaves much to be desired, when the history of these first 5½ days is written, no one will say that Mr. Nixon didn't try.

Mysterious, pragmatic, a loner, devoted to his family, a man who came back from the ashes of defeat, Richard Nixon will go down during his first week as a strong President seeking to heal the wounds of a nation wracked with fear and despair.

With only 1455½ days to go in his term, the President can do little more now than tidy up the things he started in his first 5½ days.

The question people are now asking is whether Richard Nixon will run again, or whether he is fed up with the job that has made so many demands on him. Those who know him well say that he believes he has a mission and despite the disappointment of the first 5½ days, he likes the job and is thriving in it.

"Perhaps," said an aide, "after a couple of weeks he may think otherwise. But I can assure you that if he had his first 5½ days to do all over again, Dick Nixon wouldn't have done anything differently."

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I be permitted to proceed for 5 minutes, notwithstanding the relevancy rule.

The VICE PRESIDENT. Morning business has been concluded.

Mr. PROXMIRE. I understand that morning business has been concluded. I ask unanimous consent to be permitted to proceed for 5 minutes.

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

SENATOR ELLENDER—A MAN WITH THE COURAGE TO DOUBT

Mr. PROXMIRE. Mr. President, too often men accept without question—without even a doubt—the half truths and stereotyped characterizations of people and places that enjoy the widest vogue. It is a very rare man indeed—even within the Congress of the United States—who has the honesty and the courage to question the "common wisdom" and to do the hard work required to formulate his own answers.

Senator ALLEN ELLENDER, of Louisiana, is such a man. For years he has questioned the blind judgment accepted by most of his fellow citizens and impassionately—even hysterically—defended by some that Russia and the United States must forever be deadly enemies and that, therefore, all the accoutrements of cold war—such as NATO, Europe's latter day maginot line, and our own enormous defense establishment—must be lavishly nourished no matter what the cost to other more peaceful objectives.

Senator ELLENDER, since 1955, has visited the Soviet Union five times. Though he is 78, he has done the grueling work during those visits that he felt he needed to do to thoroughly educate himself about the Soviets—and he has arrived at his own tough-minded conclusions, as an excellent article, written by Stephen S. Rosenfeld, in today's Washington Post makes clear. As a result, he has become one of the Senate's most determined exponents of Soviet-American detente. To adhere to that position takes courage.

Already some demands for his (Ellender's) recall have come from Louisiana—

The Post article says. Nevertheless, true to his convictions, Senator ELLENDER persists.

His current program—

The Post article states—

is to publicize his new gospel as widely as he can, to work over the Defense Department budget from his Appropriations outpost, and to return to Russia after he is 80 years old.

I truly wish him well.

I commend the Post article to the attention of other Senators, and ask unanimous consent that it be printed in the RECORD at this point.

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

WOULD YOU BELIEVE AN EXPERT ON RUSSIA?

(By Stephen S. Rosenfeld)

You arrive at Sen. Allen Ellender's door, or most people do, knowing only that he is a little eccentric even by the standards of the United States Senate, that he is a Louisiana Democrat and something of a gourmet, and that he is a very big figure in agriculture matters as Chairman of the Senate Agriculture Committee. Would you believe that this bantam of a man, with the flamboyant gestures and insistent voice, is also a very serious, self-made authority on Soviet affairs? That he has been a regular visitor to the Soviet Union? And that in the process of this self-education, he has abandoned his old, familiar cold war reflexes and has become one of the Senate's most earnest exponents of Soviet-American *detente*?

It's true, all of it, and whether you agree with the Ellender view of the Soviet Union, you cannot be other than impressed by the effort he has put into his rather lonely and largely unnoticed exploration of a subject that seems, on its face, to have very little connection with parity or acreage allotments or all the other things that Agriculture Committee Chairmen are supposed to be thinking about.

Five times since 1955 the 78-year-old Senator has visited the Soviet Union, most recently for 53 days last fall. Equipped with his expertise in agriculture and, he says, with objectivity, unencumbered by any escorts save an American Embassy interpreter, he has found his Russian sojourns truly broadening and productive of insights unavailable to men who stay at home.

Ellender is disappointed that up to now his foreign-policy views—documented in reports to the Senate and in books—have not been taken seriously. He shrugs at the suggestion that his reports may be too long and unfocused, or too naive. He sees nothing funny in remarks that others have found funny ("the canals in Venice are filled with water"). "I can't command the attention of the press," he says. "I've been in public life 53 years but I'm kind of timid about getting up every day and saying the same thing, the way some do."

No matter. Ellender declares he'll go "all out" this year, from his position on the Appropriations subcommittee that handles defense (he's not on Foreign Relations or Armed Services) to "prevent us from spending one dime to further strengthen NATO." He counts on support from as many as two thirds of his fellow Senators in pursuit of that goal.

Through Russia's Stalin years, says Ellender, he voted obediently for whatever funds the Pentagon sought, accepting its rationale that the funds were essential for defense. "I always thought Defense was honest and sincere and knew what it was talking about," he says. "I don't want to be misunderstood. Stalin did much to make our people fearful. We felt in danger."

But, he says, "I often wondered, why in hell don't we get together with the Russians. I found it strange there was so much trouble and friction in coming together." He dates the start of his awakening from his first trip to Russia, in 1955. "I went to Minsk, Orel, Odessa, Volgograd. The damage there from the Germans was (here Ellender thrashes his fists helplessly) useless, wanton. If only you were to *see* it. I don't blame the Russian people at all for fearing the Germans."

"So help me God, if I had understood at the time that the Administration had decided after the war to embrace Germany and Japan, then I would not have consented. With the knowledge I gained visiting Russia, I found those people are just like we are, especially in Siberia, where the people reminded me of our own pioneers in the West, identical. They told me how much they liked Americans. They asked, why do you surround us with a ring of steel, Japan, Okinawa, Philippines, North Africa, West Europe, air bases all around. My answer was: to defend. I didn't know any better. Congress blindly follows the military. That's why I voted as I did."

He used to believe—as he fears Defense Secretary Melvin Laird still does—that "the United States had to speak from strength, all that stuff. I didn't know any better. But we have spent *110 billion dollars* to isolate Russia and today Russia is stronger than ever, she's mighty. Anything that widens differences between us and the Russians, I'm

against. That is why I have opposed the extension of NATO. I'm telling you right now, the biggest mistake we ever made was not to take de Gaulle's advice and move out of Europe. We say we want peace but we rearm. We ought to be honest. We have got to be, to dispel the fear of the Russian people."

If there was one moment of truth for Ellender, it came one time at Yalta when he emerged from a building into a waiting crowd of a thousand Russians. "They looked at my clothing, stroked my suit, they were amazed. They asked if anybody in America could buy such a suit. I said, of course, as long as you had the money. I saw the time was ripe for a realistic exchange program so that the Russian people could learn about us—to get them excited, make them envious."

"Look what happened after Khrushchev came here (in 1959). He went back and started the incentive system. It was first applied to wearing apparel. The shelves were full of unsold stuff, nobody wanted it, but that's been changed. The leaders do it because the people demand it. Khrushchev was the only leader who tried to respond to the will of the people. What he started is what's now giving the current leaders so much trouble."

Ellender doesn't dwell much on Czechoslovakia. He views the Czech striving for liberalization as an extension of similar and ongoing efforts in Russia. And he treats the Soviet invasion as a serious but not disabling embarrassment to the cause of East-West detente.

He is really more concerned to get Americans to judge the Russians by no harsher terms than those they apply to themselves. For instance, of the 1962 Cuban missile crisis, he says, "I'm surprised the Soviets didn't do it earlier. We'd surrounded *them* for 15 years. It looked as though the only place there are angels outside heaven is the U.S." In Russia's moves to put a fleet into the Mediterranean, Ellender sees merely an initiative balancing our own.

A man of fine rages, Ellender has got one for the State Department as well as the Pentagon, and this episode—related here only from his point of view—perhaps sums it up. One needs to know only that the Department generally feels fatigued by Ellender's requests for services on his travels.

Arriving in Moscow in 1955, Ellender found that none of his customary requests ("that thick") for appointments had been made. The then-Ambassador, Charles E. Bohlen, told him he was on "strict instructions not to help," the Senator recalls. So Ellender requested and received, by cable, State Department permission to make his own appointments. Old Moscow hand Bohlen warned him he was wasting his time.

At one point Ellender asked Bohlen if he could use the ambassador's phone to call the Foreign Ministry for appointments. Bohlen declined. Ellender went to a pay station and phoned himself. The answerer spoke only Russian but soon an English-speaking voice came on. Ellender asked for Politburo appointments and was informed that, of the top men, only Anastas Mikoyan was available. Fine, said Ellender. The voice told him to wait in the booth for a callback and, in less than half an hour of waiting, the voice did call back with a Mikoyan appointment the next day.

Ellender spent the intervening time visiting farms. The next day, with American diplomat John Guthrie in tow, he visited the Kremlin and passed on to Mikoyan the complaints he had heard on the farms. Mikoyan didn't know too much about farming, Ellender recalls. They talked for two hours and Mikoyan said he could see anything he wanted the next time he came.

In the car, Guthrie said he'd learned more in those two hours than in his whole tour to that point. Ellender said: "The trouble with you goddam diplomats is, you have a chip on your shoulder. You see something good in Russia and you pass it over, you see something bad and you criticize. My approach was objective and that's why Mikoyan helped me."

And at the Embassy, Ellender says, he told the Ambassador: "Mr. Bohlen, you've been here a long time and in your book the only good Russian is a dead Russian. Goodbye."

Guthrie's and Bohlen's reactions are not a part of Ellender's record. But his own judgments very much are. The Senator is quite aware that, as a peace advocate, he is casting himself in what is—for a senior Senator and member of the Senate "club"—a strange role. Already some demands for his recall have come from Louisiana. Ellender is undeterred. His current program is to publicize his new gospel as widely as he can, to work over the Defense Department budget from his Appropriations outpost, and to return to Russia after he is 80 years old.

"I talked to an engineer at a big aluminum plant outside Irkutsk," he says, positively vibrating with admiration for a technical achievement he discovered there, "and do you know . . . *That* opened my eyes."

HUMAN RIGHTS: TO UNITE THE PRACTICAL AND THE IDEAL

Mr. PROXMIRE. Mr. President, once again I rise to urge the Senate to begin serious consideration of the human rights conventions, which for so long have been pending ratification by this body.

Not long ago, I ran across a statement made by Theodore Roosevelt. I was struck by the application it has to our present situation regarding human rights. His statement was this:

> From the very beginning, our people have markedly combined practical capacity for affairs with power of devotion to an ideal. The lack of either quality would have rendered the possession of the other of small value.

Mr. President, we would do well to consider seriously this thought, not just because it was said by a great American leader, but because the history of nations proves that it is true. Where practical capacity for affairs alone has been the guiding principle, men have usually been very busy, but they often have been running without vision or direction. On the other hand, the power of devotion to an ideal has proved to be surprisingly powerless wherever it has been separated from human affairs.

