nearly pollution free surroundings. What is needed to achieve that desirable end is to acknowledge that the results are worthwhile and then to move determinedly in that direction.

It may mean, for example, that a farmer will have to move a feedlot away from a waterway in deference to his neighbors down the stream. It may mean that a septic tank or sewer tile draining into a farm tile and then into a stream will have to be changed. It may mean that the stewardship of the land calls for placing some present cropland in grassland. It may mean that the housewife shopping will have to read detergent labels more carefully and refuse to buy products that generate problems in hard waste disposal. It may mean that the grocer will have to refuse to stock detergents that do not break down after use and rid his shelves of packages that create disposal problems. It may mean that local units of government will have to take steps that will cause some inconvenience and expense to the citizens. Our city's sewage lagoons do not have to smell; proper management of the lagoons can solve the problem.

The course is quite clear. We can get down to business and do something about the problems of pollution plaguing us, or after this first burst of enthusiasm lapse again into lethargy.

If we do fail to act, the consequences are clear. Unsightly clutters of rubbish and burning dumps will offend the eye and pinch the nose. The lake will become a green morass fit only for carp and bullheads.

We make no such prediction that Worthington will be a moonscape unfit for habitation. But the place will be a lot less attractive than it is now, and that is reason enough to get busy.

HOUSE OF REPRESENTATIVES—*Wednesday, July 8, 1970*

The House met at 12 o'clock noon.

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

Every good tree bringeth forth good fruit.—Matthew 7: 17.

We open our minds unto Thee, our Father, and pray that Thy spirit may come anew into our hearts, giving us power for the living of these days. Remove from within us any bitterness that blights our lives, any resentment that ruins our dispositions, and any worry that wearies us and wears us out.

Help us to think cleanly and clearly, to speak forcefully and faithfully, to work heartily and hopefully, and to live trustfully and truly. In this spirit may we learn to do what is best for our country and good for our world.

In the spirit of Christ we pray. Amen.

THE JOURNAL

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

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 1284. Joint resolution authorizing the President's Commission on Campus Unrest to compel the attendance and testimony of witnesses and the production of evidence, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 5365. An act to provide for the conveyance of certain public lands held under color of title to Mrs. Jessie L. Gaines of Mobile, Ala.; and

H.R. 17548. An act making appropriations for sundry independent executive bureaus, boards, commissions, corporations, agencies, offices, and the Department of Housing and Urban Development for the fiscal year ending June 30, 1971, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 17548) entitled "An act making appropriations for sundry independent executive bureaus, boards, commissions, corporations, agencies, offices, and the Department of Housing and Urban Development for the fiscal year ending June 30, 1971, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PASTORE, Mr. MAGNUSON, Mr. ELLENDER, Mr. HOLLAND, Mr. ANDERSON, Mr. ALLOTT, Mrs. SMITH of Maine, Mr. HRUSKA, and Mr. YOUNG of North Dakota to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 16595) entitled "An act to authorize appropriations for activities of the National Science Foundation, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. PELL, Mr. EAGLETON, Mr. PROUTY, and Mr. DOMINICK to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 3838. An act to prevent the unauthorized manufacture and use of the character "Johnny Horizon", and for other purposes.

SUPPLEMENTAL VIEWS ON SOUTHEAST ASIA INVESTIGATION

Mr. ANDERSON of Tennessee. Mr. Speaker, I have two unanimous-consent requests to make. One is that my supplemental views on the investigation in Southeast Asia by the select committee be included in that report as a supplemental report; and, second, that my supplemental views be included in the RECORD as of today so that the readers may have those views available to them.

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

There was no objection.

DEPRAVED TREATMENT OF PRISONERS IN SOUTH VIETNAM

(Mr. TUNNEY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. TUNNEY. Mr. Speaker, the revelations in the last couple of days that have been brought out to the Nation by my colleagues, the gentleman from Tennessee (Mr. ANDERSON), and the gentleman from California (Mr. HAWKINS), regarding Con Son Prison and the depraved treatment of POW's and political prisoners shows very clearly that it is not just the North Vietnamese and the Vietcong who treat in such a fashion people of their own race and of their own nation with whom they are at war. It is also the Saigon Government which participates in cruel and inhuman handling of their prisoners.

The fact that U.S. dollars are supporting such an effort and the fact that American advisers are over there advising the Vietnamese makes it clear how far you can have a bureaucracy become completely insensate to the problems of man's inhumanity to man.

I am afraid that this is another example of what this Asian war has done to our spirit as a nation. I want to make it very clear that I do not think it is the fault of the Nixon administration any more than I think it is the fault of the Johnson administration. But I think the fault lies in the endeavor—this military endeavor—which can lead a moral nation like the United States—a generous nation like the United States and allow its visions of charitable sacrifice to produce monsters.

This, it seems to me, necessitates a Presidential commission to go over and take a look at what is going on in Con Son, and other political prisons in South Vietnam so that when we speak about inhuman treatment of American prisoners of war, we may speak with the knowledge that we are doing everything we can to keep the Vietnamese—be they South Vietnamese or North Vietnamese—to keep prisoners from being treated inhumanly in our prisons or in prisons sponsored by our client government in Saigon.

THE PLIGHT OF THE VETERANS' ADMINISTRATION HOSPITALS

(Mr. WOLFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WOLFF. Mr. Speaker, I recently attended a tour of the Kingsbridge VA Hospital. This tour was part of the investigation which was undertaken by the

House Veterans' Affairs Committee. Both the committee headed by Mr. TEAGUE and the Subcommittee on Hospitals headed by Mr. HALEY have devoted considerable man-hours to probing what is happening with the Nation's VA hospitals. What they found is shocking, especially in New York VA hospitals.

As Mr. TEAGUE noted:

> The Vietnam veteran has contributed enough when he fights the shooting war and he should not be expected to fight the inflation war at the expense of his health.

Yet, I have seen the heroes of battles living in continual tragedy.

We are not doing all we can when we allot 11,000 beds in New York VA hospitals to serve more than 2½ million veterans. And we are shirking our duty when we permit our New York VA hospitals to be short staffed by more than 3,300 hospital personnel.

Can you believe our veterans' hospitals have half the attendants that private hospitals have to care for paraplegics—men who cannot move? Are the veteran paraplegics half as much men?

How can we expect men to get well when they are given half a chance to be rehabilitated? As a result, we are finding everincreasing numbers of veterans who are permanent hospital residents. We are not helping them enough, so they are not able to return to society.

CONGRESS SHOULD LEAD THE WAY

(Mr. PELLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PELLY. Mr. Speaker, on June 30, the distinguished chairman of the House Committee on Appropriations (Mr. MAHON) addressed the House on the subject of the deteriorating Federal budgetary situation. He warned the Congress of the President's reestimated fiscal 1971 deficit, excluding trust funds, and that the Federal Government would be $11 billion in the red.

Meanwhile, the national debt has climbed, as of June 30, the end of the Government's fiscal year, to $373 billion.

Mr. Speaker, Congress has to deal with inflation and this overspending, and in this connection, I would suggest that we set an example ourselves by reducing our own salaries and the salaries of all top jobs in Government, including the President and Cabinet members by at least 10 percent.

The dollars thereby saved would not make much of a dent in the deficit, but it would set an example in the way of establishing a pattern of restraint in the fight against inflation.

Mr. Speaker, Congress cannot ask others to do something which itself is unwilling to do. If voluntary restraints are to work, the Government should lead the way.

THE SILENT MAJORITY SPEAKS

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, yes, there is a silent majority.

And 300,000 to 400,000 of them turned out in the Capital of their Nation Saturday night to honor America.

Americans from every State and every city and almost every crossroads of the Nation came to pray, and to salute their flag, and to listen to their fellow patriots and to celebrate the independence of the greatest Nation in the history of the world.

Yes, Mr. Speaker, there is a silent majority. And it consists of something like 95 percent of the American people—the decent, honest, hardworking Americans who respect the rights of others, who love liberty and love their country, who obey her laws, and who serve her in her hour of need.

These are the people who were represented here on Saturday night.

And it is they who will defend a great America today and will build a better America tomorrow.

Mr. Speaker, we should all thank God for the fact that America does indeed have a silent and patriotic and law-abiding majority.

CAPTIVE NATIONS WEEK

(Mr. SCHERLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHERLE. Mr. Speaker, this week, from July 12 to July 18, has been designated "Captive Nations Week." Congress has set aside 1 week for this purpose every year since the resolution was passed in 1959 to remind us of what we, in our good fortune, are liable to forget: that 1 billion people remain shackled in the chains of Communist domination.

Compared to the sufferings of the oppressed peoples of Eastern Europe and Communist Asia, the cries of repression of academic freedoms and police brutality in this country seem merely ludicrous. Paradoxically, the government which allows the greatest freedom of dissent is the most frequent target of criticism while the Communist system which permits none is outwardly calm and undivided by dissent. But it is an uneasy quiet which prevails in the streets of Communist citadels, a tenuous political peace born out of the barrel of a gun.

The citizens—we should rather call them subjects—of these countries rarely and at great peril to themselves raise their voices in protest. But they are nonetheless patriotic for that. They are the silent allies of freedom. They wait patiently for some sign of hope. And they will no doubt be, when their countries are finally liberated, the staunchest defenders of freedom, for they know from bitter experience what it means to live without it. I understand this because I have relatives behind the Iron Curtain in Hungary and East Germany.

We must not forget them and we must not fail them. Freedom is not merely the prerogative of Americans, but the precious heritage of all mankind of which we are privileged to act as guardians. We must be watchful lest it slip from our unwitting grasp. We cannot surrender to those who would threaten it from without and we cannot capitulate to those who would undermine it from within.

THE IMPORTANCE OF THE EMERGENCY PUBLIC INTEREST PROTECTION ACT

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GERALD R. FORD. Mr. Speaker, congressional inaction on President Nixon's Emergency Public Interest Protection Act of 1970 is absolutely incomprehensible.

We have had a sudden strike against the Nation's railroads. The President has aborted the strike by employing his authority under the Railway Labor Act to order the men back to work for 60 days while an Emergency Board studies the situation and recommends a settlement. Now Northwest Airlines has also been struck.

These actions point up the absurdity of the position in which the Nation finds itself.

The country is without adequate means to deal with national emergency labor disputes in transportation and yet hearings have not even been scheduled in either the House or the Senate on the President's proposed Emergency Public Interest Protection Act.

It was last February 27 that the President sent Congress a message detailing his proposal covering emergency disputes in the transportation industries. Why has no action been taken? Why do such disputes reach the point where Congress has to legislate a special solution which in most cases amounts to compulsory arbitration? I think these questions demand an answer. I think the American people will insist upon an answer.

As President Nixon has pointed out, the Railway Labor Act has a very bad record. It discourages genuine collective bargaining.

The President's Emergency Public Interest Protection Act is designed to promote collective bargaining—to promote a solution short of special congressional action in a crisis atmosphere. This makes sense to me, and it should make sense to every other Member of Congress.

I urge that the Congress move immediately to consider the Emergency Public Interest Protection Act.

RECORD OF THE 91ST CONGRESS, FIRST SESSION

(Mr. BOGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BOGGS. Mr. Speaker, I am certain that the appropriate committees will give expeditious consideration to the specific legislation that the gentleman from Michigan just referred to.

The gentleman from Michigan is alleged to have emerged on yesterday from the White House characterizing this Congress as a spendthrift Congress and making other rather uncomplimentary remarks about the record of this Con-

gress. I might say to the gentleman for his edification that we have passed practically every appropriation in the House of Representatives for this session—which incidentally is a record—and we actually reduced the President's budget by at least a half billion dollars.

Let it be pointed out that we have set up a system of priorities. We have increased funds for health, for education, for housing, for urban renewal, for pollution and sewerage. We have indeed exceeded the President's budget in these fields. I was happy on yesterday to see the other body maintain the action of this body in connection with some of those programs.

Just about a week ago or 10 days ago the President sent down a veto message on the Hill-Burton program, and fortunately more than two-thirds of the Members of this body repudiated that veto and well over two-thirds of the Members of the other body did so.

I would suggest to the gentleman from Michigan that he get the record straight.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. BOGGS. I yield to the gentleman from Michigan.

Mr. GERALD R. FORD. Mr. Speaker, I anticipated that my friend, the gentleman from Louisiana, might make such a speech. Fortunately I happened to be reading last Sunday's New York Times, the issue of July 5, 1970, page E–3. Will the gentleman please let me continue. In the article, the heading of which is "Budget: Nixon Proposes, Congress Disposes," there is a paragraph by the author, Edwin L. Dale, which is most important and it reads in part as follows:

> The box score by the once obscure but now important Joint Committee on Reduction of Federal Expenditures shows that Congress is well on its way to adding more than $7 billion to the budget deficit in the fiscal year that has just begun.

Mr. BOGGS. The gentleman's quotation may or may not be correct. This is one of the few times I have seen the gentleman use the New York Times in defense of the administration policy. I could find some other comments in that newspaper that might be quite different.

But let me say to the gentleman that he is facing in this fiscal year under his Bureau of the Budget one of the biggest deficits in the entire history of the United States. No question about it.

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

Mr. BOGGS. I yield to the majority leader.

Mr. ALBERT. How many amendments—I can recall one—have the Republicans offered to cut the appropriations this year?

Mr. BOGGS. This administration has succeeded in giving us an inflation and—the gentleman emerged from the White House not long ago, and he said the chance of a recession is nil. All I can say to my good friend JERRY FORD is he just does not know what a recession is.

DEFICITS AND THE ECONOMY

(Mr. CEDERBERG asked and was given permission to address the House for 1 minute.)

Mr. CEDERBERG. Mr. Speaker, I have listened with interest to the majority whip. His comment about recession and unemployment is quite interesting.

The unemployment rate under the Democrats in 1961, 1962, 1963, and 1964 was higher than it is now. Then we got involved in Vietnam under the Democratic administration. They put the boys in the Army and sent them to Vietnam, and the unemployment rate went down.

Now what we are trying to do is that we are moving to a peacetime economy. It is true unemployment is up. The adjustment to a peace economy is not without problems.

The gentleman referred to the budget. That is interesting. He evidently has not discussed this matter with the chairman of the Appropriations Committee. I serve on that committee. We get a lecture almost every time we come into our full committee meeting, telling us about what we are doing to the budget, and the concern of the Democratic chairman of the Appropriations Committee.

And the phony cuts that we are making. Almost a half billion of them in the Commodity Credit Corporation alone that we have not funded.

So if we want to analyze the budget, to see exactly what has happened, we have deferred and we have failed to take certain actions, to make the budget look a little lower than it is, but those chickens are coming home to roost. The facts are this Congress has not reduced the budget.

Now, the gentleman talks about deficits. Why, the next to last year the Johnson administration had a deficit of $25 billion. That is the record. The record is not under this administration.

Every effort is being made to hold the line and to produce some fiscal responsibility.

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

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

Mr. WOLFF. Is the gentleman aware of the statement made by the Director of the Bureau of the Budget and the Council of Economic Advisers that a little unemployment will help to stop inflation, that this was one of the answers offered by the administration?

Mr. CEDERBERG. I am not aware of that statement; and nobody wants unemployment.

Mr. WOLFF. On February 21, 1970, Business Week reported the Presidents Council of Economic Advisers appeared before a congressional committee and maintained that "A moderate rise in unemployment is necessary to start winding down inflation" this is an unconscionable method of combating inflation—causing people to lose jobs.

Mr. CEDERBERG. There is a possibility, and I could say that Mr. Heller, who was the chairman of the Committee of Economic Advisers to both President Kennedy and President Johnson, said exactly the same thing. He was under the Democrats. These adjustments are always unpleasant.

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

Mr. CEDERBERG. I yield to the gentleman from Louisiana.

Mr. BOGGS. Does the gentleman consider the loss of $300 billion in securities in this country in the last 18 months healthy?

Mr. CEDERBERG. No; I do not consider it healthy. If we had practiced a little fiscal responsibility, and had not had a $25 billion deficit under the Democrats, this would not have happened.

CALL OF THE HOUSE

Mr. ARENDS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 204]

Adams	Dorn	Nedzi
Anderson, Ill.	Edwards, La.	Nichols
Anderson, Tenn.	Findley	Ottinger
	Foreman	Passman
Ashley	Gallagher	Pepper
Aspinall	Giaimo	Podell
Baring	Gilbert	Pollock
Bell, Calif.	Gray	Powell
Blatnik	Hanna	Price, Tex.
Brock	Hansen, Wash.	Pryor, Ark.
Broomfield	Hathaway	Rarick
Brown, Calif.	Holifield	Reifel
Caffery	Kirwan	Rogers, Colo.
Carey	Landgrebe	Saylor
Celler	Leggett	Scheuer
Clark	Long, La.	Shipley
Clay	Long, Md.	Stuckey
Collier	McEwen	Sullivan
Conyers	McMillan	Ullman
Cramer	Moorhead	Whitten
Daddario	Morse	Wilson, Charles H.
Dawson	Morton	
Denney		

The SPEAKER pro tempore (Mr. BOGGS). On this rollcall 366 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE AMERICAN INDIANS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 91–363)

The SPEAKER pro tempore (Mr. BOGGS) laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on Interior and Insular Affairs and ordered to be printed:

To the Congress of the United States:

The first Americans—the Indians—are the most deprived and most isolated minority group in our nation. On virtually every scale of measurement—employment, income, education, health—the condition of the Indian people ranks at the bottom.

This condition is the heritage of centuries of injustice. From the time of their first contact with European settlers, the American Indians have been oppressed and brutalized, deprived of their ancestral lands and denied the opportunity to control their own destiny. Even the Federal programs which are intended to meet their needs have frequently proven to be ineffective and demeaning.

But the story of the Indian in America is something more than the record of the white man's frequent aggression, broken agreements, intermittent remorse and prolonged failure. It is a record also of endurance, of survival, of adaptation and creativity in the face of overwhelming obstacles. It is a record of enormous contributions to this country—to its art and culture, to its strength and spirit, to its sense of history and its sense of purpose.

It is long past time that the Indian policies of the Federal government began to recognize and build upon the capacities and insights of the Indian people. Both as a matter of justice and as a matter of enlightened social policy, we must begin to act on the basis of what the Indians themselves have long been telling us. The time has come to break decisively with the past and to create the conditions for a new era in which the Indian future is determined by Indian acts and Indian decisions.

SELF-DETERMINATION WITHOUT TERMINATION

The first and most basic question that must be answered with respect to Indian policy concerns the historic and legal relationship between the Federal government and Indian communuities. In the past, this relationship has oscillated between two equally harsh and unacceptable extremes.

On the one hand, it has—at various times during previous Administrations—been the stated policy objective of both the Executive and Legislative branches of the Federal government eventually to terminate the trusteeship relationship between the Federal government and the Indian people. As recently as August of 1953, in House Concurrent Resolution 108, the Congress declared that termination was the long-range goal of its Indian policies. This would mean that Indian tribes would eventually lose any special standing they had under Federal law: the tax exempt status of their lands would be discontinued; Federal responsibility for their economic and social well-being would be repudiated; and the tribes themselves would be effectively dismantled. Tribal property would be divided among individual members who would then be assimilated into the society at large.

This policy of forced termination is wrong, in my judgment, for a number of reasons. First, the premises on which it rests are wrong. Termination implies that the Federal government has taken on a trusteeship responsibility for Indian communities as an act of generosity toward a disadvantaged people and that it can therefore discontinue this responsibility on a unilateral basis whenever it sees fit. But the unique status of Indian tribes does not rest on any premise such as this. The special relationship between Indians and the Federal government is the result instead of solemn obligations which have been entered into by the United States Government. Down through the years, through written treaties and through formal and informal agreements, our government has made specific commitments to the Indian people. For their part, the Indians have often surrendered claims to vast tracts of land and have accepted life on government reservations. In exchange, the government has agreed to provide community services such as health, education and public safety, services which would presumably allow Indian communities to enjoy a standard of living comparable to that of other Americans.

This goal, of course, has never been achieved. But the special relationship between the Indian tribes and the Federal government which arises from these agreements continues to carry immense moral and legal force. To terminate this relationship would be no more appropriate than to terminate the citizenship rights of any other American.

The second reason for rejecting forced termination is that the practical results have been clearly harmful in the few instances in which termination actually has been tried. The removal of Federal trusteeship responsibility has produced considerable disorientation among the affected Indians and has left them unable to relate to a myriad of Federal, State and local assistance efforts. Their economic and social condition has often been worse after termination than it was before.

The third argument I would make against forced termination concerns the effect it has had upon the overwhelming majority of tribes which still enjoy a special relationship with the Federal government. The very threat that this relationship may someday be ended has created a great deal of apprehension among Indian groups and this apprehension, in turn, has had a blighting effect on tribal progress. Any step that might result in greater social, economic or political autonomy is regarded with suspicion by many Indians who fear that it will only bring them closer to the day when the Federal government will disavow its responsibility and cut them adrift.