I submit, Mr. President, that in the case of human rights, we should prove that we can unite the practical with the ideal. We hear a great deal in this Chamber about our humane interests and concerns as a nation, and these are not empty phrases. I think we as a people really do know something of compassion and real concern, but there comes the time when a nation—as is the case of an individual—must act on its beliefs. The time for our action, Mr. President, has been with us for some time now in the area of human rights, but there is still time.

In terms of the three major conventions, we should be acting to officially condemn genocide and forced labor and to support full and equal political rights for women. There is principle involved in these three areas which we have supported since the founding of this country. We must now act in accordance with our words if our integrity is to warrant continued trust at home and throughout the world.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER OF BUSINESS

Mr. HRUSKA. Mr. President, I ask unanimous consent that I be permitted to proceed without reference to the rule of germaneness.

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

S. 650—INTRODUCTION OF BILL RELATING TO AMENDMENTS TO THE CRIMINAL JUSTICE ACT OF 1964

Mr. HRUSKA. Mr. President, in October of last year, I introduced a bill, S. 4182, entitled, Amendments to the Criminal Justice Act of 1964, which embodied the recommendations of the Judicial Conference of the United States. Since the bill was introduced late in the second session, the 90th Congress was unable to act upon it. Therefore, today I introduce for the consideration of the 91st Congress the same bill, S. 650, similarly entitled.

The purpose of the Criminal Justice Act was to make more effective the constitutional guarantee of right to counsel in criminal cases arising in the Federal courts. Three years have now passed since the bill was enacted, and the experience gained in implementing and using the act has demonstrated the need for refinements and changes.

I am most pleased to announce that this bill is being cosponsored by the distinguished and capable Senator from North Carolina (Mr. ERVIN). As early as 1961, Mr. ERVIN, the chairman of the Constitutional Rights Subcommittee of the Committee on the Judiciary, joined me as a cosponsor of legislation that eventually became the Criminal Justice Act of 1964.

At the time the Senate accepted the final conference version of this landmark legislation, I observed:

> The case for this legislation is easy to state: we are a nation dedicated to the precept of equal justice for all. Experience has abundantly demonstrated that, if this rule of law will hold out more than an illusion of justice for the indigent, we must have the means to insure adequate representation than the bill before us provides.

The road leading to Federal financial assistance for indigent defendants was a long and arduous one. Its beginnings can be traced to a 1937 report of the Judicial Conference of the United States which recommended public defense assistance for indigent defendants in some districts with a high volume of criminal cases. The debate over a public defender system raged for years in the House and the Senate. In 1949, the Senate Judici-

ary Committee reported a defense bill without the public defender provision.

Beginning in 1961, I introduced a total of four bills concerned with providing counsel to indigents. Utilizing recommendations of the Allen Committee approved by the Attorney General, in 1963, I introduced S. 1057, which became the Criminal Justice Act of 1964. I was most fortunate to be joined in my efforts by the Senator from New Hampshire (Mr. COTTON), the Senator from North Carolina (Mr. ERVIN), and the then junior Senator from New York, Mr. Keating. The assistance of these distinguished Senators was invaluable in achieving the ultimate passage of the legislation.

However difficult the legislative progress of advances such as the Criminal Justice Act of 1964, passage was only the beginning. The practical problems of implementation and supervision determine the success or failure of any legislation.

Mr. President, the sixth amendment of the Federal Constitution assures the right of assistance of counsel in criminal cases. Whatever its antecedents, the language now protects anyone standing before the bar of criminal justice from being proceeded against without the appointment of counsel, when counsel is requested and the defendant himself is not able to retain counsel because of insufficient means. Unquestionably, an enormous number of individuals accused of crime have in the past found themselves in that position. The Criminal Justice Act was a serious attempt to remedy any inadequacies of representation which may have developed through the court-appointed, noncompensated system of defense counsel which grew up because of the high rate of indigency among defendants in Federal criminal courts.

The right of counsel, however, is an area of constitutional law that has gone through profound change in recent years. Some of the need for amending the basic act arises from interpretations of the sixth amendment by the Supreme Court of the United States.

Since the enactment of the Criminal Justice Act, the Supreme Court has held that the similarities between probation revocation and criminal trials require extending the right of counsel to probation proceedings—*Mempa* v. *Rhay*, 389 U.S. 128 (1967). Also, the Supreme Court has decided the cases of *Miranda* v. *Arizona*, 384 U.S. 436 (1966), and *United States* v. *Wade*, 338 U.S. 218 (1967), in which the right to counsel was defined as beginning shortly after a suspect is taken into custody but before his first appearance before the court or commissioner.

The amendments which are proposed today provide for the extension of the compensation provisions of the act to fill these serious gaps between right of counsel and availability of the resources and assistance under the existing act.

Mr. President, at this point I wish to compliment the Federal judiciary for its response to the challenge posed by the initial passage of this legislation. Our judiciary is characterized by intelligence, dedication, and hard work. Anticipating the passage of the bill, an Ad Hoc Committee To Develop Rules, Procedures, and Guidelines for Assigned Counsel System of the Judicial Conference was organized in March 1964. A permanent committee to implement the Criminal Justice Act of 1964 went to work in October 1964.

The efforts of the committee and the experience of the courts, predictably, have shown areas where improvements in the law are needed. A report entitled "The Criminal Justice Act in the Federal District Courts" was prepared for the committee by Dallin H. Oaks, professor of law, University of Chicago Law School. It is a survey representing 6 months of research and provides an excellent basis for review of the operations of the Criminal Justice Act.

After receiving numerous requests for improvement and after studying the Oaks report, the Committee To Implement the Criminal Justice Act made a number of recommendations to the judicial conference for changes in the law. The recommendations were approved by the conference during its September meeting last year. It is these recommendations that I am introducing as S. 650.

Briefly, the bill would bring within the purview of the act probation revocation proceedings; they would provide for the possibility of compensation to counsel appointed from the approved panel who may have represented a defendant after arrest but prior to arraignment; they would specifically include defender organizations as well as legal aid agencies and would provide for compensation to counsel for representation in ancillary matters appropriate to the proceedings. Furthermore, these amendments would increase the rate of compensation in the light of present price structure without altering the basic principle of the act that the rates should not be compensatory in the normal sense. They would also increase the maximum amount which may be paid for representation by assigned counsel; they would include the cost of transcripts authorized by the court as a reimbursable expense; and they would provide a different standard for excessive payments approved by the chief judge of a circuit. They propose the extension of the excess-payment provision to appellate proceedings and the use of expert services, and they would provide compensation to assigned counsel when a full-scale evidentiary hearing is required in connection with representation in habeas corpus and section 2255 matters which are technically civil proceedings and thus not covered at the present time by the statute.

I have attempted to play an active role in the war on crime—a war which will be intensified under the leadership of President Nixon and his Attorney General. Effective law enforcement is a priority need of our Nation. And under our Constitution it is to be fair law enforcement. The amendments proposed by the Senator from North Carolina (Mr. ERVIN) and me are a necessary part of efficient and fair law enforcement.

We can say this in good conscience because of the processing that has been done by the Committee of the Judicial Conference and also because the official approval of the proposals by the Judicial Conference itself.

Mr. President, to aid in the understanding and analysis of the bill, I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my remarks.

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

DISCUSSION OF THE PROPOSED AMENDMENTS

Mr. HRUSKA. At this time, Mr. President, I should like to discuss the proposed amendments to the Criminal Justice Act of 1964. This analysis was prepared by the Judicial Conference Committee To Implement the Criminal Justice Act.

The Criminal Justice Act was signed by the President on August 20, 1964, and became effective 1 year later. In the year prior to the effective date, each district court and each circuit court was required to devise a plan for furnishing and compensating attorneys to represent defendants financially unable to obtain an adequate defense in criminal cases. Thus, at present, a little more than 3 years of experience in the operation of the Criminal Justice Act have been gained. The proposed amendments are the results of suggestions received from judges and lawyers, from the Office of Criminal Justice of the Department of Justice, and as a result of a study made by Prof. Dallin Oaks of the University of Chicago School of Law under the auspices of the National Defender project of the National Legal Aid and Defender Association and the Center for Studies in Criminal Justice of the University of Chicago Law School.

Many of these same organizations and persons, had attacked this problem in the years preceding the passage of the parent act, and because of their efforts it became a well-balanced and a well-considered piece of legislation.

The Oaks' report praised the administration of the act but took note of several shortcomings and variations of practice in the working of the Criminal Justice Act. To remedy the problems identified in his report, Professor Oaks suggested a number of administrative changes and several statutory amendments, all of which have been carefully considered by the Judicial Conference Committee To Implement the Criminal Justice Act and by the subcommittee specifically appointed for this purpose. Each of the proposed changes is discussed herein in the sequence in which the change occurs in the act. The text of the Oaks' report and pertinent parts of the Judicial Conference recommendation will be published soon by the Committee on the Judiciary.

1. PROBATION REVOCATION PROCEEDINGS

The committee recommends that the plans for representation of defendants financially unable to obtain an adequate defense be authorized to cover probation revocation proceedings. When the act became effective, there was a divergence of opinion among some Federal judges as to whether the act could be considered to cover representation at such proceedings. The matter was submitted to the Comp-

troller General, who on June 13, 1966, ruled that the "inherent differences between probation revocation proceedings and criminal trials militated against permitting Criminal Justice Act payments for the former"—45 Decisions of the Comptroller General 780, No. B–156932. Since that time, the Supreme Court has held unanimously that the similarities between probation revocation and criminal trials require extending the right to counsel to probation proceedings—*Mempa* v. *Rhay*, 389 U.S. 128 (1967). This opinion vitiates the rationale of the Comptroller General's decision, and the committee believes that amending the act expressly to include compensation for representation at probation revocation proceedings would serve a salutary purpose by encouraging quality representation at such proceedings.

2. REPRESENTATION PRIOR TO ARRAIGNMENT

Since the enactment of the Criminal Justice Act, the Supreme Court has decided the cases of *Miranda* v. *Arizona*, 384 U.S. 436 (1966), and *United States* v. *Wade*, 388 U.S. 218 (1967), in which the constitutional right to counsel was defined as beginning shortly after a suspect is taken into custody but before his first appearance before the court or commissioner. Thus, there is now a gap between the point at which the defendant is now entitled to counsel and the point at which counsel may receive a fee under the act. It is now proposed to amend the act to provide that representation furnished by a member of the attorney panel prior to the defendant's first appearance before the court or commissioner may be compensated under the Criminal Justice Act if the attorney is subsequently appointed. Compensation for this early representation would be within the discretion of the court, and in no event would an attorney be paid who was not subsequently appointed by a judicial officer. Only attorneys whose names are on the panel provided for by the plan of the district would, of course, be eligible for appointment. The extension of the plan to cover appointments under subsection (g) will be discussed herein in connection with a consideration of the proposed subsection (g).

3. REPRESENTATION BY ATTORNEYS FURNISHED BY A DEFENDER ORGANIZATION

Instances have arisen in which private defender organizations have been appointed pursuant to plans adopted in some of the districts. The rationale behind this authorization has been that the act as originally drafted used the words "legal aid agency" and that a defender organization can be considered to come within this category. The committee is of the view that it would be wiser in amending the act specifically to include a provision for representation by attorneys furnished by a defender organization. In so doing, however, the committee recommends that all plans require some representation by private attorneys but that the plans may, in addition, include representation by attorneys furnished by a bar association, a legal aid agency, or a defender organization. In certain judicial districts, defender organizations have been established and are working successfully. In many instances, these have been funded by the National Legal Aid and Defender Association, but it is expected that the funds will run out in the course of the next year. In some instances, bar associations are endeavoring to secure the necessary funds to keep these organizations in operation, and the committee believes it important to encourage this trend. Amendment of the statute expressly to include representation by defender organizations might serve as an encouragement and stimulus in this direction.

4. AMENDMENT OF SUBSECTION (b)

The amendment proposed in subsection (b) under caption "Appointment of Counsel" is to provide that the appointment may be retroactive as to any representation furnished pursuant to the plan prior to the appointment of counsel. This is in implementation of, and designed to carry out, the proposal for amendment of subsection (a) discussed in (2) above.

5. DURATION OF APPOINTMENT

The committee recommends that subsection (c) be amended so as to provide not only that a defendant should be represented at every stage of the proceedings from his initial appearance before the U.S. commissioner or court through appeal but also that he be represented in ancillary matters appropriate to the proceedings. This recommendation is based on experience during the past 3 years in which appointed counsel have sought through mandamus or other proceedings which are technically civil in nature to further the interests of the defendant. In some instances district judges have even written opinions authorizing payment to appointed counsel when they were of the view that such proceedings were appropriate and in the best interests of the defendant. The administrative office has, however, had to refuse payment in such instances.

Professor Oaks in his report recommends that the act be expanded to include ancillary proceedings "such as mandamus or habeas corpus undertaken in the course of obtaining discovery or other advantages needed in the defense of the criminal case." It should be noted that the recommendation of the committee to include ancillary matters also contains the phrase "appropriate to the proceedings." This leaves in the trial judge the necessary discretion to prevent any abuse of the use of ancillary proceedings by appointed counsel.

6. INCREASED PAYMENTS TO COUNSEL

The committee recommends that the act be amended to permit the payment of assigned counsel at a rate not exceeding $20 per hour for the time expended in court or before a U.S. commissioner and $15 an hour for time reasonably expended out of court. This is in place of the present rate of $15 per hour for court time and $10 per hour for out of court time. This proposed change is in conformity with all recommendations which have been made to the committee. It is believed to provide a more realistic compensation rate in light of the current price structure without altering the basic principle of the act, that the rates should not be compensatory in the normal sense.

At the same time the committee recommends that the maximum which may be paid for representation in a felony case be raised from $500 to $1,000 and in a misdemeanor from $300 to $400 for trial in the district court. The committee points out that there is little likelihood of abuse in raising these maximum fees inasmuch as the average payment per case in 1967 was only $126. On the other hand, the increased maximum is believed necessary, both because of the proposed change in the hourly rates and to avoid a large number of submissions to the chief judge of the circuit for protracted representation in cases in which a fee in the range of $500 to $1,000 has seemed just and equitable.

The committee at the same time recommends that in appellate proceedings the ceiling be raised from $500 to $750 in a felony case and from $300 to $400 in a case involving only a misdemeanor on appeal. The committee recommends further that in connection with representation on a post-trial motion made after the entry of judgment in the district court or in a probation revocation proceeding or for representation under proposed subsection (g)—"Discretionary Appointments"—discussed below, the compensation in either the district court or in an appellate court should not exceed $250.

Mr. President, I think it should be obvious from the pay scales that have been provided in the act that they are very minimum, indeed, and inadequate in terms of fees which would be charged normally in practice. It was the theory of the parent act disclosed in the reports and in the debate prior to passage of that act in 1964 that legal services for indigent defendants is in the nature of public service, and that it falls within the duty of various attorneys called upon to serve to make that contribution to our system of criminal justice.

The committee also recommends that the costs of transcripts authorized by the court be included as a reimbursable expense on the part of assigned counsel. This recommendation is made in the interests of administration of the act in situations, for example, in which counsel appointed after a commissioner's hearing wishes a transcript of the commissioner's hearing. In such a situation, it is far simpler, administratively, to have the court direct the preparation of the transcript and to have counsel make the necessary expenditure for the transcript as a reimbursable cost. It is recommended that the courts be given the authority to authorize such expenditures.

The committee points out further that changing the present rate structure is particularly important to legal aid and defender organizations who devote full time to appointed cases. The National Defender project's experience, for example, indicates that an office relying solely on Criminal Justice Act fees is bound to run in the red. Raising the hourly rates, as recommended, would add stability to the financial structure of a defender organization and reduce the need for supplemental grants.

Mr. President, this is highly necessary in my opinion. Certainly such a basic right as proper legal representation to indigent defendants should not be de-

pendent upon the suffrance of private organizations for supplemental funds for defender organizations. We should have an assurance of payment of these necessary court costs and the cost of transcripts.

7. EXCESS PAYMENT

The statute, at present, provides that payment in excess of the limits stipulated in the statute may be made if the district court certifies that such payment is necessary to provide "fair compensation for protracted representation." The amount of the excess payment must be approved by the chief judge of the circuit. This provision has given rise to opinions by the chief judges of several of the circuits concerning the standard of "fair compensation for protracted representation." The Oaks report, for example, describes it as "by far the most litigated provision of the act." Courts have generally interpreted the term "protracted representation" as allowing additional compensation only in cases involving many extra days of courtroom representation.

The amendment now proposed would establish alternative bases for awarding excess compensation. It could be granted if either "extended" or "complex" representation were rendered. The amount of time spent out of court could be taken into account. Furthermore, it is proposed that this clause be extended both to appellate representation which is not now covered and to payment for services other than counsel. Such services would cover testimony of medical experts, psychiatric experts, ballistic experts, handwriting experts, or other witnesses of that nature. In each instance judicial discretion would govern the awards and in the case of district court representation excess compensation could not be awarded without the certification of the district court judge and the approval of the chief judge of the circuit. In this connection, it is noted that chief judges of the circuits have normally in the past, and they would be expected to continue, required a memorandum of explanation by the district judge as to why, in his opinion, excess compensation is warranted in a given case.

8. NEW TRIAL

Because there has been some confusion among the district courts on the question as to whether an order granting a new trial should be deemed to initiate a new case, the Committee believes that the statute should be explicit on this point and provide that for purposes of compensation and other payments authorized by the Criminal Justice Act, an order by a court granting a new trial shall be deemed to initiate a new case. This would be true whether new counsel were appointed or whether the same counsel were retained by the court for the purposes of a new trial. This amendment would be applicable whether the second trial resulted from a hung jury, a successful motion for a new trial, or a remand from an appellate court.

9. APPELLATE FILING FEE

At present, counsel appointed under the Criminal Justice Act must obtain a judicial determination of in forma pauperis status for his client in order to avoid paying appellate filing fees. This is unnecessary work in view of the fact that the defendant has already been found to be financially unable to afford counsel under the Criminal Justice Act standard. Accordingly, the committee recommends that if a defendant for whom counsel is appointed under the Criminal Justice Act appeals or petitions the Supreme Court for a writ of certiorari, he may do so without prepayment of fees and costs or security therefor and without the filing of the in forma pauperis affidavit now required by section 1915(a) of title 28, United States Code.

10. EXPERT SERVICES

Subsection (e) of the Criminal Justice Act provides for investigative, expert or other services deemed necessary to an adequate defense of a defendant financially unable to obtain such services. The Oaks' report recommends increased maximum payment under this subsection, modification of the prior authorization requirement and extension of the excess compensation provision to payments made under this subsection.

The committee recommends that subsection (e) be amended so that counsel appointed under the Act may obtain services which do not exceed $150 and expenses reasonably incurred without prior authorization of the court. As stated earlier, the Committee also favors the extension of the excess payment provision to services rendered under the provisions of this subsection. The committee notes that the courts have been extremely judicious in permitting utilization of subsection (e), and, accordingly, permitting excess payments with the approval of the chief judge of the circuit not only is believed to to be equitable, but is expected not to result in any undue burden upon the Government.

11. DISCRETIONARY APPOINTMENTS

Proposed subsection (g) captioned "Discretionary Appointments" is an entirely new proposal. Although there is neither a constitutional nor a statutory right to counsel in a proceeding filed under 28 U.S.C., sections 2241, 2254, or 2255, the practice in most districts is to appoint counsel if the prisoner demonstrates a prima facie case. The decision to appoint counsel is entirely discretionary but once an appointment is made, the court has no way of compensating counsel. Professor Oaks in his survey found overwhelming sentiment on the part of the Federal judiciary in favor of compensation in collateral attack proceedings. Nearly two-thirds of U.S. attorneys shared this view as to Federal prisoners. It is recognized that these prisoners frequently present difficult issues of law and fact. Your committee believes that in situations where a full-scale evidentiary hearing is required by a Federal judge and counsel is appointed to represent the defendant in such a hearing, the interests of fairness require that some payment should be made to counsel within the discretion of the court. The committee believes that the maximum payment in such a situation should be $250. This is in conformance with its recommendation of a $250 maximum for representation in connection with post-trial motions made after the entry of judgment in the district court or in probation revocation proceedings. In order to prevent any abuse of discretionary authority, the committee believes that the statute should provide for payment to assigned counsel in such situations only if the court makes a determination that the interests of justice require that appointed counsel should be compensated.

Mr. President, that covers each of the amendments contained in the proposed measure which was introduced earlier today. They are presented in chronological order. There undoubtedly will be more discussion on each of the amendments. Furthermore, I am considering additional amendments to the proposed act which will involve the use of public defenders as such. Such amendments would authorize full-time public defenders where the volume of business warrants it, and there are several heavily backlogged districts in the country which need full-time public defenders. Also part-time public defenders could be authorized, where the volume is not great enough for full-time men. Additional proposals should go into the problem of furnishing such a public defender with assistants and a suitable staff.

Legislation of this kind has had great difficulty in passing the Congress in the past. For years, the measure made little, in fact sometimes no progress, because of antipathy on the part of many Members of Congress to the concept of a public defender. It was feared that it might grow into a vast bureaucracy which would not be warranted by the volume of criminal litigation and that there would be a tendency to award full-time public defender position in every district regardless of volume. Therefore, the act as passed in 1964 and enacted into law discarded entirely that concept and went to the idea of attorney panels.

It is the belief of some who have observed this approach in the present law that it is not doing justice to the ultimate objectives of the legislation and that there are many instances in which the quality of the representation for indigent dependents is not the highest order, or even of an acceptably high order. They feel the need of public defenders to fulfill the purpose of the 1964 act.

I believe that, if care is taken in the drawing of the bill there would be sufficient protection against abuse; that there would not be any too much "harness for the horse." It would, on the other hand, serve to alleviate the situation in those districts where the criminal caseload and the backlog is so great. One of the great shortcomings of the present system is the delay in the trial.

Mr. President, this approach is under the study of this Senator, and his staff, and of other Senators. Prior to hearings on the bill introduced today, such a proposal may also be introduced, so that it can be considered during the course of those hearings.