In short, the fear of one extreme policy, forced termination, has often worked to produce the opposite extreme: excessive dependence on the Federal government. In many cases this dependence is so great that the Indian community is almost entirely run by outsiders who are responsible and responsive to Federal officials in Washington, D.C., rather than to the communities they are supposed to be serving. This is the second of the two harsh approaches which have long plagued our Indian policies. Of the Department of the Interior's programs directly serving Indians, for example, only 1.5 percent are presently under Indian control. Only 2.4 percent of HEW's Indian health programs are run by Indians. The result is a burgeoning Federal bureaucracy, programs which are far less effective than they ought to be, and an erosion of Indian initiative and morale.

I believe that both of these policy extremes are wrong. Federal termination errs in one direction, Federal paternalism errs in the other. Only by clearly rejecting both of these extremes can we achieve a policy which truly serves the best interests of the Indian people. Self-determination among the Indian people can and must be encouraged without the threat of eventual termination. In my view, in fact, that is the only way that self-determination can effectively be fostered.

This, then, must be the goal of any new national policy toward the Indian people: to strengthen the Indian's sense of autonomy without threatening his sense of community. We must assure the Indian that he can assume control of his own life without being separated involuntarily from the tribal group. And we must make it clear that Indians can become independent of Federal control without being cut off from Federal concern and Federal support. My specific recommendations to the Congress are designed to carry out this policy.

1. REJECTING TERMINATION

Because termination is morally and legally unacceptable, because it produces bad practical results, and because the mere threat of termination tends to discourage greater self-sufficiency among Indian groups, I am asking the Congress to pass a new Concurrent Resolution which would expressly renounce, repudiate and repeal the termination policy as expressed in House Concurrent Resolution 108 of the 83rd Congress. This resolution would explicitly affirm the integrity and right to continued existence of all Indian tribes and Alaska native governments, recognizing that cultural pluralism is a source of national strength. It would assure these groups that the United States Government would continue to carry out its treaty and trusteeship obligations to them as long as the groups themselves believed that such a policy was necessary or desirable. It would guarantee that whenever Indian groups decided to assume control or responsibility for government service programs, they could do so and still receive adequate Federal financial support. In short, such a resolution would reaffirm for the Legislative branch—as I hereby affirm for the Executive branch—that the historic relationship between the Federal government and the Indian communities cannot be abridged without the consent of the Indians.

2. THE RIGHT TO CONTROL AND OPERATE FEDERAL PROGRAMS

Even as we reject the goal of forced termination, so must we reject the suffocating pattern of paternalism. But how can we best do this? In the past, we have often assumed that because the government is obliged to provide certain services for Indians, it therefore must administer those same services. And to get rid of Federal administration, by the same token, often meant getting rid of the whole Federal program. But there is no necessary reason for this assumption. Federal support programs for non-Indian communities—hospitals and schools are two ready examples—are ordinarily administered by local authorities. There is no reason why Indian communities should be deprived of the privilege of self-determination merely because they receive monetary support from the Federal government. Nor should they lose Federal money because they reject Federal control.

For years we have talked about en-

couraging Indians to exercise greater self-determination, but our progress has never been commensurate with our promises. Part of the reason for this situation has been the threat of termination. But another reason is the fact that when a decision is made as to whether a Federal program will be turned over to Indian administration, it is the Federal authorities and not the Indian people who finally make that decision.

This situation should be reversed. In my judgment, it should be up to the Indian tribe to determine whether it is willing and able to assume administrative responsibility for a service program which is presently administered by a Federal agency. To this end, I am proposing legislation which would empower a tribe or a group of tribes or any other Indian community to take over the control or operation of Federally-funded and administered programs in the Department of the Interior and the Department of Health, Education and Welfare whenever the tribal council or comparable community governing group voted to do so.

Under this legislation, it would not be necessary for the Federal agency administering the program to approve the transfer of responsibility. It is my hope and expectation that most such transfers of power would still take place consensually as a result of negotiations between the local community and the Federal government. But in those cases in which an impasse arises between the two parties, the final determination should rest with the Indian community.

Under the proposed legislation, Indian control of Indian programs would always be a wholly voluntary matter. It would be possible for an Indian group to select that program or that specified portion of a program that it wants to run without assuming responsibility for other components. The "right of retrocession" would also be guaranteed; this means that if the local community elected to administer a program and then later decided to give it back to the Federal government, it would always be able to do so.

Appropriate technical assistance to help local organizations successfully operate these programs would be provided by the Federal government. No tribe would risk economic disadvantage from managing its own programs; under the proposed legislation, locally-administered programs would be funded on equal terms with similar services still administered by Federal authorities. The legislation I propose would include appropriate protections against any action which endangered the rights, the health, the safety or the welfare of individuals. It would also contain accountability procedures to guard against gross negligence or mismanagement of Federal funds.

This legislation would apply only to services which go directly from the Federal government to the Indian community; those services which are channeled through State or local governments could still be turned over to Indian control by mutual consent. To run the activities for which they have assumed control, the Indian groups could employ local people or outside experts. If they chose to hire Federal employees who had formerly administered these projects, those employees would still enjoy the privileges of Federal employee benefit programs—under special legislation which will also be submitted to the Congress.

Legislation which guarantees the right of Indians to contract for the control or operation of Federal programs would directly channel more money into Indian communities, since Indians themselves would be administering programs and drawing salaries which now often go to non-Indian administrators. The potential for Indian control is significant, for we are talking about programs which annually spend over $400 million in Federal funds. A policy which encourages Indian administration of these programs will help build greater pride and resourcefulness within the Indian community. At the same time, programs which are managed and operated by Indians are likely to be more effective in meeting Indian needs.

I speak with added confidence about these anticipated results because of the favorable experience of programs which have already been turned over to Indian control. Under the auspices of the Office of Economic Opportunity, Indian communities now run more than 60 community action agencies which are located on Federal reservations. OEO is planning to spend some $57 million in Fiscal Year 1971 through Indian-controlled grantees. For over four years, many OEO-funded programs have operated under the control of local Indian organizations and the results have been most heartening.

Two Indian tribes—the Salt River Tribe and the Zuni Tribe—have recently extended this principle of local control to virtually all of the programs which the Bureau of Indian Affairs has traditionally administered for them. Many Federal officials, including the Agency Superintendent, have been replaced by elected tribal officers or tribal employees. The time has now come to build on these experiences and to extend local Indian control—at a rate and to the degree that the Indians themselves establish.

3. RESTORING THE SACRED LANDS NEAR BLUE LAKE

No government policy toward Indians can be fully effective unless there is a relationship of trust and confidence between the Federal Government and the Indian people. Such a relationship cannot be completed overnight; it is inevitably the product of a long series of words and actions. But we can contribute significantly to such a relationship by responding to just grievances which are especially important to the Indian people.

One such grievance concerns the sacred Indian lands at and near Blue Lake in New Mexico. From the fourteenth century, the Taos Pueblo Indians used these areas for religious and tribal purposes. In 1906, however, the United States Government appropriated these lands for the creation of a national forest. According to a recent determination of the Indian Claims Commission, the government "took said lands from petitioner without compensation."

For 64 years, the Taos Pueblo has been trying to regain possession of this sacred lake and watershed area in order to preserve it in its natural condition and limit its non-Indian use. The Taos Indians consider such action essential to the protection and expression of their religious faith.

The restoration of the Blue Lake lands to the Taos Pueblo Indians is an issue of unique and critical importance to Indians throughout the country. I therefore take this opportunity wholeheartedly to endorse legislation which would restore 48,000 acres of sacred land to the Taos Pueblo people, with the statutory promise that they would be able to use these lands for traditional purposes and that except for such uses the lands would remain forever wild.

With the addition of some perfecting amendments, legislation now pending in the Congress would properly achieve this goal. That legislation (H.R. 471) should promptly be amended and enacted. Such action would stand as an important symbol of this Government's responsiveness to the just grievances of the American Indians.

4. INDIAN EDUCATION

One of the saddest aspects of Indian life in the United States is the low quality of Indian education. Drop-out rates for Indians are twice the national average and the average educational level for all Indians under Federal supervision is less than six school years. Again, at least a part of the problem stems from the fact that the Federal Government is trying to do for Indians what many Indians could do better for themselves.

The Federal government now has responsibility for some 221,000 Indian children of school age. While over 50,000 of these children attend schools which are operated directly by the Bureau of Indian Affairs, only 750 Indian children are enrolled in schools where the responsibility for education has been contracted by the BIA to Indian school boards. Fortunately, this condition is beginning to change. The Ramah Navajo Community of New Mexico and the Rough Rock and Black Water Schools in Arizona are notable examples of schools which have recently been brought under local Indian control. Several other communities are now negotiating for similar arrangements.

Consistent with our policy that the Indian community should have the right to take over the control and operation of federally funded programs, we believe every Indian community wishing to do so should be able to control its own Indian schools. This control would be exercised by school boards selected by Indians and functioning much like other school boards throughout the nation. To assure that this goal is achieved, I am asking the Vice President, acting in his role as Chairman of the National Council on Indian Opportunity, to establish a Special Education Subcommittee of that Council. The members of that Subcommittee should be Indian educators who are selected by the Council's Indian members. The Subcommittee will provide technical assistance to Indian

communities wishing to establish school boards, will conduct a nationwide review of the educational status of all Indian school children in whatever schools they may be attending, and will evaluate and report annually on the status of Indian education, including the extent of local control. This Subcommittee will act as a transitional mechanism; its objective should not be self-perpetuation but the actual transfer of Indian education to Indian communities.

We must also take specific action to benefit Indian children in public schools. Some 141,000 Indian children presently attend general public schools near their homes. Fifty-two thousand of these are absorbed by local school districts without special Federal aid. But 89,000 Indian children attend public schools in such high concentrations that the State or local school districts involved are eligible for special Federal assistance under the Johnson-O'Malley Act. In Fiscal Year 1971, the Johnson-O'Malley program will be funded at a level of some $20 million.

This Johnson-O'Malley money is designed to help Indian students, but since funds go directly to the school districts, the Indians have little if any influence over the way in which the money is spent. I therefore propose that the Congress amend the Johnson-O'Malley Act so as to authorize the Secretary of the Interior to channel funds under this act directly to Indian tribes and communities. Such a provision would give Indians the ability to help shape the schools which their children attend and, in some instances, to set up new school systems of their own. At the same time, I am directing the Secretary of the Interior to make every effort to ensure that Johnson-O'Malley funds which are presently directed to public school districts are actually spent to improve the education of Indian children in these districts.

5. ECONOMIC DEVELOPMENT LEGISLATION

Economic deprivation is among the most serious of Indian problems. Unemployment among Indians is ten times the national average; the unemployment rate runs as high as 80 percent on some of the poorest reservations. Eighty percent of reservation Indians have an income which falls below the poverty line; the average annual income for such families is only $1,500. As I said in September of 1968, it is critically important that the Federal government support and encourage efforts which help Indians develop their own economic infrastructure. To that end, I am proposing the "Indian Financing Act of 1970."

This act would do two things:

1. It would broaden the existing Revolving Loan Fund, which loans money for Indian economic development projects. I am asking that the authorization for this fund be increased from approximately $25 million to $75 million.

2. It would provide additional incentives in the form of loan guarantees, loan insurance and interest subsidies to encourage *private* lenders to loan more money for Indian economic projects. An aggregate amount of $200 million would be authorized for loan guarantee and loan insurance purposes.

I also urge that legislation be enacted which would permit any tribe which chooses to do so to enter into leases of its land for up to 99 years. Indian people now own over 50 million acres of land that are held in trust by the Federal Government. In order to compete in attracting investment capital for commercial, industrial, and recreational development of these lands, it is essential that the tribes be able to offer long-term leases. Long-term leasing is preferable to selling such property since it enables tribes to preserve the trust ownership of their reservation homelands. But existing law limits the length of time for which many tribes can enter into such leases. Moreover, when long-term leasing is allowed, it has been granted by Congress on a case-by-case basis, a policy which again reflects a deep-rooted pattern of paternalism. The twenty reservations which have already been given authority for long-term leasing have realized important benefits from that privilege and this opportunity should now be extended to all Indian tribes.

Economic planning is another area where our efforts can be significantly improved. The comprehensive economic development plans that have been created by both the Pima-Maricopa and the Zuni Tribes provide outstanding examples of interagency cooperation in fostering Indian economic growth. The Zuni Plan, for example, extends for at least five years and involves a total of $55 million from the Departments of Interior, Housing and Urban Development, and Health. Education. and Welfare and from the Office of Economic Opportunity and the Economic Development Administration. I am directing the Secretary of the Interior to play an active role in coordinating additional projects of this kind.

6. MORE MONEY FOR INDIAN HEALTH

Despite significant improvements in the past decade and a half, the health of Indian people still lags 20 to 25 years behind that of the general population. The average age at death among Indians is 44 years, about one-third less than the national average. Infant mortality is nearly 50 percent higher for Indians and Alaska natives than for the population at large; the tuberculosis rate is eight times as high and the suicide rate is twice that of the general population. Many infectious diseases such as trachoma and dysentery that have all but disappeared among other Americans continue to afflict the Indian people.

This Administration is determined that the health status of the first Americans will be improved. In order to initiate expanded efforts in this area, I will request the allocation of an additional $10 million for Indian health programs for the current fiscal year. This strengthened Federal effort will enable us to address ourselves more effectively to those health problems which are particularly important to the Indian community. We understand, for example, that areas of greatest concern to Indians include the prevention and control of alcoholism, the promotion of mental health and the control of middle-ear disease. We hope that the ravages of middle-ear disease—a particularly acute disease among Indians—can be brought under control within five years.

These and other Indian health programs will be most effective if more Indians are involved in running them. Yet—almost unbelievably—we are presently able to identify in this country only 30 physicians and fewer than 400 nurses of Indian descent. To meet this situation, we will expand our efforts to train Indians for health careers.

7. HELPING URBAN INDIANS

Our new census will probably show that a larger proportion of American Indians are living off the reservation than ever before in our history. Some authorities even estimate that more Indians are living in cities and towns than are remaining on the reservation. Of those American Indians who are now dwelling in urban areas, approximately three-fourths are living in poverty.

The Bureau of Indian Affairs is organized to serve the 462,000 reservation Indians. The BIA's responsibility does not extend to Indians who have left the reservation, but this point is not always clearly understood. As a result of this misconception, Indians living in urban areas have often lost out on the opportunity to participate in other programs designed for disadvantaged groups. As a first step toward helping the urban Indians, I am instructing appropriate officials to do all they can to ensure that this misunderstanding is corrected.

But misunderstandings are not the most important problem confronting urban Indians. The biggest barrier faced by those Federal, State and local programs which are trying to serve urban Indians is the difficulty of locating and identifying them. Lost in the anonymity of the city, often cut off from family and friends, many urban Indians are slow to establish new community ties. Many drift from neighborhood to neighborhood; many shuttle back and forth between reservations and urban areas. Language and cultural differences compound these problems. As a result, Federal, State and local programs which are designed to help such persons often miss this most deprived and least understood segment of the urban poverty population.

This Administration is already taking steps which will help remedy this situation. In a joint effort, the Office of Economic Opportunity and the Department of Health, Education and Welfare will expand support to a total of seven urban Indian centers in major cities which will act as links between existing Federal, State and local service programs and the urban Indians. The Departments of Labor, Housing and Urban Development and Commerce have pledged to cooperate with such experimental urban centers and the Bureau of Indian Affairs has expressed its willingness to contract with these centers for the performance of relocation services which assist reservation Indians in their transition to urban employment.

These efforts represent an important beginning in recognizing and alleviating the severe problems faced by urban Indi-

ans. We hope to learn a great deal from these projects and to expand our efforts as rapidly as possible. I am directing the Office of Economic Opportunity to lead these efforts.

8. INDIAN TRUST COUNSEL AUTHORITY

The United States Government acts as a legal trustee for the land and water rights of American Indians. These rights are often of critical economic importance to the Indian people; frequently they are also the subject of extensive legal dispute. In many of these legal confrontations, the Federal government is faced with an inherent conflict of interest. The Secretary of the Interior and the Attorney General must at the same time advance *both* the *national* interest in the use of land and water rights *and* the *private* interests of Indians in land which the government holds as trustee.

Every trustee has a legal obligation to advance the interests of the beneficiaries of the trust without reservation and with the highest degree of diligence and skill. Under present conditions, it is often difficult for the Department of the Interior and the Department of Justice to fulfill this obligation. No self-respecting law firm would ever allow itself to represent two opposing clients in one dispute; yet the Federal government has frequently found itself in precisely that position. There is considerable evidence that the Indians are the losers when such situations arise. More than that, the credibility of the Federal government is damaged whenever it appears that such a conflict of interest exists.

In order to correct this situation, I am calling on the Congress to establish an Indian Trust Counsel Authority to assure independent legal representation for the Indians' natural resource rights. This Authority would be governed by a three-man board of directors, appointed by the President with the advice and consent of the Senate. At least two of the board members would be Indian. The chief legal officer of the Authority would be designated as the Indian Trust Counsel.

The Indian Trust Counsel Authority would be independent of the Departments of the Interior and Justice and would be expressly empowered to bring suit in the name of the United States in its trustee capacity. The United States would waive its sovereign immunity from suit in connection with litigation involving the Authority.

9. ASSISTANT SECRETARY FOR INDIAN AND TERRITORIAL AFFAIRS

To help guide the implementation of a new national policy concerning American Indians, I am recommending to the Congress the establishment of a new position in the Department of the Interior—Assistant Secretary for Indian and Territorial Affairs. At present, the Commissioner of Indian Affairs reports to the Secretary of the Interior through the Assistant Secretary for Public Land Management—an officer who has many responsibilities in the natural resources area which compete with his concern for Indians. A new Assistant Secretary for Indian and Territorial Affairs would have only one concern—the Indian and territorial peoples, their land, and their progress and well-being. Secretary Hickel and I both believe this new position represents an elevation of Indian affairs to their proper role within the Department of the Interior and we urge Congress to act favorably on this proposal.

CONTINUING PROGRAMS

Many of the new programs which are outlined in this message have grown out of this administration's experience with other Indian projects that have been initiated or expanded during the last 17 months.

The Office of Economic Opportunity has been particularly active in the development of new and experimental efforts. OEO's fiscal year 1971 budget request for Indian-related activities is up 18 percent from 1969 spending. In the last year alone—to mention just two examples—OEO doubled its funds for Indian economic development and tripled its expenditures for alcoholism and recovery programs. In areas such as housing and home improvement, health care, emergency food, legal services, and education, OEO programs have been significantly expanded. As I said in my recent speech on the economy, I hope that the Congress will support this valuable work by appropriating the full amount requested for the Economic Opportunity Act.

The Bureau of Indian Affairs has already begun to implement our policy of contracting with local Indians for the operation of Government programs. As I have noted, the Salt River Tribe and the Zuni Tribe have taken over the bulk of Federal services; other projects ranging from job training centers to high-school counseling programs have been contracted out to Indian groups on an individual basis in many areas of the country.

Economic development has also been stepped up. Of 195 commercial and industrial enterprises which have been established in Indian areas with BIA assistance, 71 have come into operation within the last 2 years. These enterprises provide jobs for more than 6,000 Indians and are expected to employ substantially more when full capacity is reached. A number of these businesses are now owned by Indians and many others are managed by them. To further increase individual Indian ownership, the BIA has this month initiated the Indian Business Development Fund which provides equity capital to Indians who go into business in reservation areas.

Since late 1967, the Economic Development Administration has approved approximately $80 million in projects on Indian reservations, including nearly $60 million in public works projects. The impact of such activities can be tremendous; on the Gila River Reservation in Arizona, for example, economic development projects over the last 3 years have helped to lower the unemployment rate from 56 to 18 percent, increase the median family income by 150 percent and cut the welfare rate by 50 percent.

There has been additional progress on many other fronts since January of 1969. New "Indian Desks" have been created in each of the human resource departments of the Federal Government to help coordinate and accelerate Indian programs. We have supported an increase in funding of $4 million for the Navajo Irrigation Project. Housing efforts have picked up substantially; a new Indian Police Academy has been set up; Indian education efforts have been expanded—including an increase of $848,000 in scholarships for Indian college students and the establishment of the Navajo Community College, the first college in America planned, developed and operated by and for Indians. Altogether, obligational authority for Indian programs run by the Federal Government has increased from a little over $598 million in Fiscal Year 1970 to almost $626 million in Fiscal Year 1971

Finally, I would mention the impact on the Indian population of the series of welfare reform proposals I have sent to the Congress. Because of the high rate of unemployment and underemployment among Indians, there is probably no other group in the country that would be helped as directly and as substantially by programs such as the new Family Assistance Plan and the proposed Family Health Insurance Plan. It is estimated, for example, that more than half of all Indian families would be eligible for Family Assistance benefits and the enactment of this legislation is therefore of critical importance to the American Indian.