It is my hope that the Judiciary Committee will undertake hearings on this bill soon. Certainly, with the recommendations of the committee appointed by the Judicial Conference and by the official approval of these amendments by

the Judicial Conference, there is sufficient foundation for such early and serious consideration by both Houses of Congress.

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

The bill (S. 650) to amend section 3006A of title 18, United States Code, relating to representation of indigent defendants, introduced by Mr. HRUSKA (for himself and Mr. ERVIN), was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S. 650

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of section 3006A of title 18, United States Code, is amended to read as follows:

"(a) Choice of Plan.—Each United States district court, with the approval of the judicial council of the circuit, shall place in operation throughout the district a plan for furnishing representation for defendants financially unable to obtain an adequate defense charged with felonies, misdemeanors other than petty offenses as defined in section 1 of this title, or violations of probation. Each plan shall also contain a provision for furnishing representation where necessary for persons under arrest, and as provided under subsection (g). Representation under each plan shall include counsel and investigative, expert, and other services necessary to an adequate defense. The provision for counsel under each plan shall include representation by private attorneys, and in addition may include one or both of the following:

"(1) representation by attorneys furnished by a bar association, or a legal aid agency; or

"(2) representation by attorneys furnished by a defender organization.

Prior to approving the plan for a district, the judicial council of the circuit shall supplement the plan with provisions for representation on appeal. Consistent with the provisions of this section, the district court may modify a plan at any time with the approval of the judicial council of the circuit; it shall modify the plan when directed by the judicial council of the circuit. The district court shall notify the Administrative Office of the United States Courts of modifications in its plans.".

(b) Subsection (b) of such section is amended by inserting immediately before the third sentence the following new sentence: "Such appointment may be retroactive as to any representation furnished pursuant to the plan prior to the appointment.".

Subsection (c) of such section is amended—

(1) by inserting, immediately before the period at the end of the first sentence, a comma and the following "including ancillary matters appropriate to the proceedings"; and

(2) by striking out in the second sentence the phrase "he may terminate" and insert in lieu thereof "the court may terminate".

(d) Subsection (d) of such section is amended to read as follows:

"(d) PAYMENT FOR REPRESENTATION.—Any attorney appointed pursuant to this section, or a bar association, legal aid agency, or defender organization which made the attorney available for appointment, shall, at the conclusion of the representation or any segment thereof, be compensated at a rate not exceeding $20 per hour for time expended in court or before a United States commissioner, and $15 per hour for time reasonably expended out of court, and shall be reimbursed for expenses reasonably incurred, including the costs of transcripts authorized by the court. A separate claim for compensation and reimbursement shall be made to the district court for representation before the United States commissioner or that court, and to each appellate court before which the attorney represented the defendant. Each claim shall be supported by a written statement specifying the time expended, services rendered, and expenses incurred while the case was pending before the United States commissioner or court, and the compensation and reimbursement applied for or received in the same case from any other source. The court shall, in each instance, fix the compensation and reimbursement to be paid to the attorney, bar association, legal aid agency, or defender organization. For representation of a defendant before the United States commissioner and the district court, the compensation to be paid to an attorney, a bar association, legal aid agency, or defender organization for the services of an attorney, shall not exceed $1,000 in a case in which one or more felonies are charged, and $400 in a case in which only misdemeanors are charged. For representation of a defendant in an appellate court, the compensation to be paid to an attorney, a bar association, legal aid agency, or defender organization, for the services of an attorney, shall not exceed $750 in a felony case and $400 in a case involving only misdemeanors. For representation in connection with a posttrial motion made after the entry of judgment in the district court or in a probation revocation proceeding or for representation provided under subsection (g) the compensation to be paid either in the district court or an appellate court to an appointed attorney shall not exceed $250. Payment in excess of any limit, except the hourly rate, stated in this subsection may be made for extended or complex representation but only if the court in which the representation was rendered certifies that the amount of the excess payment is necessary to provide fair compensation, and if, in the case of district court certification, the payment is approved by the chief judge of the circuit. For purposes of compensation and other payments authorized by this section, an order by a court granting a new trial shall be deemed to initiate a new case. If a defendant for whom counsel is appointed under this section, appeals or petitions the Supreme Court for a writ of certiorari, he may do so without prepayment of fees and costs or security therefor and without filing the affidavit required by section 1915(a) of title 28.

(e) Subsection (e) of such section is amended—

(1) by striking out the third sentence and inserting in lieu thereof the following: "Counsel appointed under this section may, however, obtain investigative, expert, or other services without prior authorization but subject to later review by the court. The total cost of services obtained without prior authorization may not exceed $150 and expenses reasonably incurred."; and

(2) by inserting before the period at the end of the last sentence a comma and the following: "unless payment in excess of that limit is certified by the district court as necessary to provide fair compensation for services of an unusual character or duration, and the amount of the excess payment is approved by the chief judge of the circuit".

(f) The first sentence of subsection (f) of such section is amended to read as follows:

"(f) RECEIPT OF OTHER PAYMENTS.—Whenever the court finds that funds are available for payment from or on behalf of a defendant or other person for whom counsel may be appointed under subsection (g), the court may authorize or direct that such funds be paid to the appointed attorney, to the bar association, legal aid agency, or defender organization, which made the attorney available for appointment, to any person or organization authorized pursuant to subsection (e) to render investigative, expert, or other services, or the court for deposit in the Treasury as a reimbursement to the appropriation, current at the time of payment, to carry out the provisions of this section.".

(g) Subsections (g), (h), and (i) of such section are redesignated as subsections (h), (i), and (j), respectively, and the following new subsection (g) is inserted before subsection (h) as redesignated by this subsection:

"(g) DISCRETIONARY APPOINTMENTS.—An attorney may, in the discretion of the court, be appointed pursuant to the district or circuit plan to represent a material witness in custody or a person who has filed for relief under sections 2241, 2254, or 2255 of title 28, but only if the court determines that the interests of justice so require and that the witness or person is financially unable to obtain adequate representation. An attorney appointed pursuant to this subsection may be compensated as specified in subsection (d) and may obtain services under the provisions of subsection (e).".

Mr. HRUSKA. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

SENATOR RANDOLPH RECEIVES CONSENT TO BE ABSENT FROM THE SESSION OF THE SENATE TOMORROW

Mr. RANDOLPH. Mr. President, a very cherished friend of Mrs. Randolph and I, will be buried tomorrow in Richmond, Va. I wish to attend the services for our dear friend. I, therefore, ask unanimous consent to be absent from the session of the Senate tomorrow.

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

LEAVE OF ABSENCE

Mr. BAKER. Mr. President, the junior Senator from Tennessee respectfully asks leave of the Senate and of the Chair to be excused on tomorrow, to attend the funeral of our late colleague in the House of Representatives, ROBERT A. EVERETT.

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

AMENDMENT OF RULE XXII

The Senate resumed the consideration of the motion of the Senator from Michigan (Mr. HART) to proceed to consider the resolution (S. Res. 11) to amend rule XXII of the Standing Rules of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. TALMADGE. Mr. President, it has become virtually ritualistic for the Senate, every 2 years with the opening of each new session of Congress, to be compelled to defend its rules.

These are rules that have served the Senate long and well—in fact, for 180 years, since the first session of the Senate.

These are rules that preserve and protect the identity and the integrity of the Senate as a forum of the States.

These are rules that give meaning to our Constitution and our Government as intended by our Founding Fathers.

These are rules that distinguish the U.S. Senate as the greatest deliberative body in the world.

The Senate is in fact a unique legislative body. The great barrister Gladstone once called the Senate "the most remarkable of all the inventions of modern politics." It is the only legislative body in the world composed of representatives from sovereign governments which cannot be deprived of equal representation without their own consent.

It is inscribed on the New Senate Office Building that—

> The Senate is the living symbol of the union of the States.

The Senate actually and literally was created as a council of States, almost 200 years ago, and it sits today as a council of the individual, sovereign States.

Because of rules under which the Senate has operated—and particularly that rule that provides for freedom of debate, this body is recognized as the guardian of the rights of the minority. In our Government with its intricate system of checks and balances, the U.S. Senate stands alone as the principal champion for the protection of the minority against the unbridled power of an unrestrained majority.

Chaos would reign in any government or society where the potential tyranny of the majority is not strongly circumscribed. We were told by Alexander Hamilton that a state of anarchy exists, even in nature, where the weak is not secure against the strong.

Such security was intended by our Founding Fathers. They were well aware, as we should be today, that the excesses of democracy can be as offensive as totalitarianism itself.

They were also well aware that the strong are not always strong, and that the weak are not always weak. One of the great truths that we would do well to always keep in mind is the fact that majorities and minorities are not permanent. Today's majority may be tomorrow's minority, and vice versa.

The rules of this Senate act as a safeguard against the power of a simple majority of one to trample mercilessly over the minority.

Standing rule XXII of the Senate gives force and substance to the guarantee that the minority has a right to be heard, and that it need not fear being summarily run down and gagged, or made the whipping boy for abuse by a majority of one.

The fact that we have extended debate and freedom of discussion in the U.S. Senate gives assurance to all of the people of this great country, and to every State however large or small, that the voice of reason will be heard and not rendered mute by rampant emotionalism that may happen to sweep the country at any given time.

Rule XXII gives strength and meaning to the concept, as intended by our Founding Fathers, that the U.S. Senate is not just an appendage of the House of Representatives. The Senate is of course only one part of one of the three branches of our Government. It is nonetheless unique in its role as a forum of the States and as a protector of minority rights.

There are many characteristics of the Senate, and the Senate has many duties that distinguish it from the House of Representatives.

The Senate sits as a judicial body in impeachment proceedings.

It exercises quasi-executive functions in regard to the treatymaking power.

The Senate must give its advice and consent to all appointments of the executive. The Senate is a repository of the States in the Central Government.

Perhaps no one can better describe the role of the U.S. Senate in our federal form of government than the distinguished columnist, William S. White, in his famous book, "Citadel, the Story of the U.S. Senate." Said White:

> The Senate, therefore, may be seen as a uniquely Constitutional place in that it is here and here alone, outside the courts—to which access is not always easy—that the minority will again and again be defended against the majority's most passionate will.
>
> This is a large part of the whole meaning of the institution. Deliberately it puts Rhode Island, in terms of power, on equal footing with Illinois. Deliberately by its tradition and practices of substantially unlimited debate, it rarely closes the door to any idea, however wrong, until all that can possibly be said has been said, and said again. The price, sometimes, is high. The time killing, sometimes, seems intolerable and dangerous. The license, sometimes, seems endless: but he who silences the cruel and irresponsible men today may in the same way be silenced tomorrow.

Mr. President, I recall, several years ago, reading William L. Shirer's famous book, "The Rise and Fall of the Third Reich." The thing that impressed me most about that book was his relation concerning the so-called Enabling Act, by which Adolf Hitler became dictator of Germany.

Hitler was appointed Prime Minister of Germany in a perfectly legal and lawful way by the President of Germany, who happened to be, at that time, Von Hindenburg. Hitler had a substantial majority in the German Parliament, though he was not completely unopposed. The parliament convened, and Hitler sent the delegates the so-called Enabling Act. The act gave Hitler the power to amend the German Constitution at will by executive decree.