This Administration has broken a good deal of new ground with respect to Indian problems in the last 17 months. We have learned many things and as a result we have been able to formulate a new approach to Indian affairs. Throughout this entire process, we have regularly consulted the opinions of the Indian people and their views have played a major role in the formulation of Federal policy.

As we move ahead in this important work, it is essential that the Indian people continue to lead the way by participating in policy development to the greatest possible degree. In order to facilitate such participation, I am asking the Indian members of the National Council on Indian Opportunity to sponsor field hearings throughout the nation in order to establish a continuing dialogue between the Executive branch of government and the Indian population of our country. I have asked the Vice President to see that the first round of field hearings are completed before October.

The recommendations of this Administration represent an historic step forward in Indian policy. We are proposing to break sharply with past approaches to Indian problems. In place of a long series of piecemeal reforms, we suggest a new and coherent strategy. In place of policies which simply call for more spending, we suggest policies which call for wiser spending. In place of policies which oscillate between the deadly extremes of forced termination and constant paternalism, we suggest a policy in which the Federal Government and the Indian community play complementary roles.

But most importantly, we have turned from the question of *whether* the Federal government has a responsibility to Indians to the question of *how* that re-

sponsibility can best be fulfilled. We have concluded that the Indians will get better programs and that public monies will be more effectively expended if the people who are most affected by these programs are responsible for operating them.

The Indians of America need Federal assistance—this much has long been clear. What has not always been clear, however, is that the Federal government needs Indian energies and Indian leadership if its assistance is to be effective in improving the conditions of Indian life. It is a new and balanced relationship between the United States government and the first Americans that is at the heart of our approach to Indian problems. And that is why we now approach these problems with new confidence that they will successfully be overcome.

RICHARD NIXON.

THE WHITE HOUSE, *July 8, 1970.*

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. COLMER. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

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

There was no objection.

LOBBYING PRACTICES AND POLITICAL CAMPAIGN CONTRIBUTIONS AFFECTING THE HOUSE OF REPRESENTATIVES

Mr. COLMER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1031 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1031

Resolved, That (a) clause 19 of rule XI of the Rules of the House of Representatives is amended by inserting immediately below paragraph (b) thereof the following new paragraphs:

"(c) Measures relating to activities designed to (1) assist in defeating, passing, or amending any legislation by the House or (2) influence, directly or indirectly, the passage or defeat of any legislation by the House.

"(d) Measures relating to the raising, reporting, and use of campaign contributions for candidates for the office of Representative in the House of Representatives and of Resident Commissioner to the United States from Puerto Rico.".

(b) Clause 19 of rule XI of the Rules of the House of Representatives is further amended by inserting immediately below paragraph (d) thereof the following new paragraph:

"(g) The Committee on Standards of Official Conduct, acting as a whole or by subcommittee, is authorized to conduct investigations and studies, from time to time, of the laws, rules, regulations, procedures, practices, and activities pertaining to (1) lobbying activities as described in subparagraphs (1) and (2) of paragraph (c) of this clause, or (2) the raising, reporting, and use of political campaign contributions as described in paragraph (d) of this clause, or (3) both. Each such investigation and study may include all pertinent matters which would assist the Congress in connection with necessary remedial legislation. The committee may obtain the views of all parties familiar with the subject matter covered by the investigation and study. The committee shall report to the House (or to the Clerk of the House if the House is not in session) the results of each such investigation and study, together with such recommendations as the committee considers advisable.".

SEC. 2. The Committee on Standards of Official Conduct shall conduct its first investigation and study under authority of the amendments made by the first section of this resolution during the remainder of the Ninety-first Congress, and shall submit to the House (or to the Clerk of the House if the House is not in session), at the earliest practicable date prior to the close of the Ninety-first Congress, a report of the results of that investigation and study. Such report shall contain such recommendations as the committee considers advisable, including a draft of proposed legislation to carry out such recommendations.

SEC. 3. The following technical and conforming amendments are hereby made to clause 19 of rule XI of the Rules of the House of Representatives:

(1) Paragraph (c) of clause 19—

(A) is redesignated as paragraph (e) of such clause; and

(B) as so redesignated, is amended by striking out "paragraph (d) of this clause" and inserting in lieu thereof "paragraph (f) of this clause".

(2) Paragraph (d) of clause 19 is redesignated as paragraph (f) of such clause.

(3) Paragraph (e) of clause 19 is redesignated as paragraph (h) of such clause.

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. COLMER) is recognized for 1 hour.

Mr. COLMER. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. SMITH) pending which I yield myself such time as I may consume.

Mr. Speaker, this is a rather brief, simple, and yet comprehensive resolution. First, Mr. Speaker, permit me to say that the Committee on Rules, and particularly the Subcommittee on the Reorganization of the Congress, headed by the very able and distinguished and diligent member of the Committee on Rules, the gentleman from California (Mr. SISK), have done a very diligent and able job in attacking the very complex subject of congressional reorganization.

One of the facets of this reorganization program was the question of amending the House rules with reference to lobbying activities. This matter gave your rules committee, and particularly the subcommittee, considerable concern. It was finally decided that because of the depth and the complexity of the matter that the appropriate place for the lobbying provision was in the Standing Committee on Standards of Official Conduct.

So, primarily, this resolution authorizes the Committee on Standards of Official Conduct to make a study of this matter and report back to the Congress by the end of this session. It also provides that the subject of campaign contributions shall likewise be studied and a report made back to this Congress by the Committee on Standards of Official Conduct.

Mr. Speaker, in brief that is what the resolution does.

However, I think I should again remind the Members of the House that this resolution is only one facet of the overall reorganization bill which your committee has had under study for the past several months. The general bill, H.R. 17654, as you are aware, has been approved and it, together with the report accompanying H.R. 17654 to improve the operation of the legislative branch of the Federal Government, has been finalized. Moreover, I should remind the House that this bill is scheduled for consideration on the floor for next Monday, July 13.

This has been a rather arduous task. The subcommittee, consisting of Mr. SISK, chairman, and Messrs. BOLLING and YOUNG of the majority, and Messrs. SMITH of California and LATTA, has devoted many weeks of long study and hearings on the bill. And, in spite of the many complexities, the many points of view, and the monumental tasks with which the Subcommittee on Reorganization and the full Committee on Rules, in my judgment, have performed a very good job. Of course, the bill does not meet, I am sure, with the unanimous approval of the House, and I am sure, that some of the committee members themselves, including myself, have some reservations on some particular provisions of the bill. However, as in the enactment of all legislation there must be some give as well as take, but I think it is significant that in the final analysis the bill was unanimously approved by the full 15 members of the Rules Committee. No doubt there will be considerable discussion, with possibly many amendments offered. Some of the amendments offered, I am sure, will be of a wholesome and constructive nature, but I am in hopes that the membership, like the committee, will not pursue the idea of change merely for the sake of change.

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

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, before detailing the provisions of House Resolution 1031, I think a little history of the Federal Regulation of Lobbying Act might be helpful to the Members.

The original Federal Regulation of Lobbying Act was passed as a part of the 1946 Reorganization Act. It provided for a quarterly registration by lobbyists with the Secretary of the Senate and the Clerk of the House, and a reporting of expenditures made in an effort to influence legislation during the preceding quarter.

The act has never been very successful in its primary intent, which was to require registration of all lobbyists and reporting of all expenditures made to influence legislation. All lobbyists have not registered during the years and all of their expenditures have not been reported. There are weaknesses in the language of the act. Neither officer of the Congress has any way to verify the reporting. The weakness of the act can be seen from the fact that Members have, over the years, introduced legislation to amend it.

The Joint Committee on the Organization of Congress, created in 1965, included amendments to the Lobbying Act in its omnibus reorganization bill, S. 355. This legislation passed the Senate in 1967, but was not acted upon by the House.

At the beginning of the 91st Congress, a number of Members introduced reorganization bills including amendments to the lobbying statute. On January 6, 1969, I introduced H.R. 2186, H.R. 2187, and H.R. 2188. The first included regulation of lobbying under title V. H.R. 2187 eliminated title V—lobbying regulations. These two bills were referred to the Rules Committee. H.R. 2188 contained identical language in connection with Federal regulation of lobbying as set forth in title V of H.R. 2186. This bill was referred to the Judiciary Committee.

The provisions of the various lobbying proposals in the many bills introduced were very similar. They called for the registration of lobbyists and the reporting of their expenditures. They varied as to whom the reporting would be made to, including the Attorney General, the Comptroller General, as well as a joint congressional committee.

Your Committee on Rules believes that the original intent of Congress, requiring that registration and expenditure reporting be made to the Congress was a wise decision. It is the Congress, after all, which is the subject, directly or indirectly, of most efforts of organized lobbying pressures. And, it is the general public, along with the Congress, who is most interested in knowing the amount of expenditures made in behalf of organized pressure groups. This is now insured by the requirement that reported expenditures and those making them be printed in the CONGRESSIONAL RECORD on a quarterly basis.

In April of 1969, the Committee on Rules appointed a special subcommittee to study the problem of congressional reorganization, examine Federal lobbying statutes, and report legislation. It has taken over a year to conclude this work, including extensive public hearings held last fall. The subcommittee was aware that no hearings were held by the joint committee or any other committee with respect to the Lobbying Act. The subcommittee supported by the full Committee on Rules, felt that such major legislation should not be amended without holding full hearings on the prpoosed amendments. It became obvious that it would not be possible to complete hearings on lobbying and reorganization of Congress. Having made this determination, and at the same time recognizing the need to reform the Lobbying Act now, the committee decided to vest a standing committee of the Congress with this responsibility and to require legislative recommendations during the 91st Congress. Therefore, your committee reported House Resolution 1031.

Mr. Speaker, I have personally received extensive briefs from the American Bar Association, the Washington Bar Association, and many learned attorneys, as well as various corporations and organizations regarding the language which they think should be contained in any lobbying act. A large number of them have requested to testify. The one difficult determination is regarding the word "substantial." Most bills introduced on lobbying require them to register and report if they spend a "substantial" amount of their time in that activity. This will be one of the difficult decisions which the Committee on Standards of Official Conduct will have to make. It can only be determined after appropriate hearings and a study of the court decisions interpreting the word, "substantial."

Mr. Speaker, I am somewhat familiar with this type of legislation inasmuch as I participated in writing the original lobby act for the California State Legislature. I am keenly aware of the problems and the necessity for adequate hearings and study. I think the California act has worked quite well.

House Resolution 1031 gives continuing jurisdiction over "measures relating to activities designed to first, assist in defeating, passing, or amending any legislation by the House, or second, influence, directly or indirectly, the passage or defeat of any legislation by the House" to the Committee on Standards of Official Conduct.

The resolution also grants to the committee continuing jurisdiction over "measures relating to the raising, reporting and use of campaign contributions for candidates for the office of Representative in the House of Representatives."

There are several reasons why the Committee on Rules believes that the jurisdiction over both the Federal lobby statute, as well as over campaign fund raising and usage, should be vested in the Committee on Standards of Official Conduct. First, in its short period of existence, the committee has proven itself to be more than able in discharging its present responsibilities. Second, matters contained in this resolution are of a nature as to clearly fall within the natural jurisdiction of that committee, and they are so interrelated that divided jurisdiction over them cannot be effectively discharged. Additionally, by vesting this jurisdiction with the committee, the House will be giving this important matter to a committee which does not have substantial duties in other areas that could compete for its energies and time.

Further, the committee has an able and adequate staff and sufficient office space to assume this additional responsibility. In addition, it is a bipartisan committee from the standpoint of its membership—there being six Democrats and six Republicans. It also has adequate provisions to maintain confidential information.

The resolution also requires that during the remainder of the 91st Congress a study and investigation shall be conducted, and a report containing "such recommendations as the committee considers advisable, including a draft of proposed legislation to carry out such recommendations" must be made to the House. The Committee on Rules has recommended this provision because of the need to bring the Federal Regulation of Lobbying Act up to date now, rather than later.

Mr. Speaker, I strongly support House Resolution 1031 and urge that it be passed.

Mr. COLMER. Mr. Speaker, I yield 10 minutes to the gentleman from California, the chairman of the subcommittee (Mr. SISK).

Mr. SISK. Mr. Speaker, to make it clear to the House I do not expect to consume the 10 minutes. I do want very briefly to say it is the belief and conviction of the Subcommittee on Legislative Reorganization that this is the best way of handling what has been a somewhat troublesome problem in connection with the operation of the Congress. This is in the matter of the regulation, control, and policing of lobbying and lobbying activities, and along with that, of course, giving to the Committee on Standards of Official Conduct the legislative jurisdiction in connection with the matter of campaign contributions, which are tied to lobbying and lobbying activities in many instances.

So basically we feel that the Committee on Standards of Official Conduct is probably as well geared or better geared to make a thorough study, a study in depth of these problems and of the matters of concern and to report back to the House with such recommendations for legislation as they may feel are justified. So we look forward to their recommendations.

With that, Mr. Speaker, we, of course, would urge adoption of the resolution.

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

Mr. SISK. Mr. Speaker, I yield to the gentleman from Missouri (Mr. HALL). I understand he may have some questions in connection with that.

Mr. HALL. Mr. Speaker, I appreciate the distinguished gentleman, the chairman of the subcommittee that brings House Resolution 1031 before us, yielding to me. Certainly, I want to compliment him and his subcommittee as well as the full Committee on Rules for the manner in which they are handling this delicate problem.

First of all, Mr. Speaker, I rise for clarification and to make some legislative record. Having served for several years on the Joint Commission on the Reorganization of Congress and Related Agencies, I am very interested in the subject, and I believe the subcommittee and the Committee on Rules is handling the whole original title V of that commission's bill and report in a very erudite, considerate, and judicial manner.

I am also one of those people who has always believed lobbying is an honorable state, if indeed we can depend on the individually elected Representatives to separate the wheat from the chaff and to consider information brought by the lobbyists not as intelligence but as information from which we distill intelligence. If people cannot depend on their elected representatives for this, our system is bound to fail. With that conviction, I am also well aware of the Federal laws already in existence having to do with lobbying and how some of them have been used.

With that little preamble and background, Mr. Speaker, I would like to ask the gentleman about the language on page 2 of House Resolution 1031, beginning about on line 7, where it says the Committee on Standards of Official Conduct is delegated authority:

To conduct investigations and studies, from time to time, of the laws, rules, regulations, procedures, practices, and activities pertaining to (1) lobbying activities as described in subparagraphs (1) and (2) of paragraph (c) of this clause, or

Mr. Speaker, in the gentleman's opinion does that also apply to and permit such studies and investigations—by which I presume the committee means surveillance and review and oversight—of executive agencies that might be lobbying the legislative branch? To point this up, I have an old telegram in my hand here from a certain department, which is not only a threat that unless Congress acts certain things will happen; but it also states that the executive branch will make certain recommendations to do or not to do certain things to the interest of our constituents, if Congress does not act within such a time in a certain and allegedly proper way.

This is, of course, a telegram paid for at the taxpayers' expense in direct violation of existing law. I, for one, would certainly hope it would be in the purview of this new committee under this resolution, and that the gentleman would so indicate at this time, in order to preclude such lobbying activities of the legislative branch by the executive.

Is that the gentleman's interpretation of the intent?

Mr. SISK. Let me thank my colleague from Missouri very much for the statement he has made. I join him in his concern about some of the activities which he has discussed.

It is my understanding that his statement is correct, that the language is sufficiently broad here to permit the Committee on Standards of Official Conduct to make a study and to look into that phase of it and to make legislative recommendations as to handling that part of what we might call the executive lobbying, along with all other kinds and types of lobbying.

My answer would be "yes," emphatically it would be my understanding that is the intent of the language herein contained.

Mr. HALL. I thank the gentleman.

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

Mr. SISK. I am glad to yield to the gentleman from Maryland.

Mr. FRIEDEL. I have a few things on my mind.

Under rule XI, section 9(k) relating to the jurisdiction of the Committee on House Administration the rule reads:

Measures relating to the election of the President, Vice President, or Members of Congress; corrupt practices; contested elections; credentials and qualifications; and Federal elections generally.

I believe the proposal, so far as the lobby is concerned, might be in order, but I believe the rest is usurping the jurisdiction of the Committee on House Administration. We have a bill right now before our committee relating to elections, campaign contributions and expenditures and the reporting thereof. We have had hearings on this subject. We intend to pursue it all the way through. We are pursuing this under our assigned authority concerned with corrupt practices of which contributions and expenditures are a part.

Obviously the purpose of this resolution would encroach upon the jurisdiction of the Committee on House Administration.

Mr. SISK. If the gentleman will permit me to comment, of course, it was certainly not the intention of the Committee on Rules, or of the subcommittee, to invade in any sense the jurisdiction of the Committee on House Administration. As we interpret the rule which the gentleman read, which I have before me, there would be no jurisdictional question, at least in our opinion.

As the gentleman knows, the committee does have jurisdiction over contested elections and over matters which arise therefrom, and has a subcommittee which looks into these matters.

Mr. FRIEDEL. And also contributions and disbursements which are within the Corrupt Practices Act.

Mr. SISK. Let me make this clear. It is not the intent of the subcommittee nor of the Committee on Rules, as I understand it—I hope my friend from California, Mr. SMITH, will keep his ears open to this, and if I make a mistake please correct me—to turn over to the Committee on Standards of Official Conduct the matter of contested elections or the matter of dealing specifically with elections of the President and Vice President, et cetera, as listed here under subsection (k).

The jurisdiction which we are here discussing might better be termed a part of the jurisdiction, for example, of the Committee on the Judiciary. I believe there is no question that they have certain jurisdiction.

On the other hand, it was the decision of the committee to turn over to them the lobbying. The question then arose as to campaign expenditures and possible ramifications, as would be of concern to the American public as well as Members of Congress, as it might tie to lobbying activities. It was felt that these two items should go together.

It was the recommendation, then, of their staff, as well as some other people with whom we consulted.

Again, as I say, there is no intent to invade or step on the toes of our good friends on the Committee on House Administration.

Mr. FRIEDEL. If there was no intention, just strike it from the measure, because we have a reform bill before our committee on Federal elections involving specifically the matters of contributions and expenditures, which was referred to our committee under the rules of the House. We are having hearings, as I said earlier. Consequently we can just strike it from this measure here. We are going to be very concerned.

Mr. SISK. Let me say to my good friend from Maryland, all this resolution before us does is to call for the Committee on Standards of Official Conduct to make a study, to make an investigation of the subjects of lobbying and campaign expenditures, and to report back to the House.

As the gentleman will notice, they are required to make the first report before the end of this year and report back as to what they have accomplished between now and the time the 92d Congress would convene.

The SPEAKER. The time of the gentleman has again expired.

Mr. COLMER. Mr. Speaker, I yield the gentleman 5 additional minutes.

Mr. SISK. I thank the gentleman for yielding the additional time. I had not intended to use the entire 10 minutes.

Basically, I would say to my friend from Maryland, let us see what they come up with in the way of discussing what their investigation amounts to. I am certain that the House in no way desires to strip from the House Administration Committee any of its jurisdiction. I would say if in their recommendations they find that there might be a need for some changes in connection with campaign expenditures, that could very well be acted on legislatively by the gentleman's committee either accepting or rejecting the recommendations.

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

Mr. SISK. Yes. I yield to the gentleman.

Mr. KYL. The situation is not as simple as the gentleman from California would make it. First, before the Committee on Ethics can proceed with any investigation, the funds to be used in the investigation must be approved by the House Administration Committee.

Mr. SISK. We well recognize that. There is no problem there.

Mr. KYL. Second, the House Administration Committee as a matter of very firm policy does not provide any funds for any investigation which is a duplication of another committee's investigation. Therefore, if the House Administration Committee is indeed investigating a particular matter relating to lobbying and so forth, under its policy, it could not give money to the Ethics Committee to conduct a similar survey.

Mr. SISK. I still do not necessarily followup that what the gentleman said represents any particular problem. The House, of course, again has the right to make any changes in jurisdiction that it seeks to do, if it gives to any committee such jurisdiction. In this case the Committee on Rules having made a considerable study of this matter and frankly having been asked to do this very thing in connection with our own work, by recognizing the complexities of the problem, simply decided that it was a matter of good procedure to permit the Committee on Ethics to proceed with it. Of course, again it is a matter that the House can accept or reject. It is up to them to be the final judge.

Mr. KYL. Mr. Speaker, will the gentleman yield further?

Mr. SISK. Yes. I am glad to yield to the gentleman.

Mr. KYL. The point I am trying to make is unless this bill also removes authority from the House Administration Committee, then the House Administration Committee can in every instance deny funds for investigation, because the Committee on House Administration itself is, under the rules, given authority to cover exactly the same subject material.

Mr. SMITH of California. Will the gentleman yield?

Mr. SISK. Yes. I yield to the gentleman.

Mr. SMITH of California. Let us talk about what we are discussing here for a minute. Let us read section (k) of the rule we are referring to, rule 9:

> Measures relating to the election of the President, Vice President, or Members of Congress; corrupt practices; contested elections; credentials and qualifications; and Federal elections generally.

Let us read what this resolution does. This says:

> Measures relating to the raising, reporting, and use of campaign contributions for candidates.

It has to do with raising money and funds and giving effective authority to investigate if they are contested. We are not changing your authority at all. You are left in the same position. When we change the rules and give the authority, they will have to get some money to operate.

Mr. KYL. Will the gentleman yield further?

Mr. SISK. I am glad to yield to the gentleman.

Mr. KYL. I would say to the other gentleman from California that again I am not in contention with his desire. What I am trying to indicate is unless your piece of legislation, your resolution, does remove from the House Administration Committee certain authority which it now has under the rules, they could effectively block every anticipated effort of the Ethics Committee.

Mr. SMITH of California. I do not think so. That is not the way I read it. I do not think that committee would do it. The jurisdiction is clear. It is a changing of the rules of the House.

Mr. SISK. Let me make clear——

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

Mr. SISK. Yes, I yield to the gentleman from Maryland.

Mr. FRIEDEL. This resolution embodies what the Committee on House Administration is doing at the present time. They are investigating these very matters. Of course, you can bring in legislation to correct and reform things that are wrong. However, we are doing it right now. It is a part of our basic jurisdiction under the rules of the House, Rule XI, section 9(k) wherein "corrupt practices" is spelled out, and campaign contributions and expenditures, and the reporting thereof constitute an important segment of the Corrupt Practices Act.

The SPEAKER pro tempore (Mr. BOGGS). The time of the gentleman from California has again expired.

Mr. COLMER. Mr. Speaker, I yield the gentleman from California 1 additional minute.

Mr. SISK. Mr. Speaker, in looking at the legislation I note that a bracket on page 3, line 3, is omitted. I ask unanimous consent, on page 3, line 3, after the word "session," to delete the comma and insert a bracket simply to close the language which was intended to be closed with a bracket.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. COLMER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, I am in support of this resolution. But I want to take this time to call the attention of the Rules Committee to the need for a comparable resolution which would authorize the Committee on Ethics and Official Conduct to investigate and establish some guidelines on outside support for the conduct and the operation of the congressional offices.

Mr. Speaker, more and more Members of this body are finding it impossible to operate their offices within the present personnel and expenditure limitations provided for under the law and are relying upon outside sources.

Now, I am not passing judgment on whether this is good or bad. However, I do believe there is need for a system of reporting the use of such outside personnel or outside financial help to the Ethics Committee so that the committee can have a record of the nature and the extent of outside support. My fear is that outside contributions and outside personnel might result in outside interests taking over and utilizing a congressional office for a nonpublic purpose. I certainly hope that the Committee on Rules and the Committee on Ethics and Official Conduct, will consider this problem at an early date.

Mr. COLMER. I thank the gentleman from Ohio for his suggestion. I am sure the Committee on Rules will take his suggestion under consideration.

Mr. BENNETT. Mr. Speaker, I am pleased to support vigorously the resolution before the House of Representatives today, House Resolution 1031, to amend the Rules of the House with respect to lobbying practices and campaign contributions and expenditures. This committee, by the nature of its other jurisdiction, should be empowered to act in these additional fields.

In its recent report on congressional ethics, the special committee of the Association of the Bar of the City of New York called for a special study on campaign financing, and House Resolution 1031 will meet that appropriate suggestion.

The bill before us today calls for studies and investigations of lobbying practices and in the raising, reporting, and use of campaign contributions for candidates for the House. These studies would be made by the House Committee on Standards of Official Conduct, which is the logical committee to have this responsibility.

Because the resolution involves two critical areas requiring public trust of Members of Congress and millions of dollars, I want to bring to the attention of the Members and to the country my bills in these fields.

My bill to add teeth and better policing measures to the lobbying regulation laws now on the books is H.R. 953, pending in the House Judiciary Committee. I first introduced this bill in the 89th Congress, and it has had the support of the Department of Justice and the General Accounting Office.

The other bill is H.R. 958, in the Committee on Rules, which would provide for public disclosure of campaign finances by Members and candidates of the House of Representatives. This bill requires public disclosure of campaign contributions and expenditures, outside income, and gifts and carries a criminal penalty for incomplete or false reports.

It has always been my thought that lobbying is a right derived from freedom of speech and the right to petition the government. My interest in this legislation is not for the prevention of pressures, as some pressures are proper, but the disclosures of who do lobby, and whether such pressures include resort to bribery and corruption. Lobbying can be and often is an honest and respectable pursuit; a proper function of democratic government. However, lobbying amounts to millions of dollars of expenditures by business and labor, private individuals and other special interests. Congressional Quarterly reported that lobbying efforts in 1968 directed at the Congress totaled $4,298,387 by 266 different organizations. These are only the reported figures and the major costs of lobbying are obscured because of inadequacies in the present law.

The other section of the bill before us today covers a delicate area—public disclosure of campaign financing. It has been said that the disclosure idea comes as close as anything to being the all-purpose cleanser of American politics. It attaches no moral overtones to the financial situation of a particular Member or candidate. Rather, it recognizes that the final arbiter in any controversy is the public, who must have the knowledge of all such facts in order to express their opinions on the behavior of their elected representatives. As public office is a public trust, so must public disclosure be the responsibility of any public official. This is necessary today, particularly in light of the tremendous amounts of money spent in political campaigns. It has been reported that $100 million was spent by the three contending parties and others in the 1968 presidential campaign. While official reports reveal that all congressional campaigners spent $8,482,857 in 1968, unofficial reports are that at least that much was spent in a single State. Incomplete reporting provides a public trust gap for our elected officials. In a Gallup poll, 69 percent of the American people said they favored disclosure of financial assets of Members of Congress.

Mr. Speaker, I support the resolution before us today. It gives the responsibility for lobbying information and campaign fund reporting to the Committee on Standards of Official Conduct. I offer my assistance to the committee in legislating in this difficult area, and I propose my two bills before mentioned to the committee for recommendations to the full House of Representatives.

Mr. FASCELL. Mr. Speaker, I rise in support of House Resolution 1031 to amend the House Rules with respect to

lobbying practices and political campaign contributions affecting the House of Representatives.

As one of the original sponsors of legislation to establish the Committee on Standards of Official Conduct, I feel strongly that the Congress should continue to insure its own integrity and reassure the American people that the affairs of Congress are being conducted with propriety.

As we all know, the committee was instrumental in establishing an official Code of Ethics for Members and employees of the House of Representatives and, most recently, the House enacted the committee's recommendations for financial disclosure. I commend the committee on its initiative and leadership in these two areas.

Because, in my judgment, the Committee on Standards of Official Conduct has demonstrated that it is well-equipped to handle its responsibility of insuring governmental integrity, I recommend that we approve House Resolution 1031, giving the committee jurisdiction over lobbying practices and campaign financing.

Mr. HOGAN. Mr. Speaker, I would like to offer my wholehearted support for the resolution now being considered and I hope it will pass the House unanimously.

In the last several years, the credibility gap between what Government promises and what it delivers has widened into a deep and divisive chasm. More and more Americans have chosen to disbelieve the statements of their leaders and listen instead to the utterings of those outside the system who are attempting to destroy it. Political leaders and elected officials in particular bear the brunt of the layman's animosity because it is our responsibility to translate ideas into actions and too often the system becomes bogged down before any action results.

This body is today being given the opportunity to help restore its credibility in the reporting of campaign financing. It is imperative that the Committee on Standards of Official Conduct be authorized to examine lobbying activities and the reporting of campaign contributions if true reform in this area is ever to be accomplished.

I would like to go on record as favoring full disclosure of all contributions and expenses by all candidates for office. Because of the complexity of the Federal law and of the myriad State laws in regard to disclosure of campaign contributions, it is vitally necessary that a committee study all the suggested reforms before making recommendations to amend the current law. Unfortunately, some politicians are as clever in evading provisions of law as legislators are careful in trying to formulate them. Therefore, this body should set forth specific and stringent disclosure regulations and make them as airtight as possible.

I urge my colleagues to support this resolution to increase the authority of the Committee on Standards of Official Conduct so that recommendations for reform will be rapidly forthcoming.

Mr. SMITH of California. Mr. Speaker, I have no further requests for time.

Mr. COLMER. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. BOGGS). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SMITH of California. Mr. Speaker, in view of the fact that this is an important change in the rules of the House, I think we should have a recorded vote and, therefore, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

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

The question was taken; and there were—yeas 382, nays 0, not voting 49, as follows:

[Roll No. 205]

YEAS—382

Abbitt	Clark	Frey
Abernethy	Clausen,	Friedel
Adair	Don H.	Fulton, Pa.
Adams	Clawson, Del	Fulton, Tenn.
Addabbo	Clay	Fuqua
Albert	Cleveland	Galifianakis
Alexander	Cohelan	Gallagher
Anderson,	Collins	Garmatz
Calif.	Colmer	Gaydos
Andrews, Ala.	Conable	Gettys
Andrews,	Conte	Giaimo
N. Dak.	Corbett	Gibbons
Annunzio	Corman	Gilbert
Arends	Coughlin	Goldwater
Ashbrook	Cowger	Gonzalez
Ashley	Crane	Goodling
Ayres	Culver	Gray
Barrett	Cunningham	Green, Oreg.
Beall, Md.	Daniel, Va.	Green, Pa.
Belcher	Daniels, N.J.	Griffin
Bennett	Davis, Ga.	Griffiths
Berry	Davis, Wis.	Gross
Betts	de la Garza	Grover
Bevill	Delaney	Gubser
Biaggi	Dellenback	Gude
Biester	Dennis	Hagan
Bingham	Dent	Haley
Blackburn	Derwinski	Hall
Blanton	Devine	Halpern
Boggs	Dickinson	Hamilton
Boland	Diggs	Hammer-
Bolling	Dingell	schmidt
Bow	Donohue	Hanley
Brademas	Dowdy	Hanna
Brasco	Downing	Hansen, Idaho
Bray	Dulski	Harrington
Brinkley	Duncan	Harsha
Brooks	Dwyer	Harvey
Brotzman	Eckhardt	Hastings
Brown, Mich.	Edmondson	Hathaway
Brown, Ohio	Edwards, Ala.	Hays
Broyhill, N.C.	Edwards, Calif.	Hébert
Broyhill, Va.	Eilberg	Hechler, W. Va.
Buchanan	Erlenborn	Heckler, Mass.
Burke, Fla.	Esch	Helstoski
Burke, Mass.	Eshleman	Henderson
Burleson, Tex.	Evans, Colo.	Hicks
Burlison, Mo.	Evins, Tenn.	Hogan
Burton, Calif.	Fallon	Holifield
Burton, Utah	Farbstein	Horton
Bush	Fascell	Hosmer
Button	Feighan	Howard
Byrne, Pa.	Fish	Hull
Byrnes, Wis.	Fisher	Hungate
Camp	Flood	Hunt
Carey	Flowers	Hutchinson
Carter	Flynt	Ichord
Casey	Foley	Jacobs
Cederberg	Ford, Gerald R.	Jarman
Celler	Ford,	Johnson, Calif.
Chamberlain	William D.	Johnson, Pa.
Chappell	Fountain	Jonas
Chisholm	Fraser	Jones, Ala.
Clancy	Frelinghuysen	Jones, N.C.
Jones, Tenn.	Murphy, Ill.	Sikes
Karth	Murphy, N.Y.	Sisk
Kastenmeier	Myers	Skubitz
Kazen	Natcher	Slack
Kee	Nelsen	Smith, Calif.
Keith	Nix	Smith, Iowa
King	Obey	Smith, N.Y.
Kleppe	O'Hara	Snyder
Kluczynski	O'Konski	Springer
Koch	Olsen	Stafford
Kuykendall	O'Neal, Ga.	Staggers
Kyl	O'Neill, Mass.	Stanton
Kyros	Passman	Steed
Landgrebe	Patman	Steiger, Ariz.
Landrum	Patten	Steiger, Wis.
Langen	Pelly	Stephens
Latta	Perkins	Stokes
Leggett	Pettis	Stratton
Lennon	Philbin	Stubblefield
Lloyd	Pickle	Symington
Lowenstein	Pike	Taft
Lujan	Pirnie	Talcott
Lukens	Poage	Taylor
McCarthy	Poff	Teague, Calif.
McClory	Preyer, N.C.	Teague, Tex.
McCloskey	Price, Ill.	Thompson, Ga.
McClure	Price, Tex.	Thompson, N.J.
McCulloch	Pucinski	Thomson, Wis.
McDade	Quie	Tiernan
McDonald,	Quillen	Tunney
Mich.	Railsback	Udall
McFall	Randall	Ullman
McKneally	Rees	Van Deerlin
McMillan	Reid, Ill.	Vander Jagt
Macdonald,	Reid, N.Y.	Vanik
Mass.	Reuss	Vigorito
MacGregor	Rhodes	Waggonner
Madden	Riegle	Waldie
Mahon	Rivers	Wampler
Mailliard	Roberts	Watkins
Mann	Robison	Watson
Marsh	Rodino	Watts
Martin	Roe	Weicker
Mathias	Rogers, Fla.	Whalen
Matsunaga	Rooney, N.Y.	Whalley
May	Rooney, Pa.	White
Mayne	Rosenthal	Whitehurst
Meeds	Rostenkowski	Widnall
Melcher	Roth	Wiggins
Meskill	Roudebush	Williams
Michel	Rousselot	Wilson, Bob
Mikva	Roybal	Winn
Miller, Calif.	Ruppe	Wold
Miller, Ohio	Ruth	Wolff
Mills	Ryan	Wright
Minish	St Germain	Wyatt
Mink	Sandman	Wydler
Minshall	Satterfield	Wylie
Mize	Schadeberg	Wyman
Mizell	Scherle	Yates
Monagan	Schmitz	Yatron
Montgomery	Schneebeli	Young
Morgan	Schwengel	Zablocki
Morse	Scott	Zion
Mosher	Sebelius	Zwach
Moss	Shriver	

NAYS—0

NOT VOTING—49

Anderson, Ill.	Denney	Pepper
Anderson,	Dorn	Podell
Tenn.	Edwards, La.	Pollock
Aspinall	Findley	Powell
Baring	Foreman	Pryor, Ark.
Bell, Calif.	Hansen, Wash.	Purcell
Blatnik	Hawkins	Rarick
Brock	Kirwan	Reifel
Broomfield	Long, La.	Rogers, Colo.
Brown, Calif.	Long, Md.	Saylor
Cabell	McEwen	Scheuer
Caffery	Mollohan	Shipley
Collier	Moorhead	Stuckey
Conyers	Morton	Sullivan
Cramer	Nedzi	Whitten
Daddario	Nichols	Wilson,
Dawson	Ottinger	Charles H.

So the resolution was agreed to.

The Clerk announced the following pairs:

Mr. Aspinall with Mr. Anderson of Illinois.

Mr. Daddario with Mr. McEwen.

Mr. Shipley with Mr. Findley.

Mr. Rogers of Colorado with Mr. Denney.

Mrs. Sullivan with Mr. Morton.

Mr. Charles H. Wilson with Mr. Bell of California.

Mr. Nichols with Mr. Brock.

Mr. Pepper with Mr. Cramer.

Mr. Edwards of Louisiana with Mr. Foreman.

Mr. Dorn with Mr. Reifel.
Mr. Cabell with Mr. Pollock.
Mr. Caffery with Mr. Collier.
Mr. Blatnik with Mr. Saylor.
Mr. Long of Louisiana with Mr. Kirwan.
Mr. Nedzi with Mr. Broomfield.
Mr. Ottinger with Mr. Baring.
Mr. Anderson of Tennessee with Mr. Mollohan.
Mr. Brown of California with Mr. Conyers.
Mr. Whitten with Mr. Pryor of Arkansas.
Mr. Purcell with Mr. Rarick.
Mr. Stuckey with Mrs. Hansen of Washington.
Mr. Hawkins with Mr. Scheuer.
Mr. Powell with Mr. Dawson.
Mr. Podell with Mr. Long of Indiana.

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

The result of the vote was announced as above recorded.

The doors were opened.

The title was amended so as to read: "Amending clause 19 of rule XI of the Rules of the House of Representatives with respect to lobbying practices and political campaign contributions affecting the House of Representatives, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. SISK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 17548, INDEPENDENT OFFICES AND DEPARTMENT OF HUD APPROPRIATIONS, 1971

Mr. EVINS of Tennessee. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 17548) making appropriations for sundry independent executive bureaus, boards, commissions, corporations, agencies, offices, and the Department of Housing and Urban Development for the fiscal year ending June 30, 1971, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

Mr. RYAN. Mr. Speaker, reserving the right to object, and I shall not object, I would like to take this opportunity to urge the distinguished chairman of the subcommittee and the conferees to support the Senate position on urban renewal. Yesterday the other body appropriated $700 million more than the House. I feel very strongly that that amount should be supported if the crisis in our cities is to be seriously confronted.

In passing H.R. 17548, the fiscal year 1971 appropriation bill for independent offices and the Department of Housing and Urban Development, the Senate appropriated $1.7 billion for urban renewal—$700 million more than that appropriated by the House on May 12. Communities throughout the country are desperate for urban renewal funds.

I am sure every Member can point to urban renewal projects in his own State, since over 1,000 communities, in all 50 States, have participated or are participating in the program. Allow me to point to the needs in New York State for a moment. There are currently 204 projects involving a grant reservation of $1.08 billion in the State; 86 cities have pending or proposed applications amounting to $356.5 million. New York City alone currently has four unfunded urban renewal projects pending.

One billion dollars—the amount appropriated by the House—in no way meets the needs of a nation of over 200 million people attempting to rebuild its decaying cities and towns. Even the additional $700 million provided by the Senate only minimally meets these needs.

In supporting a supplemental appropriation of $587.5 million for urban renewal funds for fiscal year 1970 this past June 25, I said:

Urban renewal is a sound investment in the future of America.

I would go even further: Urban renewal is an essential investment for the future of America.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee? The Chair hears none, and, without objection, appoints the following conferees: Messrs. EVINS of Tennessee, BOLAND, SHIPLEY, GIAIMO, MARSH, PRYOR of Arkansas, MAHON, JONAS, TALCOTT, MCDADE, DEL CLAWSON, and BOW.

NEWSPAPER PRESERVATION ACT

Mr. MATSUNAGA. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1121 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1121

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 279) to exempt from the antitrust laws certain joint newspaper operating arrangements. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 279, the Committee on the Judiciary shall be discharged from the further consideration of the bill S. 1520, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 279 as passed by the House.

Mr. MATSUNAGA. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1121 provides an open rule with 2 hours of general debate for consideration of H.R. 279 to exempt from the antitrust laws certain joint newspaper operating arrangements. It shall be in order to consider the committee substitute as an original bill for the purpose of amendment and, after passage of the House bill, the Committee on the Judiciary shall be discharged from further consideration of S. 1520 and it shall be in order to move to strike all after the enacting clause of the Senate bill and amend it with the House-passed language.

H.R. 279, the so-called Newspaper Preservation Act, would declare it to be the public policy to preserve the publication of newspapers in an area where a joint operating arangement has been heretofore entered into because of economic distress, or is effected in the future in accordance with provisions of the act.

A "joint newspaper operating arrangement" would include the contractual and operating relationships established for joint production, distribution, and sale of newspapers. Such arrangements are presently existent in 22 cities of the United States. Any merger, combination, or amalgamation of editorial or reportorial staffs is prohibited and the bill requires that editorial policies be independently determined.

The bill applies to joint newspaper operating arrangements entered into prior to the effective date of the act. If, at the time the arrangement was entered into, not more than one of the publications involved was likely to remain or become financially sound, exemption from the antitrust laws applies.

Any new or renewed arrangement entered into after enactment of the legislation must be filed with the Department of Justice, in order to be exempt, and prior written consent from the Attorney General must be obtained.

The exemption from antitrust laws does not include predatory pricing or practices or other conduct which would be otherwise unlawful.

The participants in the joint operating arrangement in Tucson, Ariz., which was in effect on January 1, 1965, would be permitted to reinstate the agreement notwithstanding the ruling of the U.S. Supreme Court in the Tucson case. The definition of "failing newspaper" is a departure from the "failing company" doctrine enunciated by the Supreme Court in that case. A "failing newspaper" is one determined to be in probable danger of financial failure under this act.

The antitrust exemption shall apply to the determination of any antitrust action pending in any U.S. district court at the time of enactment of this bill.

Enactment of the legislation will necessarily entail additional paper work for the Department of Justice, but it is not anticipated that the cost of operations will increase materially.

Mr. Speaker, the Newspaper Preservation Act proposes to do only that which is now legal where two or more newspapers are completely merged under one ownership. What H.R. 279 proposes to do is to keep in these 22 cities two editorial voices alive under two separate and distinct ownerships.

Mr. Speaker, during the general debate on the bill itself I will have more to say on this matter, but at this point I urge the adoption of House Resolution 1121 in order that H.R. 279 may be considered by the House.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1121 makes in order for consideration of H.R. 279 under an open rule with 2 hours of general debate.