The Enabling Act gave Hitler the power to levy and spend revenues at will by decree. The Enabling Act gave Hitler the power to make such treaties with such foreign countries as he saw fit. All that was encompassed in an act that was pending before the German Parliament. There was a substantial number of opponents of that particular Enabling Act, but there was no rule of free speech in the German Reichstag. So the Enabling Act was passed. Adolf Hitler that day became the dictator of Germany, and it took countless lives to stamp out the tyranny of his dictatorship.

So I say, Mr. President, that any Senator who has a desire to quench free speech in the U.S. Senate should remember that lesson quite well.

Also, we have seen examples in our own Senate. As I recall, it was during the Korean war that the railway labor unions had a nationwide strike. President Truman was in office at the time. Naturally, he was indignant to be confronted with a nationwide rail strike at a time when war was in progress in Korea. President Truman lost his good judgment and sent to the House of Representatives a bill authorizing him to draft into the U.S. Army all the striking members of the railroad unions. The other body did not even have hearings. The bill was railroaded through the House by an overwhelming majority, with only a handful of dissenting votes.

The bill came to the Senate the same day. In this body at the time was a Senator named Robert Taft. He was not considered to be a friend of organized labor. But he did not want to see an injustice done. Under the rules of the Senate, he blocked the passage of that bill until reason could assert itself. The bill was not passed.

Countless instances like that could be recited. I hope the Members of this body will give deep consideration to situations of that kind before they tamper with the rules of the Senate.

I do not believe that any reasonable or responsible Member of the Senate would alter or weaken or dilute the important part played by the Senate in our Government. I do not believe that any Member of the Senate would so destroy and render impotent the Senate of the United States.

The Senate has demonstrated, time and time again, that it has no such intention. The Senate has repeatedly turned aside ill-advised, unwarranted attempts to destroy freedom of debate that would render this body an ineffective, useless arm of Congress.

It ought to be exceedingly clear by now that Members of the Senate intend to keep faith with posterity, and will not surrender their prerogatives or relinquish their responsibilities as meant by the Founding Fathers, as defined in the Constitution, and as embodied in the rules which govern the operations of the Senate.

I would hope that by now we would have had an end to these assaults upon the rules of the Senate. I am of the opinion that such attacks constitute more than mere efforts to abolish free debate in the Senate, although this in itself is deplorable enough. I contend that this matter goes to the very heart of our Government. It strikes the very vitals of representative government. It aims a body blow to the States as political entities. It would, in effect, literally change our form of government and undermine our system of checks and balances.

I am confident that the Senate will once again measure up to its responsibilities and will reject this attempt to destroy the Senate as a guardian of liberty and a champion of the States and minority rights and will continue to be a body that gives continuity and stability to our Government.

Alexander Hamilton, writing in the Federalist papers, pointed to "the necessity of some stable institution in the Government." He cautioned that no government would long be respected without possessing a portion of order and stability. Such is the purpose of the Senate. Such is the responsibility of the Senate that we are being asked today to surrender. Hamilton also made this appraisal, as progress was being made toward forming a new government:

> We are now forming a republican government. Real liberty is neither found in despotism nor in the extremes of democracy, but in moderate government.

Such moderate influence on the excessiveness of democracy and a potential tyranny of a majority of one is found in the Senate.

This is what we are being asked to do here, in the alleged name of permitting a majority to work its will.

Mr. President, I submit that it was never intended—not by our Founding Fathers, and not by the Constitution—that a majority of one should run roughshod over the minority. All of us here today, and all who follow, will sorely regret it if the time ever comes when an arrogant majority can work its will in this Senate by crushing all opposition in its path.

I have been very impressed by the warning issued by the late Honorable Eugene Millikin, the able and eloquent Senator from Colorado, whom I know the Senate has heard on many occasions. It bears repeating today:

> If my country were confronted with the possible choice of surrendering all of the individual rights of its citizens under our Constitution save one to be selected by it, I would unhesitatingly counsel the preservation of the right of free speech, for so long as this right remains unimpaired all other rights, if lost, may be regained.

I am well aware of the age-old proposition of what happens when the will of the majority collides with the right of the minority. To my way of thinking, which shall prevail is not the most important consideration. I hold that of overriding importance is that truth and justice shall always prevail.

Let me again invoke the wisdom of the late Senator from Colorado, who went straight to the heart of the issue:

> It should never be forgotten, I respectfully suggest, that the rules of a legislative body in a country which understands, appreciates, and desires to conserve the principles of human freedom are adopted not to enhance or render unshakable the power of the majority of its members, but rather to protect those in the minority . . . The rights of the minority have not been imposed by a minority; they have been freely granted by majorities which realize the fact that majorities are not always right, that there is an inherent tendency in majorities to oppress minorities.

Mr. President (Mr. CANNON in the chair), there are those who would have us believe that the Senate is powerless to act in the face of its rules, and particularly rule XXII. The history of the Senate and its great record clearly refutes any such contention.

I wonder if the advocates of gag rule in the Senate really subscribe to the doctrine that the Senate, as presently constituted and governed by its rules, is useless and impotent or incapable of action? Do they really believe that a minority can truly hamstring a Senate that is determined to enact legislation in the best interests of the Nation?

The Senator from Georgia does not believe these things. He has faith in the strength, the courage, and the integrity of every man and woman who sits in this Chamber.

When the Senate wants to act, and when enough Members of this body so desire, it will act. It has been proven beyond any doubt that when the Senate sincerely and conscientiously wants to do something, neither rule XXII nor any other rule stands in its way.

The present cloture provisions in no way paralyze the legislative functions of the Senate. We have more than ample demonstration of the fact that the Senate can act and will act when it so determines.

On four occasions since just 1962, the Senate has shown its determination to act under the cloture provisions of rule XXII.

In 1962, the Senate invoked cloture on the communications satellite bill by a vote of 63 to 27.

In 1964, the Senate invoked cloture on the Civil Rights Act by a vote of 71 to 29.

In 1965, the Senate invoked cloture on the Voting Rights Act by a vote of 70 to 30.

And again just last year, the Senate invoked cloture on the Open Housing Act by a vote of 65 to 32.

One of the most used and overworked arguments of proponents of destroying time-honored rules of the Senate is that the rules stand in the way of the enactment of civil rights legislation. This argument is totally without substance, as we have seen on three major occasions in just the past 4 years.

But aside from this fact, it is my judgment that the rules of the Senate which allow free and open debate and intensive, lengthy study of major issues, far transcend the mere enactment of a bill, whether it be in the area of so-called civil rights legislation or in any other area.

Freedom of debate is an integral part of the Senate's assigned constitutional role, and it is in no way a party or sectional device.

It has been employed by Senators on both sides of the ideological and political fence, both conservative and liberal.

Legislative matters that have run through the whole thread of American life, that relate to virtually every conceivable facet of human endeavor, have been exposed to full debate in the Senate.

No one can rightly say that the results have been evil or that the country has suffered. In fact, the benefits of freedom of debate have far outweighed whatever instances there may have been in which the privilege may have been abused.

Free debate in the Senate is the greatest safeguard we have against hidden defects—either calculated or unintentional—that might result in unfairness, discrimination, or special privileges for a favored few.

Many, many outstanding examples could be cited of the benefits of freedom of debate in the Senate. History is replete with occasions when extended debate in the Senate served our Nation well.

For 83 days the Senate debated the 1964 Civil Rights Act. Many significant and considerable objections were raised to this far-reaching legislation on constitutional grounds.

There were those who thought this bill should have been passed by the Senate with little more than a token examination of its merits and demerits.

But there was extended debate, and for a period of some 7 to 8 weeks, this bill was carefully scrutinized by Members of the Senate—on both sides of the issue.

As a result, many of the flaws were exposed, and some of them were corrected.

In one major amendment to the bill, the Senate approved provisions to entitle defendants in criminal contempt cases arising under the act to trial by jury.

As unconscionable as it may appear to Senators today, now that the heat of the battle has subsided, trial by jury—one of the dearest rights of all Americans—was omitted from the punitive provisions of this legislation. But, because of the extended debate, and to the everlasting credit of the Senate, this grievous shortcoming was rectified.

The distinguished columnist Arthur Krock, now retired, had an excellent analysis of this action by the Senate in the June 11, 1964, edition of the New York Times. Wrote Mr. Krock:

> The Senate filibuster, now emphatically terminated by the first invocation in history of closure of debate on equal rights legislation, made possible the exposure and limitation of some of the sumptuary powers granted to the Federal Government in the text approved by the House. The most important check was the requirement of jury trials in the Federal courts for citizens cited in criminal contempt on a judge's finding that they committed acts of discrimination forbidden in the pending measure. (Since this no where defines the general offense, the definition is left to the Federal judiciary.)
>
> Had it not been for the Senate filibuster the American people would have remained unaware that the very judges who made findings of criminal contempt in enforcing compulsions for a revolutionary change in the social and economic structure of the nation could unilaterally deny to defendants the hard won Anglo-Saxon privilege of trial by jury.

Mr. HOLLAND. Mr. President, will the Senator yield at that point?

Mr. TALMADGE. I am delighted to yield to my distinguished friend, the senior Senator from Florida.

Mr. HOLLAND. Does not the Senator recall in the very matter he just referred to—the striking from that particular bill then pending of the requirement that the judges try the criminal contempt cases, and requiring that those cases be tried by a jury instead—that effort was led by the distinguished Senator from Wyoming, Mr. O'Mahoney, a great constitutional lawyer, who stood in this Chamber and argued with tremendous force and successfully that one of the inherent rights of American citizens would be lost if it were not required

that there be a jury trial held in such cases?

Mr. TALMADGE. I do, indeed. The distinguished Senator from Wyoming made a brilliant speech.

I now return to Mr. Krock's analysis:

And the grave issue presented would not have been effectively projected into the public consciousness if the House measure had been rammed through the Senate without change.

In bringing forth the jury trial amendment, the lengthy debate over the 1964 bill was in keeping with one of the finest traditions of the Senate as guardian of minority rights—in this particular case, the ultimate minority, the minority of one.

Nonetheless, though he be only a minority of one, the right of a defendant in a criminal proceeding to have a trial by a jury of his peers is a cornerstone of a just society and it is fundamental to Anglo-Saxon jurisprudence.

Mr. President, I hope those who so vehemently advocate majority rule in the Senate will never come to the conclusion that there should be majority rule in connection with juries. Most jurisdictions in the United States require unanimous vote by a jury before a defendant can be convicted. If the time ever comes when these same proponents of majority rule want to have majority rule in jury cases, whereby a person could be executed or imprisoned by a vote of 7 to 5 of a jury, we will see the jails and penitentiaries of this country filled with innocent people.

Mr. President, I desire now to deal with, and dismiss the outrageous proposal that the Senate is not a continuing body.

Again, let us turn to the Federalist Papers which shed important historical light on that subject.

For instance, Hamilton in letter 62 stressed that the Senate is more than just an appendage of the House. He alluded to the qualifications required of Senators and the nature of the senatorial trust as distinguished from membership in the lower branch. He wrote of the Senate with great wisdom:

The mutability in the public councils, arising from a rapid succession of new members, however qualified they may be, points out, in the strongest manner, the necessity of some stable institution in the government.

The internal effects of a mutable policy are calamitous. It poisons the blessings of liberty itself . . .

The want of confidence in the public councils, damps every useful undertaking; the success and profit of which may depend on a continuance of existing arrangements. . . .

No government, any more than an individual, will long be respected, without possessing a portion of law and stability.

Commenting further along that same line in letter 63 on the permanence of the Senate as a continuing institution, Hamilton said:

The objects of government may be divided into two general classes; the one depending on measures which have singly an immediate and sensible operation; the other depending on a succession of well chosen and well connected measures, which have gradual and perhaps unobserved operation. The importance of the latter description to the collective and permanent welfare of every country, needs no explanation. . . .

An assembly (the House of Representatives) elected for so short a term (two years) as to be unable to provide more than one to two links in a chain of measures, on which the general welfare may essentially depend, ought not to be answerable for the final result, any more than a steward or tenant, engaged for one year, could be justly made to answer for plans or improvements, which could not be accomplished in less than half a dozen years.

The proper remedy for this defect, must be an additional body in the legislative department, which, having sufficient permanency to provide for such objects as require a continued attention, and a train of measures, may be justly and effectually answerable for the attainment of those objects.

Now, Mr. President, those words adequately describe the role of the Senate and prove beyond all doubt that the deliberate intent of the framers of our Government to create it as a continuing body.

Let us listen further to Hamilton's words from the same letter:

As the cool and deliberate sense of the community ought in all governments, and actually will in all free governments, ultimately prevail over the views of its rulers; so there are particular moments in public affairs, when the people, stimulated by some irregular passion, or some illicit advantage, or misled by the artful misrepresentations of interested men, may call for measures which they themselves will afterwards be the most ready to lament and condemn. In these critical moments, how salutary will be the interference of some temperate and respectable body of citizens, in order to check the misguided career, and to suspend the blow meditated by the people against themselves, until reason, justice and truth, can regain their authority over the public mind?

We do not have to wonder, Mr. President, of what time he spoke. This is that hour.

I read further from letter 62 which emphasizes that the Senate is more than an "Upper House":

I am not unaware of the circumstances which distinguish the American from other popular governments, ancient as well as modern. . . . Many of the defects, as we have seen, which can only be supplied by a senatorial institution, are common to a numerous assembly frequently elected by the people, and to the people themselves. . . . The people can never wilfully betray their own interests; but they may possibly be betrayed in the hands of one body of men that where the concurrence of separate and dissimilar bodies is required in every public act.

We must not forget, Mr. President, that our Constitution might very likely have been rejected had it not been for the explanations of its true meanings as set forth in the Federalist.

And to completely nail down the permanency of the Senate as an institution, here is the incontrovertible answer of John Jay in letter 64 of the Federalist:

It was wise, therefore, in the convention to provide, not only that the power of making treaties should be committed to able and honest men, but also that they should continue in place a sufficient time to become perfectly acquainted with our national concerns, and to form and introduce a system for the management of them. The duration prescribed, is such as will give them an opportunity of greatly extending their political information, and of rendering their accumulating experience more and more beneficial to their country.

Nor has the convention discovered less prudence in providing for the frequent elections of senators in such a way, as to obviate the inconvenience of periodically transferring these great affairs entirely to new men—for, by leaving a considerable residue of the old ones in place, uniformity and order, as well as a constant succession of official information will be preserved.

Mr. President, the system "formed and introduced" in the Senate to manage and resolve grave issues of national concern has served the country well.

The tragic inconvenience of periodic upheaval in this institution of the government has been prevented and "uniformity and order" have been insured.

How has this been done?

There can be only one answer in the light of history.

That is that the Senate has functioned through wise and just rules which have withstood the tortuous test of time. And the guarantee of free debate for all its Members is the most important of them.

We have seen from the quotations I have read from the Federalist that the Senate is not just an "Upper House" of Congress.

Mr. President, the issue of whether the Senate is a continuing body was laid to rest in 1959, 10 years ago. At that time, the Senate voted overwhelmingly—72 to 22—to affirm the continuity of this body. In so voting, the Senate added the following language to rule XXXII:

The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules.

Senators felt at that time that this body had acted decisively—once and for all—to end biennial agitations at the beginning of each Congress. Members of the Senate at that time had every reason to fully understand the full significance of that vote. In his final summation on the amendment to rule XXXII, the distinguished majority leader of the 86th Congress made it infinitely clear. That majority leader went on to preside over the Senate as Vice President of the United States and now occupies the White House as President of the United States.

A decade ago Majority Leader Lyndon B. Johnson explained the importance of the rule XXXII provision in the following language:

This resolution would write into the rules a simple statement affirming what seems no longer to be at issue. Namely, that the rules of the Senate shall continue in force, at all times, except as amended by the Senate.

This preserves, indisputably, the character of the Senate as the one continuing body in our policy-making process.

It precludes the involvement of the Senate in the obstruction that would occur—or could occur—if, at the beginning of each Congress, a minority might attempt to force protracted debate on the adoption of each Senate rule individually.

Mr. President, those who argue that the Senate is not a continuing body go against the spirit and the clear intent of the Founding Fathers. They fly in the face of irrefutable arguments pro-

pounded by Alexander Hamilton, James Madison, and John Jay and their eloquent Federalist Papers dissertations on the new Constitution and the assigned roles of the three branches of Government.

We cannot so lightly dismiss historical precedent. The Senate, as viewed by Hamilton, is a body possessing great firmness. It should "hold its authority by a tenure of considerable duration," in order to safeguard the Government from "the impulse of sudden and violent passion."

This then is the mission of the Senate of the United States. It has been so since its organization April 4, 1789. Never since then has there been a time when the Senate as an organized body has not been available to the President's call or in accordance with the terms of its adjournment, for the transaction of public business.

The Senate has been recognized as a continuing body by the Supreme Court of the United States. In 1926, in the case of *McGrain* v. *Daugherty*, (273 U.S. 135), the Court held:

> The rule may be the same with the House of Representatives whose members are all elected for the period of a single Congress; but it cannot well be the same with the Senate, which is a continuing body whose members are elected for a term of six years and so divided into classes that the seats of one-third only become vacant at the end of each Congress, two-thirds always continuing into the next Congress, save as vacancies may occur through death or resignation.

Mr. President, we have historical precedent after precedent. We have determinations by the Supreme Court. We have actions by the Senate itself over many years that have reinforced the nature of this body as a continuing legislative organization. It is inconceivable to me how, for session after session of Congress, there are unrelenting attempts to put the Senate in a straitjacket of gag rule and banish forever free and open debate from this Chamber. I submit that if legislative history means anything, if our checks-and-balances system of government is to remain in full force, if we are to preserve the integrity of the Senate, I suggest that we are confronted here with more than just a mere modification of the rules of the Senate.

This goes to the very heart of our Government.

It would destroy the best aspects of the federal-national system and substitute therefore the worst aspects of a national system, making big government bigger and even less responsive to the will of the people. This is not just a constructive evolution of our governmental processes.

It is nothing less than revolution.

When the day comes that gag rule prevails in the Senate, it will mark the beginning of the end of our republican form of government, as we know it today.

So I hope that the Senate will vote down the motion for cloture, and that we will lay at rest once and for all the issue as to whether or not a group of men can change the rules of the Senate at will at the beginning of each Congress, when we have had decisions of the Supreme Court, we have had precedents of 180 years, we have had the ruling of every Presiding Officer of the Senate for the last 180 years, save one.

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

Mr. TALMADGE. I yield to the distinguished Senator from Florida.

Mr. HOLLAND. I thank the Senator. I rose simply to congratulate the Senator from Georgia upon his scholarly speech. I think he has made it very clear, from legal citations, from historic precedents, that the Senate is a continuing body; that the Senate is the custodian of stability in our national structure; that our Senate has itself again and again stated that such is the case; that the Supreme Court of the United States has upheld our continuing character and quality. I think the Senator has made a very material contribution to this debate, for which I thank him.

May I ask him one question?

Mr. TALMADGE. First let me thank my distinguished friend and neighbor, who, by his long service in this body, has distinguished himself, this body, his State, and the Nation. He is one of the outstanding historians and constitutional lawyers in the Senate, and one of the more able Members in this body on the Senate rules, and a compliment of the type he has made is deeply appreciated by the Senator from Georgia.

Mr. HOLLAND. After the Senator has floored me with such a warm compliment, I have almost forgotten what I wanted to ask him, but I think I can recall it; but I thank him for his compliment, which is wholly unmerited.

My question was this: If it were determined that, at the beginning of each Congress, the Senate, by a mere majority vote—and that was attempted at the beginning of this very debate a few days ago—rule XXII can be changed or modified or repealed or substituted, is not that same conclusion correct as to every other rule of the Senate?

Mr. TALMADGE. Certainly, not only in the beginning of the Congress, but any day of the Congress.

Mr. HOLLAND. Simply speaking now of the beginning of a Congress, can the Senator imagine anything that would make the Senate more unstable rather than stable, and more impermanent rather than continuing, than to have a mere majority of the moment clothed with the authority, at the beginning of every Congress, to completely rewrite the rules of the Senate? Would not that be inviting chaos instead of stability?

Mr. TALMADGE. Of course it would. It would destroy the Senate as a continuing and stabilizing influence on the Government of the United States. In fact, I think if a majority can change the rules at the beginning of a Congress, which they allege is a constitutional right, and I hasten to point out that the Constitution is in effect not only in the beginning of the Congress; the Constitution is in effect today, tomorrow, or forever, until we change it; and if a majority of the Senate can change the rules of the Senate by a mere majority of one, it can change the rules any day, whenever the majority thought it had the advantage of a majority of one at that time. I think it would transform the Senate into a situation similar to that which exists on some of our more disorderly college campuses at the present time.

Mr. HOLLAND. I certainly agree with the Senator. I repeat that I think he has made a fine contribution to this question and thank him for it.

Mr. TALMADGE. I am grateful to my colleague.

Mr. President, I yield the floor.

Mr. COTTON. Mr. President, I am not going to detain the Senate but a few moments, but each time that the Senate has—usually at the beginning of a new Congress—grappled with the question of amending rule XXII, I have briefly stated my views and the reasons for them. As a matter of record and without undue repetition, I want to state them briefly and informally today, because, of course, tomorrow we shall be voting on the motion for cloture.

I have never been able to comprehend the anxiety of so many Members of the Senate to constantly want to dilute rule XXII, to move from a two-thirds of a constitutional majority to a two-thirds of a quorum present and voting, and then, as is suggested now, to move to three-fifths, which is obviously just a step along the line, because the windup is inevitably that the path leads to cloture by a bare majority of Senators present and voting.

Mr. President, it was my privilege, as a young man, to serve on the staff of Senator George H. Moses, of New Hampshire, who was President pro tempore for some 8 years, and who was, in my opinion, one of the greatest parliamentarians who ever served in this body. I think he was in a class with the present distinguished President pro tempore, than which no higher compliment can be paid to any man.