The purpose of the bill is to provide for an exemption from the antitrust laws for: First, newspapers operating under joint arrangements entered into prior to the effective date of this legislation; and, second, newspapers which enter into any subsequent joint operating arrangement which has the prior written approval of the Attorney General.

Joint newspaper operating arrangements have been a part of the newspaper industry for over 30 years. Such agreements provide a method of reducing costs by sharing between the newspapers of many cost items required to produce a newspaper. These include such items as plant and printing equipment, distribution and circulation facilities and equipment, and technical employees. At the same time, such newspapers are able to maintain their own separate voice by operating with separate editorial and news reporting staff and policies.

By 1966 there were 22 such joint operating agreements covering 44 newspapers in 19 States. In 1965 the Department of Justice brought suit against two newspapers in Tucson, Ariz., which were operating under a joint agreement which, in addition to the joint activities mentioned earlier, also provided for price fixing and profit pooling under an agreed-on formula.

The district court struck down this agreement as a per se violation of the Sherman Antitrust Act because of the price-fixing and profit-pooling features. This decision has now been affirmed by the Supreme Court. This bill is an attempt by newspapers which have already entered into similar joint operating agreements—apparently with price-fixing and profit-pooling features in them—to, by law, avoid the effects of the Court decision.

The bill grants an exemption from antitrust laws for all current joint operating arrangements. Similar future agreements between newspapers will also qualify for the exemption if they receive prior written approval of the Attorney General. Finally, the bill would reinstate the joint operating agreement in Tucson, Ariz., which the Supreme Court found to be in violation of antitrust law.

The bill is supported by the Department of Commerce, which is apparently speaking for the administration. The Department of Justice opposes the bill, as does the American Bar Association.

Mr. MACGREGOR, the gentleman from Minnesota and Mr. MIKVA, the gentleman from Illinois, have jointly filed individual views opposing the bill as special interest legislation aimed at sanctioning clear violations of the antitrust laws by some 44 newspapers. They point out that the Tucson case does not prohibit joint newspaper operations and, in fact, specifically authorizes such items as joint printing and distribution facilities and staff, joint administrative and clerical staff, a combined advertising rate and a joint Sunday edition. What the court did prohibit was price fixing and profit pooling by the newspapers. These Members do not believe that a blanket antitrust exemption should be granted to permit such clearly illegal activities.

In rising in support of the rule, I feel that it is relevant to make known to the House the importance of the Newspaper Preservation Act to the State of Tennessee. In my State we have three joint newspaper operating arrangements. The first was established in Nashville, the capital city, in 1936. The second, in Bristol, Tenn., and her sister city, Bristol, Va., was entered into in 1950. And the third was begun in Knoxville in 1957.

From my personal experience and my knowledge of the newspapers involved, I can state unequivocally that in each of these three cities, the two newspapers provide two separate and competing news and editorial voices. Even though commercial competition between the Nashville Banner and the Nashville Tennessean ceased in 1936, there can be no doubt but that these two fine papers compete most effectively in their editorial and reportorial functions. The basic philosophies of the papers are at opposite ends of the political spectrum. I need not remind my colleagues how important this is to all involved at the seat of the State government.

The same news and editorial competition is clearly discernible to those who read the Herald Courier and the Virginia-Tennessean in Bristol. For 20 years these papers have provided to the public the fullest panoply of news and editorial opinion. Neither paper would think of echoing the other—but each relishes the independence of thought which, I might say with pride, is so typical of Tennessee.

And in Knoxville, the Journal and the News-Sentinel have carried on this tradition of competition since 1957, when their commercial competition was terminated. As in the other cities with joint newspaper operating arrangements, the news and editorial departments of these two newspapers are totally separated, and each paper is published independently and competitively.

Now I have heard comment made, and in good faith, that if two newspapers have ended their commercial competition, they will not long continue editorial and reportorial competition. This cynical view is totally unfounded. The fact is, the news and editorial competition not only continues, but is strengthened because of the financial independence enjoyed by both papers in a joint operating arrangement. Both papers can strengthen their news and editorial staffs, subscribe to news and feature services, and thereby provide their readers with a full panoply of views.

In Nashville, the news and editorial competition has not abated in the last 34 years. Nor has it diminished one whit in 20 years in Bristol, or in 13 years in Knoxville.

When the cynic says competition will not long survive, he is speculating. When I state that the competition has survived and continues without a sign of diminution, that is fact. And it is a fact well known to the people of Tennessee. I have been advised by those from other cities with joint operating arrangements, that their newspapers have also maintained their editorial and reportorial competition. Thus the cynic is answered on the basis of experience—that the competition of thoughts and ideas, so essential to our Government, does survive and is preserved by a joint operating arrangement.

The State of Tennessee also provides the answer to another argument which has been made against the Newspaper Preservation Act. This argument is that the joint newspaper operating arrangement is no longer needed, and that the papers involved could revert to commercial as well as editorial competition. But the facts, again, have proved quite the opposite. The two newspapers in Chattanooga were in a joint operating arrangement for a number of years before they terminated their arrangement and returned to economic competition. The result was predictable. Each paper has suffered substantial losses in the millions of dollars since the joint arrangement was ended. I do not believe that either paper has denied such losses, and each is now suing the other, trying to recover at least a portion of the sums lost.

Without the joint operating arrangement provided by the Newspaper Preservation Act, there is no question but we would be left with only one newspaper and one editorial voice in each of the 22 cities which today enjoy editorial diversity with joint arrangements. The so-called Tucson plan is unrealistic and economic projections demonstrate that if it were applied to the remaining joint operating arrangements, one of the papers in Nashville, Bristol, Knoxville, and 13 other cities would immediately begin operating in the red, and necessarily fail. I have been advised that in the other cities, at least one of the papers would be, at best, only marginal, with the handwriting on the wall for its early demise.

The provisions of the Newspaper Preservation Act reported by the Judiciary Committee offer a limited and tightly restricted exemption to the antitrust laws. The bill is pragmatic, recognizing the realities of newspaper publication today. Moreover, this bill, while recognizing that economic competition cannot be main-

tained by the newspapers in many cities, does provide for a continuation and preservation of editorial and news competition.

By way of summation, let me state that this bill is in the public interest for this entire Nation. Closer to home, however, it is absolutely essential for the people of Nashville, Bristol, and Knoxville, and for the State of Tennessee. We are indeed fortunate to have the newspaper voices we now enjoy. I ask my colleagues to join with me in preserving these voices, by voting for this rule, and then for the Newspaper Preservation Act.

Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. THOMPSON).

Mr. THOMPSON of Georgia. Mr. Speaker, we hear the plea that we should not have economic competition in the news field in a particular city. In my city of Atlanta, Ga., we do not have economic competition. I am not a big advertiser, but every 2 years I do seem to do some advertising in the newspapers. I know that during my last campaign I wanted to buy time or buy space in only one paper. I was told by the advertising department, "No, I am sorry, you cannot do that. You are going to have to buy it in both papers."

I violently objected, and finally, after 3 or 4 hours, he called me back and said, "Well, we can make a special exception here. It is our rule to require that if you advertise in one paper you are going to advertise in the other. But if you pay about 85 percent of the total rate, we will let you advertise in one paper."

I say the public has an interest in this. This should not be a bill simply to provide exemption from the antitrust laws to the newspapers. Why should they be treated any differently from any other business? I can see no reason to do so.

We hear the statement that we must eliminate economic competition. I think economic competition is good. Economic competition is the basis upon which this country was founded.

Then, of course, we hear the statement, "Well, one of the newspapers may fail."

I daresay in most cities in which there is joint publication that would not be the case. But if one were to fail, then so be it. Out of that failure may very well come a newspaper which would better serve the needs of the community and the people and be a stronger and more viable voice.

The argument is made, "Well, you have two separate editorial policies."

Maybe you do in some areas. But in other areas you certainly do not because of the very close relationship. If there is a so-called separate editorial policy, then one may well believe that the managers of the two newspapers get together and one decides, "Well, now, which side are you going to take? Which side am I going to take? Let us not be too extreme on this. Let us kind of work together."

So I am somewhat amazed that the Congress of the United States would consider a measure such as this. But I remember my father telling me this story when I was about 8 or 10 years old. He was talking about a bribery case in which a multimillionaire was charged with bribing a lowly public employee. Two separate jurisdictions were involved. One court held that the public employee was guilty of accepting a bribe from this millionaire. The other court acquitted the millionaire from having given a bribe. I remember asking my father how this could be. He said, "Son, you cannot put $15 or $20 million in jail."

I would like to submit the power of the press is overpowering as far as elected officials are concerned—why? Because they are the one who elect officials and they create our image, whether we like it or not. There are many people who will go along with the press rather than irritate the press.

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

Mr. THOMPSON of Georgia. I yield to the gentleman from Oklahoma.

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

I want to be sure I understand the gentleman's argument. Did I understand the gentleman to say that the practice prevailed in the city of Atlanta of requiring the gentleman to run an ad in both newspapers?

Mr. THOMPSON of Georgia. That is precisely correct.

Mr. EDMONDSON. Would the gentleman yield further on that point?

Mr. THOMPSON of Georgia. I yield to the gentleman from Oklahoma.

Mr. EDMONDSON. Is the gentleman under the impression that the Atlanta newspapers are covered by this bill or affected by it in any way?

Mr. THOMPSON of Georgia. No; they are not. They are jointly owned newspapers, publishing the Atlanta Constitution in the morning and the Journal in the afternoon, but either one buys in both, or he gets no ad.

In fact, I will offer a series of amendments during the consideration of this bill to extend the antitrust laws to prohibit single ownership of two newspapers within one city as well as to prohibit the joint operation or joint publication of industry-owned newspapers.

Mr. EDMONDSON. I thank the gentleman for making clear his point. He is not really objecting to what this bill does. He is objecting to something done by the newspapers not directly affected by this.

Mr. THOMPSON of Georgia. I am objecting to what this bill does.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota (Mr. MACGREGOR).

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

Mr. Speaker, as a member of the Antitrust Subcommittee and of the full Committee on the Judiciary, it is not my intention now to speak to the merits of the bill. I am certain this rule will be approved, and even though I willl vote against the bill, I will, of course, vote for the rule. It continues to be my belief that when a legislative committee of this House has worked as laboriously as we have on this bill, the bill deserves to be fully debated in this Chamber, thus the rule should of course be granted.

I take this time merely to indicate some of the weight of the informed opinion which stands opposed to the passage of the so-called Newspaper Preservation Act. Earlier this year the section of antitrust law of the American Bar Association recommended to the board of governors of the ABA adoption of the following resolution:

Resolved, That the American Bar Association opposes enactment of S. 1520, 91st Congress, or any equivalent measure designed to create an antitrust exemption for joint operating arrangements among newspapers; and

Further resolved, That the Section of Antitrust Law is authorized to urge the foregoing views of the American Bar Association on the Committees on the Judiciary of the United States Senate and House of Representatives.

This resolution was adopted by the board of governors of the American Bar Association on May 23, 1970. And H.R. 279 is just such an "equivalent measure."

Mr. RHODES. Mr. Speaker, will the gentleman yield on that point?

Mr. MACGREGOR. The gentleman from Arizona is always so obliging that I cannot refuse his request.

Mr. RHODES. Mr. Speaker, I am obliged to the gentleman for yielding.

I want to ask the gentleman if it is not true that in the section of antitrust law of the American Bar Association, the resolution which the gentleman quoted was adopted by one vote.

I believe the vote was 8 to 7, or 7 to 6, so there was really not an overwhelming consensus.

Mr. MACGREGOR. I would not presume to suggest it was unanimous, just as I do not expect that we will get a unanimous vote on the bill. At least, I hope it will be closely divided, and that the negative side will prevail.

Also standing opposed to the bill is the prestigious Committee on Trade Regulation of the Association of the Bar of the City of New York. This group submitted a report in opposition to the passage of the Newspaper Preservation Act.

All of us have received a letter under date of July 7 from representatives of the American Newspaper Guild. I should like to quote briefly two paragraphs:

Rhetoric aside, the bill's sole aim remains to retroactively and perpetually legalize profit pooling, price fixing and market splitting by newspapers which have agreed to and all or some competition in the market place.

In our view none of the committee amendments to H.R. 279 has done anything to alter the characterization of it by conventions both of the AFL–CIO and the American Newspaper Guild as a vehicle for "broad, unnecessary unregulated and perpetual antitrust immunity for the business practices of the newspaper industry."

Finally, Mr. Speaker, the National Newspaper Association under date of July 2 wrote to me—and I assume to other Members—expressing itself in these terms:

In our opinion, all that this legislation seeks to accomplish is to legitimatize price fixing and profit pooling for twenty-two joint newspaper operators. Neither of these activities constitute an economy in the operation of a newspaper. They only represent deliber-

ate and very effective elimination of competition.

We would like you to know that there are presently thirty-seven cities in the United States in which independent, wholly separate newspapers compete and survive. If they can exist in a competitive market, we ask why the "joint newspaper operators" benefitted by H.R. 279 cannot also survive without special legislation?

We do not believe that the failure to pass H.R. 279 will result in the abandonment of existing joint printing arrangements. Neither will the failure to adopt this legislation require the curtailment of joint distribution, joint accounting and business operation, the offering of combination (morning and evening) advertising rates or a joint Sunday edition, if one exists.

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

Mr. QUILLEN. Mr. Speaker, I yield the gentleman 1 additional minute.

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

I continue to quote:

All of these practices are acceptable under existing law, as recently established in the Tucson newspaper suit which gave rise to the request for this legislation. Federal Judge James A. Walsh has issued a final order in the Tucson case which allows all these joint activities and, in addition, the joint sale of combination advertising.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. MACGREGOR. I yield to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. As I understand it, all the bill does, really, is to exempt certain newspapers from the provisions of the antitrust law?

Mr. MACGREGOR. Certain newspapers which meet certain requirements.

Mr. BROWN of Ohio. If this legislation were to exempt steel mills, let us say, from the provisions of the antitrust law, or some retail establishment or other manufacturing establishment, does the gentleman believe this bill ever would have gotten before us?

Mr. MACGREGOR. Some of the newspaper editors and publishers who are for this legislation are those who editorialize most strongly against any exemption from the antitrust laws for others and any discriminatory special interest legislation, which this is.

The SPEAKER pro tempore. The time of the gentleman from Minnesota has again expired.

Mr. QUILLEN. Mr. Speaker, I yield the gentleman 2 additional minutes.

Mr. MACGREGOR. Mr. Speaker, I yield further to the gentleman from Ohio.

Mr. BROWN of Ohio. If this were a bill to establish such an exemption for some other means of communication, such as a UHF television station, does the gentleman feel it might have gotten here for consideration? Is there something peculiar about the communications media which brings this bill to the floor of the House?

Mr. MACGREGOR. I rather think that the gentleman's question answers itself.

Mr. BROWN of Ohio. One final question, then. Could the gentleman tell me, in that vote of the bar association committee, if those who supported the provisions of this legislation were candidates for public office? Or were they just lawyers not seeking office?

Mr. MACGREGOR. I do not know that any of the 15 referred to by the gentleman from Arizona (Mr. RHODES) were or have been or contemplate being candidates for public office. The closely divided vote in the committee on antitrust is not the significant thing, but the important thing here is the adoption of the resolution by the board of governors of the ABA.

Mr. BELCHER. Will the gentleman yield?

Mr. MACGREGOR. I yield to the gentleman.

Mr. BELCHER. Do you know what line of business the gentleman from Ohio is in?

Mr. MACGREGOR. He is in the legislative business.

Mr. BELCHER. He is in the newspaper business.

Mr. MACGREGOR. In my associations with him, he has been a very competent legislator.

Mr. BELCHER. He is also a competent newspaperman.

Mr. MACGREGOR. I am pleased that we have colleagues who have competence in outside fields to advise us in technical areas of this kind, and I think that the gentleman from Ohio, by virtue of his extensive experience in this field will be of great help to us.

Mr. BELCHER. He is trying to protect his industry here, and he has a perfect right to do that.

But with regard to this bar in New York, how many newspapers in New York have gone broke? Do you know that?

Mr. MACGREGOR. Now the gentleman brings up a very interesting point. Like population, which is growing in suburbia, as it shrinks in the central cities——

Mr. BELCHER. The gentleman can give me a better answer than that.

Mr. MACGREGOR. The total number of newspapers is growing in suburbia even as the numbers decrease in the central cities.

Mr. BELCHER. The gentleman can give me a better answer than that.

Mr. MACGREGOR. I thought my answer was a darn good one. Does the gentleman want me to agree that there has been a decrease of newspapers in the core cities? I have done so.

Mr. BELCHER. Newspapers all over the United States have gone broke. Of course, the gentleman's newspapers in Ohio never have, but a lot of others have gone broke. In addition to that, I would say in these 22 cities, if one bought out the other, that would not violate the antitrust law, would it?

Mr. MACGREGOR. No.

Mr. BELCHER. But if you keep them separate it does violate it, does it not? However, when you put it under one man and under one head and under one corporation, it does not violate it. The gentleman is a better lawyer than that.

Mr. MACGREGOR. As the gentleman knows—and I have discussed this with him—he is familiar with the final order handed down in the Tucson case, and he knows that in seven specific operations it is now established in Federal law that joint newspaper operations are legitimate and do not violate the antitrust laws.

Our whole thesis, may I say to the gentleman from Oklahoma, is that this bill is unnecessary because settled Federal law, in accordance with the order handed down by Judge Walsh in Tucson, permits these jointly operating newspapers like you have in Tulsa, Okla., to survive by doing certain things jointly but it does not let them fix prices or pool profits.

Mr. BELCHER. It may not hurt the gentleman's newspapers in Ohio, but it certainly does hurt my newspapers in Tulsa, Okla.

Mr. BROWN of Ohio. Will the gentleman yield?

Mr. MACGREGOR. I yield to the gentleman.

Mr. BROWN of Ohio. Let me say in response to the comments of the gentleman from Oklahoma that I am in the newspaper business in real life and I would like to suggest that those newspapers operate successfully without asking for any special exemption from the provisions of the antitrust law. We do not violate the antitrust law, but we do joint printing for the newspapers which we own and for other newspapers which we do not own. We do it successfully without violation of the law. We ask for no special exemption. I do not want to be a part of seeking a special exemption for any portion of the industry in which I am involved outside of my responsibilities in this body or for any other industry, let me say to the gentleman.

The SPEAKER. The time of the gentleman has expired again.

Mr. MATSUNAGA. Mr. Speaker, I yield 1 additional minute to the gentleman.

Will the gentleman yield?

Mr. MACGREGOR. I yield to the gentleman.

Mr. MATSUNAGA. Is the gentleman opposed to the rule?

Mr. MACGREGOR. No. I indicated at the outset I was seeking this time not to argue the merits of the bill but, rather, to spread on the RECORD the prestigious list of highly informed, qualified people who have registered opposition to the bill.

Although I oppose the bill it deserves to be debated, and thus I will vote for the rule.

Mr. MATSUNAGA. I am glad that the gentleman will. Of course, the gentleman, as I recall it, did vote to grant exemptions to banks from the antitrust law and to cooperatives and to small business and to football, also. I do not know which way the gentleman went on that football issue, which came before his committee.

Mr. MACGREGOR. The list is entirely long enough and I feel that we should not add one more to it.

Mr. MATSUNAGA. Actually, what this bill proposes to do is to keep competition between two newspapers alive. This is surely in keeping with the intent and purpose of the antitrust law.

Mr. MACGREGOR. May I say to my good friend, the gentleman from Hawaii, that beneficiaries of this bill can shout that speech from the top of the Capitol

Dome and I respect your right to say it, but I do not believe it for one moment.

I yield further to the gentleman from Hawaii if he so desires.

Mr. MATSUNAGA. Of course, if the gentleman comes here with a closed mind, I would rather reserve the balance of my time.

Mr. MACGREGOR. I do not come with a closed mind because as a member of the Judiciary Committee I have spent more than a year studying these issues.

The SPEAKER pro tempore. The time of the gentleman from Minnesota has again expired.

Mr. MATSUNAGA. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, with reference to the statement made by the gentleman from Georgia, the fact that he had to advertise in two newspapers to advertise in one is another reason why we need this bill. Because in his city of Atlanta there were two newspapers under one ownership, the one owner could dictate to the gentleman from Georgia as an advertiser, "You take an ad in my second paper or you take nothing."

We are trying to preserve two independent newspapers in the 22 cities so that the gentleman from Georgia can go to any of these cities and say, "I want to advertise in just one paper," and he will readily be granted that privilege. What the gentleman from Georgia experienced in Atlanta is exactly what we are trying to avoid. The present law does not prevent that one owner of those two newspapers in Atlanta from doing what it did to him. Under this bill the two newspapers in any of the 22 cities would be prohibited from doing what that one owner of the two papers did to the gentleman in Georgia.

Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma (Mr. EDMONDSON).

Mr. EDMONDSON. Mr. Speaker, I take this time merely to respond to one point mentioned by the able gentleman from Minnesota and to the argument which he has made to the effect that the Tucson decision takes care of the situation.