It was my job as a young man to review and prepare material, under Senator Moses' direction, for a speech that he made then—and that was back in the 1920's—in defense of rule XXII.

At that time it was my duty, and part of my work as a research worker in his office, to go back over the years. That was before civil rights had become as pressing a matter as it has become in recent years, before it commanded the attention and caused the controversy it has in recent years.

Research revealed that between 1841, when, I believe, Henry Clay made the first attempt to change the rules, and 1924, shortly after World War I, there had been some 19 filibusters, so-called prolonged debates which were rather clearly filibusters, in the Senate. I believe with one exception, the Force bill, every one of them had to do with preserving the resources of the Republic. It was a time when Senators were exceedingly careful and jealous about public expenditures and public taxation. I think such a time is coming again, very shortly.

We faced then, as we do now, in certain degree, the necessity of preventing the overriding of minorities in the Senate as a necessary protection both to the great, large States of the Union, and to the very small States of the Union, and the comparatively small ones, such as I represent.

It is apparent without saying that a State the size of New Hampshire, or of the State represented by my distinguished friend the Senator from Rhode Island, or of Wyoming or Delaware or West Virginia, has no protection in the House of Representatives from a measure which might be, unintentionally perhaps, unjust, and work a hardship on the smaller States; because my State has two Members in the House of Representatives, and the State of New York has more than two score, of course.

So it is not very difficult to call attention to the fact—and this is not a matter of States' rights as such; it is a matter of a time that may arrive for any man in the Senate who represents a State of small population: the hour may come when, in defense of the vital welfare of his own people, a Senator needs to be able to stay the hand of rapid and headlong legislation long enough to make his cause known, and to secure a sound and fairminded Senate—and I have never served in any other kind of a Senate than those that were fairminded, if the issues were clearly laid down—to secure protection for his small State.

But by the same token, Mr. President, Senators who represent the great States of New York, California, Illinois, and the other huge States of the Union might think twice before they take steps to weaken rule XXII, because I believe it was less than 4 years ago that it was revealed by the Tax Foundation—and I think it has been corroborated since—that at that time, six States in the Union paid more than half of all the Federal taxes in this great country. Six great States; and those six States obviously had but 12 Senators in this body.

In an hour such as this, when all thoughtful people are concerned with public expenditures, with inflation, with the rising debt, with the obligations that are being laid upon us, and with the inevitable increase of taxes, even beyond the heavy burden that we now face, the time well might come when the six most powerful and richest States in this Union could suffer as grave an injustice as any small State, because of their stake in the financing of the United States of America, with only 12 Senators, if you please, to represent them.

This no one can foresee. Senators will note that I am now discussing subjects that have no relation whatsoever to the question of civil rights. It has come to a point where, almost universally, if you talk about cloture or talk about debate in the Senate, or use the word "filibuster," in speaking with any citizen, he instantly begins to talk about racial relations and the question of civil rights. But a decade from now—and we pray that this will happen—we may find that the problem of racial relations and the problem of civil rights have gone into history, as crises that have been met and reasonably resolved and solved by our Republic. But, a decade from now, Mr. President, we may find some other menace, some other highly sensitive and controversial issue, upon which it will be necessary to have a deliberative Senate, so that hasty and thoughtless action may not take place, to the detriment of the security, the safety, and the solvency of the American Republic.

I have only a few more words to say. In the years that I have served in the Senate, I have voted consistently against undue dilution of rule XXII. I intend to continue to vote that way. But by the same token, it has been my feeling that it was my duty, after any controversial matter had been debated and thrashed out a sufficient length of time—and I mean when the debate goes into days and days and weeks, and has been thoroughly aired, and the issues have been thoroughly advertised to all the people of this country—to vote for cloture. One reason that I have done so is this: It has been my opinion that those who consistently, blindly say, "No, there shall be no cloture voted" are at the same time hastening the day and aiding those who seek to dilute and weaken rule XXII; because if cloture is never invoked, after a prolonged period of debate, then we are demonstrating that there is merit in the arguments of those who wish to weaken rule XXII.

Mr. President, there is the exception of a debate that has been started in the closing days or hours of a Congress. I well recall one that concerned the pollution of one of the Great Lakes. I recall some other measures that were not laid before the Senate or did not become the business of the Senate until only a few days, sometimes only a few hours, before adjournment. In those cases, by what is known by some as a filibuster, by others as prolonged debate, depending on one's point of view on the particular question, legislation has been held up—held up until the next session of Congress.

I do not know of any irreparable damage that was done to the country by holding up those measures.

As regards lengthy debates or so-called filibusters that have taken place in the 14 years I have served as a Member of this body, I do not know of a single measure that was ever stopped in those 14 years. I have known of measures that were amended before the Senate voted upon them. I have known of some second thoughts, some modifying, some softening, or, as our great friend and great Senator, the recent President of the United States, Lyndon Johnson, would say, a reasoning together, that took place because of the prolonged debate.

But I have voted for cloture. I voted for cloture in the case of one bill that I was opposed to and that I voted against on the rollcall. But I voted for cloture, knowing that there were enough votes to pass it. I did so after many weeks and when I felt that it was time that the Senate had the opportunity to work its will on the measure. But I have not known of any important measure, or any measure, in the years I have been here that did not finally reach a vote, if the debate took place at any reasonable time during the session. I think that that will continue to be the case.

Therefore, I would feel, frankly, that if rule XXII were diluted, I would be more reluctant to vote for cloture on individual measures. I feel a sense of duty to vote for cloture at the proper time on measures, so long as rule XXII is left intact.

One more point. When we talk about rule XXII, we talk about prolonged debate. We talk about the need for cloture. But there is one thing that we tend to forget. If rule XXII is to be revised, it should be revised in more than just the situation that is contained in the present proposal. The first time I ever voted for cloture, and we began the procedure in the period after cloture had been invoked, I felt very keenly that one title of the omnibus civil rights bill worked a grave injustice and authorized such a naked use of Federal power that I felt it was extremely dangerous. I could not vote for a bill that contained that particular title. I had before the Senate an amendment to delete the title.

When cloture is voted, every Senator knows that only those amendments that are at the desk, and in the exact form in which they are at the desk, can be voted upon and that no other amendment can be offered in the absence of unanimous consent.

What happened? I had earlier offered my amendment. The amendment was narrowly defeated. Two Senators said to me, "If you will revise your amendment so that it does not go quite so far in the matter of this title, those who have said they are opposed to it, will vote for it."

I sought to offer the same amendment, slightly revised, after cloture had been voted, and the majority leader, as it was perfectly proper for him to do, objected. It could not even be considered.

So only those amendments that are at the desk, and in the exact form in which they are at the desk, can possibly be considered after cloture has been invoked.

This does not refer to the rule that each Senator may have only 1 hour after cloture has been invoked. That is a good rule. The rule that he may not assign his 1 hour to another Senator is a good rule. But the rule that he may not offer an amendment to an amendment within that hour, or use the time within that hour, or even offer an amendment when his time has expired, and there can be no debate, is, in my opinion, an oppressive rule. It means that cloture, when it has been invoked, has the effect of freezing, in a sense, the measure before the Senate, and makes it impossible to consider amendments that would earlier have been considered in the absence of prolonged debate.

There are many other reasons. Many masterly arguments against cloture have been advanced on the floor of the Senate.

The Senator from New Hampshire served in the House and has a vivid recollection of the handling of appropriation measures in that body. When I was a member of the House Committee on Appropriations, bills providing literally billions of dollars came before the House under a rule that allowed 40 minutes to each side. I trust I do not violate the rules, because I do not criticize the House, but the House, because of its size, does have to have a rule of unanimous consent. Under unanimous consent, we have committeed the same sin in the Senate, but it can be blocked by one Member.

However, the day has come for us to consider the need to make certain that this Republic is strong in its military protection.

The time has come when we must weigh with care the huge bills that come to the Senate as a matter of course, providing billions and billions of dollars in appropriations. As a member of the Committee on Appropriations—and I have been as remiss, I fear, as any other Senator—I do not want to see the situation arise in which we can spend this country into bankruptcy or into insolvency or into galloping inflation that takes the bread out of the mouths of our people, until the Senate has had an opportunity to weigh the details.

The time has gone by—and I hope that the Appropriations Committee and every other Senator will feel the time has gone by—when we can deal with these huge lump appropriations without bringing out on the floor many of the details that often have been overlooked.

I have seen the Senate argue all day over a few thousand dollars or $1 or $2 million, and then the next day pass a bill providing for $7, $8, $15, or $20 billion, without any real knowledge of its details.

These are things we must think of, and these are the reasons why this Senator will vote against the modification of rule XXII.

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

Mr. COTTON. I yield.

Mr. HOLLAND. Mr. President, I thank the Senator warmly for his exceedingly constructive, exceedingly cautious, and exceedingly commonsense approach to this subject. I believe he has made a very great contribution to this debate, and I thank him for it.

Mr. COTTON. I thank the Senator from Florida.

PRESIDENT NIXON'S INAUGURAL ADDRESS

Mr. BAKER. Mr. President, a few days ago this Nation witnessed the inauguration of its 37th President. In his inaugural address, Richard Nixon promised no neatly defined solutions. He offered only realism and avoidance of quick or easy answers.

Two recurring themes emerged from the inaugural address of President Nixon—peace abroad and unity at home. He spoke of the crisis in America:

> We have found ourselves rich in goods, but ragged in spirit; reaching with magnificent precision for the moon but falling into raucus discord on earth.
>
> We are caught in war, wanting peace. We are torn by division, wanting unity. We see around us empty lives, wanting fulfillment. We see tasks that need doing, waiting for hands to do them.
>
> To a crisis of the spirit, we need an answer of the spirit.
>
> And to find that answer, we need only look within ourselves.

President Nixon also expressed his hope for a united Nation, one in which every man can share fully in the shaping of his destiny. He said:

> No man can be fully free while his neighbor is not. To go forward at all is to go forward together.

He has asked that we learn to speak quietly enough so that our words can be heard as well as our voices. And he has promised that the Government will listen in new ways to the anguish and despair of the people who have not been heard before.

He noted that our greatest need now is to reach beyond Government to enlist the help of committed and concerned citizens across this continent.

Mr. President, President Nixon has on many occasions spoken of politics being the art of the possible and of seeking through intelligent effort to expand the bounds of that which is possible. In these aims every American should stand behind him and the pledges he made in his inaugural address.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, communicated to the Senate the intelligence of the death of Hon. ROBERT A. EVERETT, late a Representative from the State of Tennessee, and transmitted the resolutions of the House thereon.

DEATH OF REPRESENTATIVE ROBERT A. EVERETT, OF TENNESSEE

Mr. BAKER. Mr. President, on behalf of myself and my colleague (Mr. GORE), I send to the desk a resolution and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

S. RES. 62

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. Robert A. Everett, late a Representative from the State of Tennessee.

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That, as a further mark of respect to the memory of the deceased, the Senate do now recess.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 62) was considered and unanimously agreed to.