If the gentleman has talked to any of the participants in the 22 cities that hold that view and agree with that view, I would like to know who they are.

Are there any of the participating newspapers in the 22 cities covered by this bill who will agree that the Tucson decision takes care of the situation adequately for them?

Mr. MACGREGOR. Mr. Speaker, if the gentleman will yield, I think I have heard from seven executives of the companies who are present participants in one or more of the joint operating arrangements, and I have asked these gentlemen whether all of their professional colleagues and associates involved in these 22 groups that we are giving special benefits to here today, whether they all agreed. Several of the seven who have talked to me have said, "No, we do not all agree." But I must say to the gentleman from Oklahoma I am not able to name one who has had the intestinal fortitude to come forward——

Mr. EDMONDSON. The gentleman has answered my question and I do not yield further on that point. The gentleman says he cannot name one who says it does take care of the situation.

The Tucson decision as referred to by my good friend from Minnesota does say that they can share revenues and profits on the Sunday editions.

Mr. MACGREGOR. That is correct.

Mr. EDMONDSON. And it says they cannot do it the other 6 days of the week. There is a complete reversal. It reminds me of that old tune about "Never on Sunday." In the case of the Tucson decision the Court legalizes on Sunday what they regard as reprehensivle the other 6 days of the week. That is how reasonable and intelligent the Tucson decision is.

Mr. RHODES. Mr. Speaker, will the gentleman from Oklahoma yield to me?

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

Mr. THOMPSON of Georgia. Mr. Speaker, will the gentleman from Hawaii yield 30 seconds to me so that I can answer a question he referred to me?

Mr. MATSUNAGA. Mr. Speaker, I yield 1 minute to the gentleman from Georgia.

Mr. THOMPSON of Georgia. Mr. Speaker, I thank the distinguished gentleman for yielding me this time.

The gentleman from Hawaii made the statement that this particular bill would prohibit the requiring, in a city where there is a single ownership of two newspapers, of advertising in both papers. If that is the case, it certainly would have my support.

Mr. MATSUNAGA. It does not.

Mr. THOMPSON of Georgia. Then I misunderstood the gentleman. I thought that was the statement made by the gentleman.

Mr. MATSUNAGA. What I did say was that this bill would prohibit what happened to the gentleman in Atlanta, by insuring separate and independent ownerships of the two newspapers in each of the 22 cities involved.

Mr. THOMPSON of Georgia. I am still not quite clear. This would have no bearing, then——

Mr. MATSUNAGA. Let me clarify the situation. In Atlanta you have two newspapers——

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. MATSUNAGA. Mr. Speaker, I yield myself 1 minute.

In the city of Atlanta there are two newspapers under a single ownership. What we are trying to do here by this bill is to continue two independent ownerships in 22 American cities.

Mr. THOMPSON of Georgia. I recognize that.

Mr. MATSUNAGA. Two separate newspapers, so that when you go to one newspaper it will not require you to advertise in the other paper before it will accept your advertisement for the first.

Mr. THOMPSON of Georgia. But this bill will have no bearing on the requirement by the ownership—of a morning and afternoon paper—requiring you to advertise in both papers?

Mr. MATSUNAGA. The gentleman is correct, the bill does not pertain to fully merged newspapers. The situation the gentleman finds in Atlanta arises, because there is only one owner of two papers, and he can require anything of you. Our present antitrust laws impose no restriction in this respect on him.

Mr. THOMPSON of Georgia. Mr. Speaker, I thank the gentleman for yielding. I will have an amendment to offer which will prohibit such a practice.

Mr. MATSUNAGA. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. KASTENMEIER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 279) to exempt from the antitrust laws certain joint newspaper operating arrangements.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin Mr. KASTENMEIER).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 279) with Mr. STEED in the chair.

The Clerk read the title of the bill.

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

The CHAIRMAN. Under the rule, the gentleman from Wisconsin (Mr. KASTENMEIER) will be recognized for 1 hour, and the gentleman from Ohio (Mr. MCCULLOCH) will be recognized for 1 hour.

The Chair recognizes the gentleman from Wisconsin, (Mr. KASTENMEIER).

Mr. KASTENMEIER. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, we have already in the debate on the rule had an excellent part of the description and purpose of the bill which we are undertaking today to discuss.

I would like to pay my compliments to both the gentleman from Hawaii (Mr. MATSUNAGA), whose bill it is, and the gentleman from Tennessee (Mr. QUILLEN), who explained in detail the effects of the newspaper preservation act.

I would like to express my gratitude to my chairman, the gentleman from New York (Mr. CELLER) for granting me the privilege of handling the bill on the floor this afternoon.

Indeed, at the outset of the hearings the chairman expressed the point of view, and I quote him:

> The antitrust laws embody concepts and principles which long have been considered to be the bedrock of our economic institutions. Piecemeal exemptions from the antitrust laws to cope with problems of particular industries have been given reluctantly and only after there has been a clear showing of overriding need.

Mr. Chairman, that overriding need is with us today. This bill is designed to clarify the legal standing under the antitrust laws of joint newspaper operating arrangements.

As I have indicated, the House Committee on the Judiciary rarely recommends to the House of Representatives exemptions or exceptions to the antitrust laws.

How then did we get here today? The road starts a very long time ago. Thirty-seven years ago in Albuquerque a joint newspaper operating agreement was reached. Thereafter in America throughout the depression years, when the newspaper industry along with much of the rest of American enterprise felt the hard times, certain newspapers in additional communities resorted to joint operating agreements. El Paso, Tex., in 1936 and Nashville, Tenn., in 1937 are examples. Thereafter agreements were entered in Indiana, Arizona, Oklahoma, Wisconsin, Virginia, Tennessee, Alabama, Nebraska, Utah, Louisiana, Pennsylvania, Ohio, Missouri, Hawaii, California, and Florida throughout this country.

The purpose was to preserve their independence. Throughout the country the testimony that your committee received was that thousands of American papers were involved. In 1910 there were 2,202 dailies in the United States during those years and thereafter this condition worsened so that the number of newspapers declined to 1,746 serving 1,500 communities.

Indeed, today there are only 45 communities in this country at the most that can claim to have independent, separate dailies; 22 communities have joint newspaper operations. In 150 communities the two newspapers operating in the city are owned by a single entity.

It is economics with which we are confronted. The purpose of the bill is to preserve editorial and newsgathering independence. The newspapers have sought to do this by entering into economic arrangements whereby the circulation, the printing, the advertising and, yes, the sharing of profits is agreed to. They enter into the arrangement on the basis that each paper will maintain its own integrity as an entity so far as the newsgathering and editorial writing is concerned.

These are not American steel companies or other producing industries—and I am sure the Members of this body, Mr. Chairman, understand the difference in commercial enterprise between an American newspaper and the steel industry. Newspapers play a special role in maintaining a democracy and diversity of opinion in this Republic.

By the year 1965 we had 22 cities and 44 papers involved. Then, for the first time, the Department of Justice started an antitrust suit. Today, these collective newspapers have operated on an average of 19 years under such arrangements, but the Department of Justice would cause them now to be separated. The "siamese twin" effect of economically linking these two newspapers would be removed; they would be separated. I dare say, the result would not be to create more independence in newspapers throughout the land but to destroy the existing independence of those that are in a joint operating agreement.

The original bill was introduced by former Senator Hayden in the Senate, several years ago, to meet the threat to newspapers throughout the country. That bill was much broader than that which we consider today. The reason I point this out is to show the legislative history. I observe that this is not a great exemption from the antitrust laws but one that is relatively modest and has been limited during the course of congressional action. The bill before you now is the third generation of such bills.

At first, the bill literally provided a general exemption for mergers, combinations, and offer joint arrangements in American newspapers. That bill was later amended to affect joint operating agreements alone. It allows prospective arrangements, in the same fashion as those 22 existing cities with joint newspaper operations were affected. Your committee, through a number of amendments, principally proposed by the gentleman from Illinois (Mr. RAILSBACK) further limited the bill to provide a far more stringent test for any future joint operating agreements for newspapers which would in the future hope to become involved in a joint operating agreement to preserve themselves. They would have to go to the Attorney General to obtain his approval and prove that they are in fact a failing newspaper. By definition under the bill, this requires a publication which, regardless of its ownership or affiliations, is in probable danger of financial failure.

So this is not a bill designed to be of relief to wealthy papers but, rather, one to prevent the future failure of papers throughout this country. Really, the unsettling effect, the radical effect of the law in this case is suggested by the Justice Department by threatening action against all joint operating agreements. The economic reality is that we will not have more newspapers or more independent newspapers but that we will force those joint operating agreement papers to do one of two things: Either one newspaper will close its doors and the other will survive, or one newspaper will buy out the other. Then you will have a total merger, a single ownership of both newspapers.

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

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

Mr. FEIGHAN. It seems to me that the term "probable danger of financial failure" is rather loosely drawn. I would propose the words "in imminent danger of financial collapse" in order to have a more proper definition of a failing newspaper. The committee report by the gentleman on page 10, paragraph 5, states:

> The definition of the term "failing newspaper" is a departure from the failing company doctrine that has been enunciated by the Supreme Court in the Tucson case and the cases there cited.

Mr. KASTENMEIER. I thank the gentleman for his comment. The term "in probable danger of financial failure" is one that has a legislative history. It comes out of the Bank Merger Act. It is understood by the courts in the field, and happens to be a term that is well known.

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

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

Mr. GROSS. I thank the gentleman for yielding and call his attention to the report accompanying the bill and the first words of the individual views of two members of the Judiciary Committee, which are in the nature of a minority report. Those words are as follows:

> The Newspaper Preservation Act sanctions conduct—price-fixing, profit pooling and market allocation.

I shall not take the gentleman's time to read the rest of it.

Does the gentleman agree that this legislation would do those three things: sanction price fixing, profit pooling, and market allocation?

Mr. KASTENMEIER. I will candidly answer my friend, the gentleman from Iowa, and say a qualified yes, in the sense, there is market allocation; there is agreement that one newspaper operate in the morning market and the other in the afternoon. It does pool profits. If there were not profit pooling, the weak paper would fail. This is the only possibility of maintaining both papers when there is a failing situation. It does have a profit-sharing provision in most of the contracts involved in these various cities.

Mr. GROSS. What about price fixing?

Mr. KASTENMEIER. Price fixing as far as advertising and circulation, certainly.

Mr. GROSS. I thank the gentleman for his response.

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

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

Mr. RAILSBACK. Mr. Chairman, I thank the gentleman for yielding.

I ask the gentleman, is it not also true that despite the questions and answers just given, this is preferable, in the case of a failing newspaper, which is required in all of these cases, to an arrangement of an outright sale of a dying newspaper to somebody who will be a single owner and who would then be able to control not only these things, but also the editorial viewpoints of both newspapers, which is not true under this bill.

Mr. KASTENMEIER. Of course, the gentleman is eminently correct. The fact remains that what is complained about, if I may conclude, are those same things that are permitted when we have outright mergers, as in 160 American cities. These papers, singly owned, may do all these things without the same threats that these are crimes, or this conduct ought not be sanctioned. In 160 cities this is done without any sanction whatsoever.

Indeed, to permit these papers to continue to survive as two papers and to maintain the separate editorial opinion and to maintain separate books, we think is preferable.

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

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

Mr. FASCELL. Mr. Chairman, what we are talking about is what is in the best

public interest. Would the public interest best be served by the antitrust legislation, or would the public interest best be served by this legislation?

Mr. KASTENMEIER. That is it exactly.

Mr. FASCELL. And it is more in the public interest to preserve the competitive rights that exist between the two newspapers.

Mr. KASTENMEIER. That is it, and this is presented in the bill before us.

Mr. FASCELL. What actually happens is that the public interest is better served by the two newspaper identities. Would the gentleman agree with that?

Mr. KASTENMEIER. Yes.

Mr. FASCELL. I would say from my own observation, because Miami, Fla., is one of the areas that would be affected by this legislation, I can state that, in fact, notwithstanding the pool operating agreement and the arrangement they have, these two newspapers have a violently independent editorial policy, and they do maintain very clearly independent news gathering positions, and despite their operating arrangements, they serve a very useful competitive purpose in the community to the best interest of the public.

Mr. KASTENMEIER. And that experience, may I comment, is found in all or nearly all the other cities. We have adequate testimony as to this, and we do not have to guess as to what would happen, because we have over 400 years combined experience in testimony before committees in both the House and the other body.

Mr. FASCELL. I thank the gentleman for yielding.

I am in strong support of the bill.

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

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

Mr. EDMONDSON. Mr. Chairman, I think the question asked by the gentleman from Iowa with reference to the first sentence in the minority or individual views logically calls for a reference to the provisions on page 8 of the committee bill, appearing at line 6, making it very clear that—

> Nothing contained in this Act shall be construed to exempt from any antitrust law any predatory pricing, any predatory practice, or any other conduct in the otherwise lawful operations of a joint newspaper operating arrangement which would be unlawful under any antitrust law if engaged in by a single entity.

The CHAIRMAN. The time of the gentleman from Wisconsin has again expired.

Mr. KASTENMEIER. Mr. Chairman, I yield myself 3 additional minutes.

I appreciate the gentleman's comment. This was gone into in the committee.

Indeed, these papers may not undercut competition by predatory pricing, by cutting down advertising, for example.

On the other hand, the House committee had absolutely no advertiser individually or represented by any group appear before it and complain about this bill. Why? Because the practices of these papers have not been offensive to advertisers.

As a matter of fact, as the gentleman from Hawaii cited, the Hawaiian experience points out advertisers generally fare better. If these papers were separate, the advertising costs would be greater.

That is why Members have not heard from advertisers and have not heard from people individually who receive the papers in their homes, in opposition to this bill.

Mr. Chairman, this does preserve something in this country. I suggest that one ought to be extremely cautious in considering any amendment which might be offered, because this industry, I suppose, as the gentleman from Ohio well knows, is a delicate industry.

Indeed, if I belonged to the National Newspaper Association and had others proposing to break up newspaper arrangements in cities, I could be a beneficiary of this, so I believe it is understandable why members of NNA might oppose the bill. But they are not the ones in principal interest, I would suggest.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to my friend from Ohio.

Mr. BROWN of Ohio. I concur with the gentleman. I suppose if I were representing an area dominated by one of the newspapers benefiting under this legislation I might be tempted to support the legislation myself. Since that is not the case, I am free to express my viewpoint with reference to the economics of it.

As I understand, the gentleman wants to support this bill so as to maintain the editorial independence of the benefited newspapers; is that correct?

Mr. KASTENMEIER. That is certainly one of the main purposes of the bill.

Mr. BROWN of Ohio. Could the gentleman tell me if there is anything the single owner of a pair of newspapers in the same community can do that is not permitted by this bill? In other words, this bill allows separate owners of exempted newspapers to do what a single owner to two newspapers could do if the two newspapers were owned by the same ownership.

Mr. KASTENMEIER. Well, to secure the exemption one would have to maintain a separate editorial and news gathering function. That is certainly something no singly owned paper can do.

Mr. BROWN of Ohio. Let us say that one of these papers folded and was bought by the "competition," whatever that means, under this bill—I do not believe it means much. Suppose it was bought by the competition and the single ownership then operated the two newspapers. Could the owner do anything with single ownership of two newspapers that the supposedly separate and exempted ownership cannot do under this bill?

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

Mr. KASTENMEIER. I yield to my friend from Illinois.

Mr. BROWN of Ohio. May I have an answer?

Mr. RAILSBACK. If the gentleman will yield, the most obvious thing is that he could have separate editorial voices on both newspapers. That is the major thing.

Mr. BROWN of Ohio. That is the point I am making. I happen to know of a number of situations, including newspapers in Dayton, Ohio, owned by the same chain which owns a newspaper in Miami it would like to have exempted under this bill. In Dayton, where the two newspapers are owned by the same ownership, they have violently conflicting editorial views. It seems to me one can accomplish the same purpose by letting some of these newspapers fold or be purchased by the competition, and then letting them go ahead to operate independent editorially.

What the gentleman is telling me is that the person who pays the piper calls the tune. It seems to me just as applicable where there is single ownership of two newspapers, as where there is separate ownership that allows a "sweetheart" deal, such as is allowed in this legislation.

The CHAIRMAN. The time of the gentleman from Wisconsin has again expired.

Mr. KASTENMEIER. Mr. Chairman, I yield myself 1 additional minute.

I would say in conclusion that this bill is supported by the administration. This bill in fact passed the Senate by an overwhelming vote earlier this year.

As you know, the House leadership supports this bill. The Committee on the Judiciary reports this bill out to you favorably, and 101 of your colleagues have sponsored this bill. I think it is necessary, and I urge its passage.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield

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

Mr. ECKHARDT. There is one point I should like to clear up. On page 7, the term "a failing newspaper" is described to mean "a newspaper publication which" and then there are the words "which regardless of its ownership or affiliations is in probable danger of financial failure."

Suppose a newspaper is owned by a corporation which owns, let us say, a few hotels, a bank, and other business establishments within a community all of which are lucrative, but the publication itself is failing. Of course, this could be manipulated within a total corporate structure. Would such a newspaper be a failing newspaper under the definition when the term "regardless of its ownership or affiliations" is included?

Mr. KASTENMEIER. Yes; it would be, if the newspaper corporation as such were the single entity you are referring to.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. McCULLOCH. I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 279, the Newspaper Preservation Act. As legislators, it is our historic role to sometimes balance apparently conflicting interests to reach a reasonable and fair accommodation that will justly serve the public interest. Such is our task today, as we attempt to weigh the need for commercial competition in the newspaper industry with the necessity, in a free society, for competition in ideas.

The problems inherent in the dual—commercial and editorial—character of newspapers are manifest by Judge

Learned Hand in *United States* v. *Associated Press*, 52 F. Supp. 362 (1943) when he said:

A newspaper serves one of the most vital of all general interests: the dissemination of news from as many different facets and colors as is possible. That interest is closely akin to, if indeed it is not the same as, the interest protected by the First Amendment; it presupposes that right conclusions are more likely to be gathered out of a multitude of tongues, than through any kind of authoritative selection. (52 F. Supp. at 372.)

Yet, the Supreme Court in affirming the decision of Judge Hand said:

Newspaper owners are engaged in business for profit exactly as are other businessmen who sell food, steel, aluminum or anything else people need or want. All are alike covered by the Sherman Act. The fact that the publisher handles news while others handle food does not afford the publisher a peculiar constitutional sanctuary in which he can with impunity violate laws regulating his business practice. (*Associated Press* v. *United States*, 326 U.S. 1, 7 (1945).)

It is the potentially conflicting interest of commercial competition and editorial competition that we have pondered in our consideration of the Newspaper Preservation Act.

The newspaper industry has for many years suffered from a curious paradox. While, in general, the newspaper business has been and continues to be relatively healthy and profitable, the vitality of competing ideas which is produced by editorial and reportorial diversity is being lost. Soaring costs, competition from other media, and the growth and insularity of the suburbs have caused countless newspaper failures and mergers across the country. Often where once there were two independent newspaper voices, a newspaper failure or merger has ended competition and tended to produce a stultifying monopoly on news and opinion.

For example, while between 1880 and 1968 daily newspaper circulation increased from 3,093,000 to 61,561,000 and the number of daily newspapers increased from 850 to 1,749, during the same period, the number of cities with two or more commercially competing dailies decreased from 239 to 45. In my own State of Ohio from 1930 to the present, the following daily newspapers, of substantial general circulation in cities of 100,000 or more have merged with another paper or have suspended publication:

Newspaper	City	Year of failure or merger
News	Canton	1930
Commercial Tribune	Cincinnati	1931
Sentinel	do	1933
Vindicator and Telegram	Youngstown	1936
Gross Daytoner Zeitung	Dayton	1937
Times Press	Akron	1938
Journal and Herald	Dayton	1949
Times-Star and Post	Cincinnati	1958
Citizen and Ohio State Journal	Columbus	1959
News and Press	Cleveland	1960

Moreover, there have been no newspapers started to effectively replace these lost voices. Indeed, throughout the country, since the depression, there have been virtually no daily newspapers of general circulation successfully started in any city of substantial size. Thus, unless dramatic action were taken, the public would have less and less competition in ideas.

The joint newspaper operating arrangement was created to cope with this problem. Through substantial cost-savings achieved by the execution of these joint agreements, newspapers were able to survive financially and were able to provide the public with diversity in viewpoints. In the capital city of Ohio, Columbus, two newspapers, the Dispatch and the Citizens-Journal, executed a joint newspaper operating agreement in 1959. Since then the arrangement has permitted one of the newspapers to recover from what appeared to be certain failure and has provided the people living in the Columbus metropolitan area with two distinct editorial and reportorial voices. However, the legality and continued existence of these arrangements all over the country have been threatened by the decision in Citizens Publishing Co. against United States, 394 U.S. 131 (1969). To negate this possibility, the Newspaper Preservation Act was proposed.