The PRESIDING OFFICER. The Chair appoints the Senators from Tennessee (Mr. GORE and Mr. BAKER) to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Mr. BAKER. Mr. President, ROBERT A. "FATS" EVERETT was first elected to the U.S. House of Representatives in 1958 to fill the unexpired term of Congressman Jere Cooper. Prior to that time, he had been an administrative assistant to Senator Tom Stewart and later to Gov. Gordon Browning. He had also served as executive secretary of the Tennessee County Services Association.

After his election, he served in the Congress with my father, Howard H. Baker. Following my election to this body, I came to know well and to admire "FATS" EVERETT, and I had a profound respect for him.

No one served more ably or had a keener knowledge of that which was best for his people than did "FATS" EVERETT. No one enjoyed more the business of the representation of people. This Congress and the citizens of the Eighth District will miss him.

RECESS

Mr. KENNEDY. Mr. President, in accordance with the order of Thursday, January 23, 1969, pursuant to the last resolving clause of Senate Resolution 62, and as a further mark of respect to the memory of the late Representative EVERETT, I move that the Senate now stand in recess until 12 o'clock noon tomorrow.

The motion was unanimously agreed to; and (at 3 o'clock and 7 minutes p.m.) the Senate took a recess until tomorrow, Tuesday, January 28, 1969, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate January 27 (legislative day of January 10), 1969:

HOUSING AND URBAN DEVELOPMENT

Richard C. Van Dusen, of Michigan, to be Under Secretary of Housing and Urban Development.

Floyd H. Hyde, of California, to be an Assistant Secretary of Housing and Urban Development.

Samuel C. Jackson, of the District of Columbia, to be an Assistant Secretary of Housing and Urban Development.

Samuel J. Simmons, of Michigan, to be an Assistant Secretary of Housing and Urban Development.

Sherman Unger, of Ohio, to be General Counsel of the Department of Housing and Urban Development.

REA

David A. Hamil, of Colorado, to be Administrator of the Rural Electrification Administration for a term of 10 years.

IN THE AIR FORCE

The following-named officers for temporary appointment in the U.S. Air Force under the provisions of chapter 839, title 10 of the United States Code:

To be brigadier generals

Col. Fred A. Heimstra, [redacted] Regular Air Force, medical.

Col. Paul P. Douglas, Jr., [redacted] Regular Air Force.

Col. James O. Prankosky, [redacted] Regular Air Force.

Col. Victor N. Cabas, [redacted] Regular Air Force.

Col. Kendall S. Young, [redacted] (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. William A. Jack, [redacted] Regular Air Force.

Col. Ernest F. John, [redacted] Regular Air Force.

Col. Ralph J. Hallenbeck, [redacted] Regular Air Force.

Col. Quintino J. Serenati, [redacted] Regular Air Force, medical.

Col. Harold L. Price, [redacted] Regular Air Force.

Col. Woodard E. Davis, Jr., [redacted] Regular Air Force.

Col. Ray M. Cole, [redacted], Regular Air Force.
Col. Michael C. McCarthy, [redacted], Regular Air Force.
Col. Jessup D. Lowe, [redacted], Regular Air Force.
Col. Donald A. Gaylord, [redacted], Regular Air Force.
Col. Vernon R. Turner, [redacted], Regular Air Force.
Col. Edgar H. Underwood, Jr., [redacted], Regular Air Force, Medical.
Col. Coleman O. Williams, Jr., [redacted], Regular Air Force.
Col. Leslie J. Westberg, [redacted], Regular Air Force.
Col. George K. Sykes, [redacted], Regular Air Force.
Col. Wendell L. Bevan, Jr., [redacted], Regular Air Force.
Col. William P. Comstock, [redacted] (lieutenant colonel, Regular Air Force) U.S. Air Force.
Col. Richard C. Catledge, [redacted], Regular Air Force.
Col. Madison M. McBrayer, [redacted], Regular Air Force.
Col. William H. Holt, [redacted], Regular Air Force.
Col. James H. Watkins, [redacted], Regular Air Force.
Col. Warren D. Johnson, [redacted], Regular Air Force.
Col. Paul C. Watson, [redacted], Regular Air Force.
Col. Maxwell W. Steel, Jr., [redacted], Regular Air Force, Medical.
Col. Jack K. Gamble, [redacted], Regular Air Force.
Col. William C. Fullilove, [redacted], Regular Air Force.
Col. Charles E. Yeager, [redacted], Regular Air Force.
Col. Harold R. Vague, [redacted], Regular Air Force.
Col. Paul G. Galentine, Jr., [redacted], Regular Air Force.
Col. Foster L. Smith, [redacted], Regular Air Force.
Col. Thomas P. Coleman, [redacted], Regular Air Force.
Col. Homer K. Hansen, [redacted], Regular Air Force.
Col. Peter R. DeLonga, [redacted], Regular Air Force.
Col. Clifford W. Hargrove, [redacted], Regular Air Force.
Col. Samuel M. Thomasson, [redacted], Regular Air Force.
Col. Robert E. Huyser, [redacted], Regular Air Force.
Col. William J. Evans, [redacted] (lieutenant colonel, Regular Air Force) U.S. Air Force.
Col. Thomas W. Morgan, [redacted], Regular Air Force.
Col. William R. Goade, [redacted], Regular Air Force.
Col. Charles I. Bennett, Jr., [redacted], Regular Air Force.
Col. Otis E. Winn, [redacted], Regular Air Force.
Col. Woodrow A. Abbott, [redacted], Regular Air Force.
Col. James R. Pugh, Jr., [redacted], Regular Air Force.
Col. Robert P. Lukeman, [redacted], Regular Air Force.
Col. James L. Price, [redacted], Regular Air Force.
Col. John W. Roberts, [redacted] Regular Air Force.
Col. Brian S. Gunderson, [redacted] Regular Air Force.
Col. Geoffrey Cheadle, [redacted], Regular Air Force.
Col. Floyd H. Trogdon, [redacted], Regular Air Force.
Col. Devol Brett, [redacted] Regular Air Force.
Col. Paul F. Patch, [redacted] Regular Air Force.
Col. Harold E. Collins, [redacted], Regular Air Force.
Col. Benjamin N. Bellis, [redacted] (lieutenant colonel, Regular Air Force), U.S. Air Force.
Col. Salvador E. Felices, [redacted] (lieutenant colonel, Regular Air Force) U.S. Air Force.
Col. Richard G. Cross, Jr., [redacted], Regular Air Force.
Col. Lew Allen, Jr., [redacted] (lieutenant colonel, Regular Air Force) U.S. Air Force.
Col. Martin G. Colladay, [redacted] (lieutenant colonel, Regular Air Force) U.S. Air Force.
Col. Charles C. Pattillo, [redacted] (lieutenant colonel, Regular Air Force) U.S. Air Force.
Col. Billie J. McGarvey, [redacted] Regular Air Force.
Col. James D. Hughes, [redacted] (lieutenant colonel, Regular Air Force) U.S. Air Force.
Col. James R. Allen, [redacted] (major, Regular Air Force) U.S. Air Force.
Col. Robert E. Pursley, [redacted] (major, Regular Air Force) U.S. Air Force.

EXTENSIONS OF REMARKS

MAN OF THE SOUTH

HON. HERMAN E. TALMADGE

OF GEORGIA

IN THE SENATE OF THE UNITED STATES

Monday, January 27, 1969

Mr. TALMADGE. Mr. President, each year a "Man of the South" is honored by Col. Hubert F. Lee in his Dixie Business magazine, published in Atlanta, Ga. Colonel Lee has just celebrated his 40th anniversary as editor and founder of this fine publication.

The award this year goes to Solon Brinton Turman, Man of the South for 1968, for his outstanding accomplishments in the shipping industry, and for his many contributions to the South and the entire Nation.

I wish to bring to the attention of the Senate an announcement of Mr. Turman's selection for this honor, as well as a biographical article by Colonel Lee, and I ask unanimous consent that this material be printed in the RECORD.

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

SOLON B. TURMAN, NEW ORLEANS SHIPPING EXECUTIVE, IS MAN OF THE SOUTH FOR 1968

Solon Brinton Turman, of New Orleans, a leader of the United States Shipping industry, has been named Man of the South for 1968, it was announced today by Colonel Hubert F. Lee, Editor and Publisher of Dixie Business, of Atlanta, which has sponsored the selection since 1946.

Colonel Lee pointed out that the award is made to the man selected from the 200 American business leaders who have been named to the South's Hall of Fame, and the decision is based on an annual poll.

Letters, ballots, petitions and resolutions urging Mr. Turman's selection were received, Colonel Lee said, from throughout the United States and from countries around the world. The flood of votes in Mr. Turman's behalf started pouring in shortly after the nominees were announced.

Mr. Turman, a Director and Chairman of the Executive Committee of Lykes Corporation and Lykes Bros. Steamship Co., Inc., is the senior ranking member of the Lykes family which founded the vast Lykes enterprises that have contributed greatly to the development of the south.

Mr. Turman this year observes his 50th anniversary with the Lykes organization. In addition to his active role in the Lykes world-wide shipping operation, he is also active in the many other Lykes interests which include cattle ranches in Florida and Texas; meat packing plants in Florida and Georgia, citrus groves and citrus concentrate plants in Florida; insurance companies in Florida, Georgia and North Carolina, banking in Florida and electronic firms in Louisiana, Florida and Georgia.

In addition to his active role in the many Lykes businesses, Mr. Turman also serves as a Director of the Hibernia National Bank in New Orleans; Chairman of the Board of Gulf and South American Steamship Co., Inc., member of The Business Ccuncil, and only recently concluded a 24-year term as Director of the Illinois Central Railroad.

A native of Florida and a resident of New Orleans since 1930, Mr. Turman is the son of the late Solon B. Turman and the late Miss Tillie Lykes. He attended Virginia Military Institute and the University of Virginia and his career with the Lykes enterprises dates back to 1919.

He became a Director of Lykes in 1925; a Vice President in 1930; Executive Vice President in 1943, and served as President from 1951 until 1962 when he was elected Chairman and Chief Executive Officer, a post he held until 1967 when he elected to step down.

In world business circles he is recognized as one of the foremost authorities on shipping and he has served his company, his southland and his nation with distinction, making major contributions to all three.

In 1949, he received the French Medal of Commercial Merit and in 1952 was made an honorary member of the Louisiana Chapter of Beta Gamma Sigma, the nation's leading national honorary scholastic fraternity. In 1957 he was named Louisiana's Maritime Man of the Year, and in 1961 he won twin-honors as the recipient of the American Legion's American Merchant Marine Achievement Award, presented to him by the late President John F. Kennedy, and the same year was given the Vice Admiral Jerry Land Medal, the highest honor paid to a non-technical person by the American Society of Naval Architects and Marine Engineers.

The individual's responsible for Mr. Turman winning the Man of the South honor, and Colonel Lee, "reads like a 'Who's Who' in American and international business. All of them had one thing in common—Solon Turman earned the honor for his distinguished service to the South over a lifetime."

SOUTH'S HALL OF FAME FOR THE LIVING

(By Hubert F. Lee)

With the publication of this issue of Dixie Business, another Southerner joins the ranks of the "Hall of Fame for the Living," the honor group from which the "Man of the South" is named each year.

He is Solon Turman, of New Orleans, a member of the Internationally-known Lykes