This legislation, along with its predecessor, the Failing Newspaper Act, has been thoroughly examined by both bodies. Thirty-three days of hearings have been held in the 90th and 91st Congresses. Over 5,200 pages of testimony and exhibits have been generated. During the House Judiciary Committee's consideration of this legislation, a wide range of testimony was heard. Various departments of the executive branch, publishers of newspapers of varying size, labor unions and academicians have provided suggestions on the scope and propriety of this legislation. Moreover, each of the 22 currently existing joint newspaper operating arrangements was examined in detail. The financial posture of each newspaper currently and at the time these joint operating arrangements were created was closely studied. As a product of this analysis, the bill that has been reported by the Judiciary Committee is considerably narrower and more precise than the legislation as it was first introduced or as passed by the other body.

Originally, the Failing Newspaper Act permitted virtually unchecked mergers and consolidations of newspapers. Such a broad provision would have virtually eliminated the possibility of editorial and reportorial competition in many cities across the country. However, the legislation, now denominated the Newspaper Preservation Act has been rewritten to exempt from the antitrust laws certain specified activities of joint newspaper operating arrangements only to the extent necessary to preserve and promote diversity in viewpoint. In addition, the prospective application of this exemption now is carefully circumscribed by requiring the consent of the Attorney General for any future joint newspaper arrangements. With such safeguards, the future availability of the antitrust exemption for newspapers in other cities should be limited only to those situations where a joint newspaper operating arrangement is demonstrably essential to prevent a newspaper failure and to promote editorial and reportorial competition.

Mr. Chairman, the Newspaper Preservation Act has been the subject of thorough analysis. It has been substantially refined and improved. I urge its prompt enactment to insure the continued promotion and stimulation of competitions in ideas. A free society can have no greater calling.

Mr. KASTENMEIER. Mr. Chairman, I yield 5 minutes to the distinguished majority leader, the gentleman from Oklahoma (Mr. ALBERT).

Mr. ALBERT. Mr. Chairman, first of all, may I commend the distinguished gentleman from Wisconsin for the very able manner in which he explained this bill and its definitive concepts. I also commend our distinguished friend and able lawyer, the gentleman from Ohio (Mr. MCCULLOCH), and the distinguished gentleman fom Hawaii (Mr. MATSUNAGA), whose committee has made this bill in order by resolution, and join them in support of this bill.

Mr. Chairman, I can add very little to what has been said. One of the 22 cities in which newspapers are located which will be affected by this legislation is located in the State of Oklahoma but not in my congressional district. However, it is important to the entire State of Oklahoma that these two newspapers maintain their separate identity and their separate newsgathering and editorial policies.

This is very important to the eastern part of the State in which I live. This bill is not a partisan measure. More than 100 Members representing both parties have joined in sponsoring the legislation.

The purpose of this bill is to clear up the result, as the Members well know, of the Supreme Court decision which creates somewhat of an anomalous situation. Under existing antitrust laws total merger of two separately owned newspapers which includes combining all of their commercial, newsgathering and editorial operations is legal. This is allowed when one of the newspapers has failed, but, Mr. Chairman, certainly the inequity of such a law is evident. The basic need for editorial competition is a fundamental prerequisite for an informed citizenry. It lies at the very heart of the freedom-of-the-press provisions of the first amendment to the Constitution. The need for opposing opinions to be evidenced in newspaper editorials is paramount.

A 1968 survey reported that although 1,500 cities are served by a daily newspaper, 85.6 percent are one-newspaper towns. Another 150 cities are served by two dailies, but these are under single ownership. Therefore over 95 percent of the communities have newspapers that are controlled by a single owner.

This makes it abundantly clear that we need to maintain editorially competitive newspapers in the 22 cities affected by this act.

Mr. Chairman, the newspaper operating arrangement that is presently being threatened by antitrust suits has been in operation since 1933. And as the distinguished gentleman from Wisconsin (Mr. KASTENMEIER) pointed out, this practice

was not threatened until the Justice Department brought a suit in 1965.

Mr. Chairman, this act would allow these 22 newspapers to continue their own operations exempt from antitrust laws only as long as they do not violate other provisions of those laws. This act does not exempt these newspapers from unlawful conduct such as predatory pricing or other monopolizing practices.

Mr. Chairman, the purpose of our antitrust laws is to preserve competition. That is the identical purpose, as I understand it, of this legislation. This bill will prevent monopoly in one of the most important areas of our national life.

Mr. Chairman, if the Newspaper Preservation Act fails to pass, the voices of 22 newspapers that have given their readers the other side of every issue will be silenced. Remaining will be 22 newspapers that may offer only one point of view. This is monopoly at its worst.

I urge, therefore, Mr. Chairman, that this bill be adopted.

Mr. Chairman, I yield back the balance of my time.

Mr. McCULLOCH. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. JOHNSON).

Mr. JOHNSON of Pennsylvania. Mr. Chairman, I am a cosponsor of the Newspaper Preservation Act, and I urge its passage.

One of the 10 counties in my district is the county of Venango, and two of the largest cities in the county are Oil City and Franklin. The population of the county is 60,514, according to the 1970 census.

There is published for Oil City a daily newspaper called The Derrick, and there is published for Franklin a daily newspaper known as the News-Herald.

For many years these two daily newspapers published independently in a separate plant, but in 1956, because of rising costs and other factors, these two newspapers found it necessary for survival that they both publish from the same plant, using the same printing presses and printers. They also have a joint circulation department and a joint advertising staff. But that is where the community of interest ends. They compete fiercely for the news, and keep their editorial and news staffs entirely separate and isolated.

I feel that both newspapers make a valuable contribution to the economic, social, and intellectual life of the county and their respective communities. If these two newspapers were now forced to separate entirely and duplicate most of their efforts, one of the papers could well fold, and Venango County, Pa., would be a one newspaper county. This would not be a beneficial result as far as this county is concerned. There is no semblance of an organization in restraint of trade as contemplated by the Sherman Act in this instance. In fact this arrangement of which I speak is entirely the opposite.

It has been pointed out that the best interests of this Nation require a free press, wide dissemination of the news, and the opportunity for the news media to operate at a reasonable profit.

This bill makes all these possible. I urge you to vote yes on H.R. 279.

Mr. McCULLOCH. Mr. Chariman, I yield to the gentleman from Minnesota (Mr. MACGREGOR) 5 minutes.

Mr. MACGREGOR. Mr. Chairman, let me say at the outset that the gentleman from Wisconsin (Mr. KASTENMEIER) is deserving of great credit for his candor in responding to the inquiry of the gentleman from Iowa (Mr. GROSS).

I do appreciate, may I say to the gentleman from Wisconsin, his candor in admitting that the passage of the so-called Newspaper Preservation Act would amount to the sanctioning of such conduct as price fixing, profit pooling, and market allocation.

I urge those who may be undecided on this bill to refer to the hearings before our subcommittee so as to see just how the public interest would be damaged by the adoption of this legislation. I specifically refer you to page 254 of serial No. 8 of the printed hearings on the bill, H.R. 279.

There you will find testimony contained in a statement by Stephen Barnett, professor of law, University of California, Berkeley, Calif. May I quote him briefly:

I would like now to focus on the situation in San Francisco, and to tell you how the joint operating combination has been working there. That combination would be legalized and perpetuated by this bill, so the citizens of the San Francisco area have a significant stake in what this Committee does. I think you should know what kind of arrangement you would be forcing us to live with—probably forever. Also, the situation in San Francisco, where the joint-operating agreement is only four years old, affords a particularly good opportunity to isolate the effects of such an arrangement, and thus to get a graphic idea of the impact this bill would have—or, conversely, the impact a return to newspaper competition might have—in cities across the country.

Now listen to these statistics about how advertising rates were jacked up and manipulated after the execution of the joint operating agreement in San Francisco, and I continue to quote from Professor Barnett's testimony:

At the Senate hearings in July 1967, J. Hart Clinton, publisher of a suburban evening paper, the *San Mateo Times*, described and documented the way the *Chronicle* and *Examiner* had changed their advertising rates immediately after the merger. As he showed (and no one has challenged his data), the basic "open" display ad rate for space in the *Chronicle* was all but doubled as a result of the merger—from $1.20 per line in January 1965 to $2.32 per line effective October 1. (pp. 647, 654) This whopping increase could not be justified by the gain in the *Chronicle's* circulation resulting from its new morning monopoly, for that gain was only about 33 percent. (p. 656) The obvious explanation was, rather, that with advertisers now dependent on the *Chronicle* as the city's only morning paper, the *Chronicle's* ad rate was set as high as the monopoly traffic would bear.

The *Examiner*, meanwhile, still faced competition from the *Oakland Tribune* and the various other evening papers in the suburbs. Its basic ad rate was increased after the merger by only about 50 percent—from $1.03 to $1.55 per line. (pp. 649, 654)

The real squeeze, however, lay in the new combination rate for both papers. This was set at $2.58 per line—only $.26 more than the rate for the *Chronicle* alone. (pp. 654–655) Advertisers needing the *Chronicle* thus had little choice, after paying its monopoly-inflated rate, than to take the "bargain" combination rate giving them the *Examiner* as well. They would have had to pay much more than $.26 per line for some evening paper in the suburbs—or for some new paper that might otherwise enter the market in San Francisco itself.

For those of you—and there are many that I see here in the Chamber, who diligently approach their decisionmaking on legislation—I refer you to other testimony contained in our hearings of a comparable nature covering the situation in other cities where there is a joint operating agreement.

Mr. Chairman, I must respectfully disagree with the analysis of my colleagues regarding the necessity and propriety of the Newspaper Preservation Act. I submit that the purpose of this legislation is not to serve the public by providing diversity in editorial and reportorial opinion but rather to preserve the right of certain newspaper publishers to enjoy monopoly profits. Accordingly, I must concur with an editorial that appeared in the New Yorker magazine of January 31, 1970, which stated:

Any newspaper which has to be preserved this way might as well be preserved in formaldehyde.

The Newspaper Preservation Act legalizes price fixing, profit pooling, and market allocation which are crimes punishable by fine and imprisonment. Unless we delude ourselves into believing that such criminal conduct should be casually sanctioned, surely a manifestly clear showing of justification should be made before this legislation is passed. Such has not been the case. There has been no substantial evidence to justify this sweeping repudiation of competition in the newspaper industry.

Proponents of the legislation argue that without the Newspaper Preservation Act the public will be deprived of the benefit of diversity in editorial and reportorial viewpoint. No one would deny that competition in ideas is one of the foundations upon which the greatness of our society is based. If this were the actual raison d'être for the bill, no fault could be found with it. But this rationale is a thin facade which is not supported by the content of our hearings and which cannot stand searching analysis.

The situation in San Francisco offers a graphic example of the degree to which some of the proponents of this legislation have distorted the facts. Sponsors of the bill strongly argue that without the Newspaper Preservation Act the public would be faced with a monopoly in communications. If the loss of one of the newspapers involved in the joint newspaper operating arrangement in San Francisco would leave only one editorial and reportorial voice in the area, public policy might dictate legislative action. Yet the facts clearly indicate that the situation in San Francisco is not one of near monopoly, but rather one of intense competition. Indeed, there are 21 daily newspapers and countless weekly newspapers which regularly compete with the two joint-operation newspapers

in San Francisco. Some of these newspapers are currently small and have only limited circulation; others, however, are comparable in size to their counterparts in San Francisco who seek this protective legislation. In San Francisco it is clear that this legislation will not serve the public by promoting editorial and reportorial competition. Rather it will serve the private interests of two newspaper publishers by protecting them from other newspapers who, without this legislation, would surely continue to provide stimulating commercial and editorial competition and thereby better serve the public. Yes, this is a newspaper preservation act, but it is preservation for only a chosen few. As the New York Times editorialized on January 31, 1970:

> Far from encouraging a free and independent press, such immunity could become a shield to established publishers against the entrance of new journalistic competitors. Even without that effect, the sheltered environment of a carefully divided market is a poor spur to editorial ingenuity and creativity.

It is urged by the proponents of this legislation that the decision in *Citizens Publishing Co.* v. *United States*, 394 U.S. 131 (1969)—the Tucson case—requires the passage of this legislation. To enforce the Sherman Act's criminal prohibitions of price-fixing, profit pooling and market allocation, they argue, would destroy many newspapers who cannot compete, as independent entities, with other newspapers. Plainly, this reasoning is fallacious. The Tucson case does not require the complete termination of any joint newspaper operating arrangement. The final order entered in that case on January 26, 1970, provides a reasonable and workable formula for maximizing the opportunities for editorial and commercial competition. The decree recognizes the cost-savings that can legitimately be derived from certain joint activity and, accordingly, specifically permits: joint printing; joint distribution; joint clerical and administrative staff; an optional, fully cost-justified combination advertising rate; allocation of markets; a joint Sunday edition; and a single advertising staff to handle combination advertising.

It is important to note that the Department of Justice has indicated that the rules of the Tucson case could be applied successfully to all the joint newspaper arrangements that are currently in operation. In this manner the requirements of each individual community could be analyzed and the existing agreements modified to the extent necessary to promote diversity in editorial viewpoint and to stimulate commercial competition. Thus the newspapers operating under joint arrangement would be permitted almost all the economies which they now enjoy and would be required to suspend only those otherwise criminal activities which were really never essential to their survival. Clearly, the very fair and reasonable formula produced by the final decree in the Tucson case makes this legislation unnecessary.

But even if some legislation were appropriate, the redrafted and ambiguous provisions of the Newspaper Preservation Act will not still the controversy which has surrounded this special interest bill but, rather, will provide a source of continual vexation for all concerned as the legislation is interpreted in the future. This bill does not grant antitrust immunity to all 22 joint operating arrangements. Such an exemption attaches only if the requirement in section 4(a) is satisfied that not more than one of the newspapers involved was a publication that "was likely to remain or become a financially sound publication." Whatever this standard means, it applies only when a particular joint operating arrangement was created. It seems clear that under this provision each arrangement could be tested by either the Department of Justice or by a private party seeking treble damages and could be found not to meet the test.

But, in addition, the only retroactive language in the bill is in section 5. Section 4, the antitrust exemption, does not purport to sanction the activities of these joint operating arrangements before the enactment of this legislation. Accordingly, because of the limited retroactive language in section 5(b), it seems arguable that the treble damage actions might be brought after the date of enactment of this act regarding conduct, declared unlawful in the Tucson case, but occurring before the enactment of this legislation.

An additional serious problem of interpretation involves the scope of the Attorney General's power under section 4(b). Clearly, the language of section 4(b) does not require the Attorney General to approve a joint operating arrangement even if he finds that not more than one of the newspapers is nonfailing. Section 4(b) says merely that prior to approval the Attorney General must find a "failing newspaper." The subsection does not mandate him or otherwise limit his power except to say that the Attorney General must find that his "approval of such arrangement would effectuate the policy and purpose of this act." Whatever the ultimate scope of this authority, to vest a Government official with such unfettered power over the life or death of particular newspapers may make the subsection unconstitutional because of the guarantee in the first amendment of freedom of the press.

Mr. Chairman, not only is this bill unwise and unnecessary, but also its passage would do the public a distinct disservice. This legislation definitely does not serve the public interest. It serves the private interests of 44 publishers who want a special advantage. Passage of this bill will lessen competition by handicapping the ability of other newspapers to be established, to grow and to provide the public with an independent view of the news. It will force businessmen to pay a price for advertising space determined not on the basis of competition, but on what the traffic will bear. This private legislation should be soundly rejected by the House of Representatives.

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

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

Mr. RAILSBACK. I want to thank the gentleman for yielding. I merely wish to ask a question. I have read with interest his statement in the report, and I do take issue with it. It refers to practices that the gentleman is against and which he claims are crimes punishable by law. The gentleman is not suggesting that predatory price fixing is permitted under this bill?

Mr. MACGREGOR. I am not suggesting anything——

Mr. RAILSBACK. In others words, anything that is a crime right now, a violation of the antitrust laws, as far as predatory price fixing or monopolistic practices which result from lack of competition. The gentleman is not suggesting that the bill legalize that, is he?

Mr. MACGREGOR. The gentleman has alluded in his question to a number of practices, some of which this bill would legalize and some of which it would not.

Mr. RAILSBACK. The gentleman is aware of that section which specifically reserves application of the antitrust laws so far as predatory price fixing is concerned, which may be the case in respect to the San Francisco newspapers?

Mr. MACGREGOR. May I say to the gentleman that I am thoroughly familiar, of course, with each and every line of this bill because I participated with the gentleman both in the subcommittee and in the full committee in the drafting of the bill. I think a great deal of credit goes to the gentleman from Illinois (Mr. RAILSBACK), who undertook the principal burden of seeking to improve the Senate-passed bill. The gentleman knows that he and I disagree, but I have great respect for the work he has done on this bill in making it less undesirable.

Mr. MCCULLOCH. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Chairman, Arizona has a definite need for the enactment of this legislation. Tucson, Ariz., is one of the 22 cities in which there exists a joint-operating agreement that would be affected by the Newspaper Preservation Act. Other newspapers in the State of Arizona could also be affected. However, I would like to comment specifically on the serious news media problem that Tucson could face if this proposed bill is not enacted.

In 1940, the Tucson Daily Citizen and the Arizona Daily Star negotiated a joint-operating agreement which provided for each paper to retain its news and editorial departments and corporate identity, and for the general integration of business operations. This agreement was renewed in 1953 to extend until 1990. The editorial policies of these two papers are often contrasting and provide the people of Tucson with both sides of the difficult issues facing the Tucson community and our Nation. Without the enactment of this legislation, there is a high probability that Tucson would be presented with only one editorial viewpoint because both newspapers could not survive as completely separate entities.

H.R. 279 proposes to legalize only that which is now legal for the single owner of

two or more newspapers to do, or for two or more newspapers to do after a full merger. H.R. 279 would save for the public benefit competition between two separately owned independent newspapers in news coverage and editorial views. Failure to enact the bill could result in the irretrievable loss of divergent editorial views.

Congress has in the past approved exemptions from the antitrust laws for certain activities of labor organizations, small businesses, agricultural cooperatives, banks, and professional football. It seems obvious that the social values to be gained by the maintenance of competitive news coverage and editorial voices are at least equal to, if not greater than, those deemed worth safeguarding in the antitrust exemptions just mentioned.

In summary, there are conflicting considerations which bear on this legislation. The case for not making an exception to the antitrust laws is a strong one; but I believe that a better case has been made for the preservation of more than one editorial voice in a city. I think the underlying rationale behind the antitrust laws supports this position.

Thus far, both sides of this complicated issue have been extensively debated. The central point remains that a single newspaper city is not to be sought. If joint-operating agreements are disallowed, it is probable that this will precipitate the single newspaper phenomenon that we seek to avoid.

Mr. KASTENMEIER. Mr. Chairman, I yield to the gentleman from Louisiana (Mr. WAGGONNER), such time as he may consume.

Mr. WAGGONNER. Mr. Chairman, I support the bill, H.R. 279, the Newspaper Preservation Act. Operations in Shreveport, La., since 1953 show it is needed to preserve editorial independence.

The Newspaper Preservation Act is intended to correct an inequity in the antitrust laws. Under the law as it exists today, two separately owned newspapers in the same city, at least one of which is failing, can legally enter into a total merger—combining all of their commercial and editorial operations. However, if these same two newspapers, at least one of which is failing, enter into a joint operating arrangement, whereby they combine all of their commercial operations but retain separate and competing news and editorial departments, this would constitute a per se violation of the antitrust laws. Thus, the law allows a total merger with the elimination of commercial and editorial competition, but prohibits a commercial merger which preserves news and editorial competition.

The Newspaper Preservation Act would give joint newspaper operating arrangements the same legal standing as a total merger. The bill provides a narrowly circumscribed exemption to the antitrust laws for the owners of newspapers in the 22 cities where there are now joint operating arrangements—and for the 35 cities which still have two or more separately owned newspapers, and which conceivably could seek to enter such arrangements in the future—giving them the same status as the owners of the newspapers in over 150 cities where the morning, evening, and Sunday papers are part of a total merger.

The Newspaper Preservation Act specifically prohibits predatory practices, and would pose no danger or threat to weekly newspapers or competing suburban dailies. It is needed now.

Mr. KASTENMEIER. Mr. Chairman, I yield 5 minutes to the gentleman from Oklahoma (Mr. EDMONDSON).

Mr. EDMONDSON. Mr. Chairman, I have listened with considerable interest to the extended arguments of my friend, the gentleman from Minnesota (Mr. MACGREGOR) against this bill. It seems they boil down principally to the fact that there is prestigious opposition to it represented by the City Bar Association of New York and the antitrust section of the American Bar Association, and the Newspaper Guild, principally, and I believe it includes a Berkeley, Calif., professor whose testimony has apparently supplied about 75 percent of the content of the speech made by the gentleman from Minnesota a few moments ago.

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

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

Mr. MACGREGOR. Mr. Chairman, I am sure the gentleman would want to mention also the Board of Governors of the American Bar Association who adopted the recommendation of the section on antitrust.

Mr. EDMONDSON. It was adopted by the antitrust section, I understand, by a margin of one vote. I am a member of the American Bar Association and I do not remember ever having been asked my opinion. The gentleman from Oklahoma (Mr. BELCHER) is a member also, and I do not know if he has been asked. But I have a feeling this is like many other organizational positions: The rank and file were not consulted.

The National Newspaper Association is being mentioned as in opposition, but it is my understanding that the individual newspaper members were not polled.

Mr. MACGREGOR. Mr. Chairman, if the gentleman will yield, that is not the situation in my State. It may be in Oklahoma. I am advised that in my State the members of the newspaper association, which is affiliated with the National Newspaper Association, have been polled.

Mr. EDMONDSON. I am interested because the Oklahoma Press Association has come out unanimously through its board of directors in support of this bill, so apparently the National Newspaper Association is not speaking for all its members. It is my personal view that in Oklahoma, where literally hundreds of weekly newspapers and daily newspapers operate, they have been able to live with this arrangement in the principal city on the eastern side of the State. If there were anything predatory about it or anything unfair to the other competitors, I am sure we would have heard about it pretty strongly in the Oklahoma congressional delegation.

As a matter of fact, I represent 17 counties, and I have many weekly newspapers and a number of daily newspapers who might be said to be in competition with the Tulsa Daily World, and the Tulsa Tribune, for the circulation areas of those papers cover a good part of my district, but I have yet to hear from any newspaper publisher or working newsman in the 17 counties I represent in opposition to this bill.

I am stating the Oklahoma situation. I am concerned primarily about what the working newspaper people think about this bill in the States where this arrangement works effectively and honestly and aboveboard in 22 communities. That is certainly the situation in the State of Oklahoma.

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

Mr. EDMONDSON. I yield to the gentleman from Hawaii.

Mr. MATSUNAGA. Mr. Chairman, is it not a fact that during the hearings before the Judiciary Committee not a single witness testified to the effect that in the 22 cities there was any predatory price fixing?

Mr. EDMONDSON. I am unaware of any advertiser who testified on that point.

The gentleman from Minnesota quoted at some length from a Berkeley professor who apparently is a witness against the bill, testifying to what is wrong with it and testifying there is something undesirable about the San Francisco arrangement. It seems to me rather curious, if this San Francisco arrangement is so bad, that we did not have some advertisers up in the San Francisco area complaining about the practices in San Francisco, instead of a professor at Berkeley setting himself forth as a big expert on this question.

Mr. MATSUNAGA. I come from one of the 22 cities, the city of Honolulu, and I can say that the entire community, not only of Honolulu but of the State of Hawaii, supports this legislation. In fact, every chamber of commerce and the retail board of the Chamber of Commerce of Hawaii, consisting of more than 600 members, have endorsed this. They are the ones who pay the bill for advertising. They are in support of this measure.

As a matter of fact, in Honolulu the experience has been a favorable one for the advertisers because the price of joint advertising actually has gone down.

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

Mr. KASTENMEIER. Mr. Chairman, I yield the gentleman from Oklahoma 1 additional minute.

Mr. EDMONDSON. I thank the gentleman for yielding.

If it is a matter of prestigious supporters or opponents for the bill, I am perfectly willing to put the supporters for this bill, who include the President of the United States, the Secretary of Commerce, the minority leader of the House of Representatives, the majority leader of the House of Representatives, and 100 colleagues in the House of Representatives, up against the Berkeley professor any time.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

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

Mr. BROWN of Ohio. I believe the gentleman may be beginning to appeal

to me on this legislation, when he points out a number of papers could be considered competitive with the metropolitan papers in Tulsa which would be benefited by this bill.

Would it be the gentleman's contention that later we can bring those papers in under this bill, in case they get into economic trouble, and thereby allow them to avoid the provisions of the antitrust laws?

Mr. EDMONDSON. The bill speaks for itself on that point. If a newspaper is a failing newspaper in a community where there is another newspaper that is willing to enter into a joint operating arrangement with it, under the provisions of the bill, if it can satisfy the Attorney General that the operating arrangement is in the public interest and is not violative of the antitrust laws, it would be eligible to come in and participate in the future.

Mr. McCULLOCH. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma (Mr. BELCHER).

Mr. BELCHER. Mr. Chairman, I should like to ask the gentleman from Oklahoma (Mr. EDMONDSON), a question. If the newspapers that the gentleman from Ohio represents should get in trouble, could they not come under the act just the same?

Mr. EDMONDSON. If they meet the qualifications of the act and could satisfy the Attorney General that it would be in the public interest to have a joint operating arrangement approved, they could come in to it, and I believe they should be able to.

Mr. BELCHER. Then the gentleman from Ohio is not so much concerned, is he?

Mr. EDMONDSON. I could not answer for the gentleman from Ohio on that subject.

Mr. McCULLOCH. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. DENNIS).

Mr. DENNIS. Mr. Chairman, I thank the distinguished gentleman from Ohio for yielding. I rise in opposition to this measure.

Mr. Chairman, the so-called Newspaper Preservation Act is one which has given me some difficulty, since it involves a field in which I have no specialized knowledge; and in reading about the bill and the problem to which it is addressed, and in listening to my colleagues, I have read and heard persuasive arguments on both sides.

Nevertheless, I have to cast a vote and, on balance, I have decided to vote against this legislation on the basis of the following considerations:

First. Whatever the merits of the bill and whatever the reasons for it, it remains true that this is special legislation in favor of 22 particular situations, granting to them an exemption from the antitrust laws which is not extended to anyone else. Such a move requires very strong justification.

Second. I am persuaded from my reading and from the debate that most of the operating economies claimed for the joint newspaper operating arrangement are apparently permissible according to present law under the court decree finally entered in the district court in the Tucson case, in implementation of the decision of the Supreme Court. The things prohibited seem to be price fixing and profit pooling, and I am not convinced that these are either necessary to economic survival, or, in any case, legitimate. Under these circumstances it does not seem to me that the showing necessary to justify this special legislation has been made out.

Third. I note, further, that many smaller newspapers, the American Newspaper Guild, and also the American Bar Association and its antitrust committee have taken positions in opposition to this bill. Such opposition from groups such as these, which are knowledgeable in this field, are quite persuasive.

Fourth. I note, further, that in my own congressional district—as no doubt elsewhere—we have notable cases where two newspapers are published by one owner, and yet these papers maintain vigorous conflicting editorial policies. This indicates that the joint newspaper operating agreement is not essential to the maintenance of a separate or an independent editorial voice.

Fifth. In general, I believe in free enterprise and in the philosophy of the antitrust laws, reasonably administered, which are designed to preserve it. The burden of proof lies upon those who want a special exception; and I am not persuaded that, in this instance, the burden of proof has been sustained by the proponents of this bill.

Mr. McCULLOCH. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Chairman, I rise in support of this legislation and urge its adoption.

If the Members will look at page 4 of the committee report, they will find there the remarks of the gentleman from Hawaii (Mr. MATSUNAGA). In effect, Mr. MATSUNAGA notes that the newspaper industry itself developed the joint newspaper operating arrangement some 40 years ago with a twofold purpose; first, to reduce cost; and, second, to maintain editorial independence.

The arrangement has resulted in a substantial reduction in cost and the elimination of duplication of equipment and manpower.

I am a cosponsor of H.R. 8768. I introduced the bill partly because of a specific situation in my own community, Columbus, Ohio.

We have two major newspapers in this area. The city of Columbus has a population between 500,000 and 600,000. The greater Columbus area has about 850,000.

These two newspapers service this area. The presses are owned by the Dispatch Printing Co., which prints the Columbus Dispatch, having a daily and a Sunday publication with a circulation daily of 250,000 to 300,000 and a Sunday circulation in excess of 300,000.

The other paper is owned by the Scripps-Howard chain. It has a daily newspaper publishing 6 days a week. The circulation is about half that of the Dispatch Printing Co.

I would say to you, based on the information available to me, if this bill fails there is a strong likelihood that the smaller paper would fail. This paper does not necessarily support the gentleman in the well. Nevertheless, I think it is essential across this Nation, particularly in large capital cities, that we have two editorial policies and two philosophies represented.

That is why I feel this bill is so necessary.

Mr. McCULLOCH. Mr. Chairman, will the gentleman yield for a question?

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

Mr. McCULLOCH. Have you had any substantial complaint during the entire time that the arrangement has been in effect between the Dispatch and the Citizen about the cost of the newspaper or the cost of the advertising or any other complaint that you can think of at this time?

Mr. DEVINE. I would say to the gentleman that I not only have had no substantial complaint but I have had no complaints whatsoever. This arrangement between the Citizen Journal and the Columbus Dispatch has been in operation for several years and they are able to produce these two papers and maintain their existence and yet maintain completely separate business policies and completely separate editorial policies.

Mr. McCULLOCH. Mr. Chairman, if the gentleman will yield further: Is it true that from the capital city of Ohio these newspapers go to almost every section of Ohio carrying the story of Ohio government and other pertinent activities about which the people of Ohio have a right to know.

Mr. DEVINE. Yes, that is true.

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

Mr. KASTENMEIER. Mr. Chairman, I yield 5 minutes to the gentleman from Hawaii (Mr. MATSUNAGA).

Mr. MATSUNAGA. Mr. Chairman, as the introducer of H.R. 279, the so-called "Newspaper Preservation Act," I rise in its support. It should be noted at the outset that more than 100 members of this House have cosponsored similar bills.

The underlying premise from which H.R. 279 proceeds is a simple one: That it is in the public interest in a democracy such as ours to have more than one newspaper editorial viewpoint expressed in any particular city.

Unfortunately, rising production costs and increased competition for advertising revenues from radio and television have spelled disaster for many fine, independent newspapers in dozens of major cities across the country. As population has shifted away from central cities, the newspaper advertising dollar has shifted also, and suburban news publications have profited at the expense of the major dailies in the cities.

These downward pressures on newspaper revenues have been accompanied by a substantial rise in the cost of publishing. The price of manpower, the most important cost involved in newspaper production, has almost tripled since the end of World War II. Newsprint, the

second largest expense item, has more than doubled in price during the same period.

Faced with severe financial difficulties, in recent years, the independent newspaper publishers have had to make a choice among a few bleak alternatives in order to survive. Some of them who had unrelated financial interests subsidized their newspapers for as long as the other resources held out. Others have sold out—usually to another newspaper in the same city. Still others have merged with other newspapers, thereby achieving sufficient economies through a combined operation so that both newspapers could continue to be published under a single ownership.

In all of these alternatives, the consuming public has lost out, for it has been deprived more and more of the benefits of the wholesomeness of reportorial and editorial competition.

A final alternative open to the publisher of a failing newspaper until last year was to enter into a joint operating agreement with another newspaper, generally in sound financial condition. These agreements generally provided for use of joint production facilities, joint distribution system, and joint advertising solicitation, but provided for the retention of separate and independent editorial policies. The two newspapers remained separate entities, competing and operating as distinct news and editorial sources.

This final alternative was the choice selected by two leading dailies, one morning and one afternoon newspaper, in my own city of Honolulu. About 8 years ago, the morning paper found itself in severe financial straits, and negotiated an agreement with the afternoon paper to combine commercial operations, while keeping separate news-gathering operations, editorial staffs, and ownership. As a consequence both newspapers have not only managed to survive, but by the savings resulting from the joint operating agreement have proceeded actually to improve editorial service to the public with enlarged editorial budgets.

The joint operating agreement was an attractive and desirable alternative, one that had been employed effectively by publishers in 22 cities, until March 10, 1969, when the U.S. Supreme Court ruled that such agreements were in violation of the Federal antitrust laws, in the case of Citizen Publishing Co. against United States, involving two daily newspapers in Tucson, Ariz. In its decision, the Court refused to consider the economic circumstances which had led to the agreement in the first place. It followed the precedent of an earlier case in which the Court declared that any decision to consider such economic factors would be—in the Court's words—"a policy matter committed to congressional or executive resolution."

That decision of the Supreme Court has forced the Congress into determining what this country's policy should be—whether or not it would be in the public interest to approve a limited exemption to the antitrust laws for newspapers whose only chance of survival lies in entering a joint operating agreement. Indeed, some Members of Congress would phrase the question differently: Should we take necessary action to preserve a free press, or should we preserve the technical sanctity of the antitrust laws? Mr. Chairman, H.R. 279 decides that question in favor of a free press.

Although an exemption to the antitrust laws should not be allowed merely because a particular industry says it needs one, Congress has, over the years, voted a number of such exemptions. My colleagues know the list as well or better than I—some small businesses, agricultural cooperatives, certain labor union activities, banks, professional sports, and others. In each of these exemptions, Congress decided that some aspect of our national interest which was involved was more important than keeping the antitrust laws inviolate.

I submit, Mr. Chairman, that maintaining divergent newspaper editorial voices in our country's great cities is as much if not more in the national interest as those activities which I just mentioned and which this Congress has deemed worthy of safeguarding by exemptions in our antitrust laws.

Some critics of the Newspaper Preservation Act have voiced their fears with respect to possible anticompetitive effects from the approval of these joint operating agreements. Advertisers would be compelled to pay inflated rates, they say, and the labor forces of the two newspapers would be drastically cut to effect economy. But these fears are groundless. In the Tucson case itself the Supreme Court found in fact that the advertising rates of the two newspapers remained reasonable and competitive with other media. I know personally that in Honolulu, joint advertising rates right now are actually lower than they were before the joint operating agreement was signed. This perhaps explains why the various chambers of commerce in Hawaii, whose members are very much concerned about advertising rates and practices, have enthusiastically endorsed this bill.

As for labor, Mr. Chairman, it may interest my colleagues to know that all labor and craft unions involved in the newspaper industry in Hawaii have stanchly supported the Newspaper Preservation Act. They recognize that were it not for the 1962 joint operating agreement, Honolulu today would have only one daily newspaper, and there would be fewer jobs for those whose skills are needed to publish a daily metropolitan newspaper.

Mr. Chairman, H.R. 279 meets an urgent need by providing a narrow exemption from the antitrust laws for a financially failing newspaper to enter into a joint operating agreement with a newspaper that is not failing.

What this bill would legalize is no more than what is allowed under existing law to a single owner of two or more newspapers after a full merger. The real and important difference is that the reading public would continue to enjoy the benefits of competition between two separate and independent news presentations and editorial viewpoints under a joint operating agreement which the bill would legalize.

In effect, therefore, the pending bill does not violate but actually advances, the spirit and the purpose of the antitrust laws. It would in fact foster competition in news coverage and editorial views where economic realities would otherwise force all but one newspaper publisher out of business. As a case in point, I invite the attention of my colleagues to Honolulu where the editorial departments of the two dailies are fiercely competitive and the quality of their work never before better. This was the judgment expressed by the editors of a competing monthly magazine. Clearly, then, the proposed legislation is not designed to perpetuate mediocrity in print, as some have claimed. Many of the newspapers that would be saved by the Newspaper Preservation Act, including the Honolulu Advertiser, have been recognized for editorial excellence in national competition.

Unless this legislation is enacted, many of these outstanding newspapers will be irretrievably lost. Such a result would clearly be against the public interest.

Mr. Chairman, let us make no mistake about it, we are here being forced into making a choice between preserving a free press as opposed to keeping the sanctity of the antitrust laws. In a democratic society such as ours the choice is obvious—the free press must be preserved. This is what the Newspaper Preservation Act proposes to do. This is why it deserves our support.

Mr. EVINS of Tennessee. Mr. Chairman, as a cosponsor of the legislation I wish to associate myself with the excellent remarks of the gentleman from Hawaii (Mr. MATSUNAGA) and commend him for his leadership in advancing the cause of a free press. If we are to preserve the multiple voices of a free press in this country, I believe that the adoption of H.R. 279, the Newspaper Preservation Act, is imperative.

This bill would eliminate a present inequity in the Federal antitrust statutes as the courts have construed them. Presently, if a newspaper owner sells his paper to, or merges it with, another newspaper company in the same city, that new joint entity can obviously set up combined operations for every newspaper function. Not only can all commercial activity be consolidated, but both newspapers can express the same editorial viewpoints and carry much of the same news. Indeed, the single ownership of the two papers makes such result virtually certain.

In the event, however, that the newspaper in financial difficulty agrees with a financially healthy newspaper to share commercial expenses and revenues while maintaining separate ownership, news-gathering staffs, and editorial policies, the courts have decided that there is a violation per se of the antitrust laws.

As I understand it, the Newspaper Preservation Act would simply amend the antitrust laws so that the independent newspapers with joint commercial operating agreements would be treated equally with the product of a newspaper merger. This is certainly a realistic step to take, since a joint operating agreement is nothing more than a merger of certain commercial functions. Of course,

the public benefits from such an arrangement because of the preservation of distinct and competing editorial staffs and news-gathering organizations.

In preserving this competition of ideas, the legislation we are considering is in keeping with the finest purposes of the antitrust laws, and it deserves our favorable vote.

Mr. McCULLOCH. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, I strongly support the enactment of H.R. 279—the Newspaper Preservation Act.

This important measure will help preserve and promote competition in ideas by stimulating editorial and reportorial diversity. Increasingly, the newspaper industry is plagued with newspaper failures and mergers as rapidly rising costs make it harder and harder for publications to survive. With each failure and each merger, editorial, and reportorial voices, capable of curbing the trend toward monopoly power in communications, are lost.

The joint operating arrangement provides a solution to this problem. By engaging in certain joint activities which effect substantial cost savings, the newspapers involved in these joint arrangements can survive independently, can pursue separate editorial policies, and can insure diversity of opinion in their community. In other words, duplication of equipment and manpower may be eliminated and more efficient use of plant facilities may be achieved. Through such joint activities, overhead may be sharply reduced and financial stability of the papers may be achieved. Under such conditions, editorial and reportorial independence may flourish so that the public may enjoy competition, rather than monopoly in ideas.

Recognizing the value of such joint activities, newspapers in 22 cities have instituted such arrangements. Many of these arrangements have been in effect since the depression—a majority of them for over 20 years. During this period, all of these arrangements operated with, at least, the tacit approval of the Government agencies charged with the enforcement of the antitrust laws.

However, this reasonable solution to the very real economic crisis in the newspaper industry has been threatened by the unjustifiably restrictive decision in *Citizens Publishing Co.* v. *United States*, 394 U.S. 131 (1969). In the logic of the Court, if one of the newspapers had been a "failing company" at the time the arrangement, under scrutiny there, was effected, then it would not have violated the antitrust laws. However, when the Supreme Court apparently adopted the trial court's standard of "failure" stating:

> At the time Star Publishing and Citizens Publishing entered into the operating agreement, and at the time the agreement became effective, Citizen Publishing was not then on the verge of going out of business, nor was there a serious probability at that time that Citizens Publishing would terminate its business and liquidate its assets unless Star Publishing and Citizens Publishing entered into an operating agreement.

It departed from the traditional "failing company" doctrine and applied a much more restrictive standard to judge the legality of the arrangement. See *United States* v. *Diebold*, 369 U.S. 654 (1962); *International Shoe Co.* v. *Federal Trade Commission*, 280 U.S. 291 (1930). Given the reality of competition for advertising and circulation revenues in the newspaper industry, this decision sounded the deathknell for these joint operating arrangements and foreshadowed the concomitant end of editorial and reportorial competition in an increasing number of cities across the country. To meet the threatened termination of these arrangements, the Newspaper Preservation Act was proposed.

This legislation has been the subject of a comprehensive examination. Hearings were held in both the 91st and the 90th Congresses. As a result of this intensive scrutiny, the legislation as reported by the House Judiciary Committee represents a substantial improvement over the bill as introduced and as passed by the other body. The scope of the antitrust exemption provided by the Newspaper Preservation Act has been reduced and made more precise. Originally, the predecessor of this legislation, the Failing Newspaper Act, permitted any combination of newspapers if, at the time the transaction was undertaken, not more than one of the newspapers involved was a publication that was likely to remain or become a financially sound publication. If adopted, this provision would have given a virtual blank check to newspaper mergers and would have resulted in a very detrimental loss of editorial and reportorial diversity. Now the antitrust exemption contained in the legislation sanctions only a limited and specifically designated number of joint activities involved in the commercial operation of newspapers. The bill, as amended, makes it clear that there may be no merger, combination or amalgamation of editorial or reportorial staffs and policies.

Moreover, the legislation now distinguishes between currently existing joint newspaper operating arrangements and arrangements which may be created in the future. Recognizing the historic inactivity on the part of the enforcement agencies and the reliance upon such inactivity by various newspapers in effecting the currently existing joint newspaper operating arrangements, the bill provides a relatively more liberal standard for determining whether the antitrust exemption applies to such arrangements. Nevertheless, prospective availability of the exemption has been sharply restricted by requiring the consent of the Attorney General for any future joint arrangement and by circumscribing his power to consent through the use of a strict definition of "failing newspaper."

Mr. Chairman, I speak as one member of the Committee on the Judiciary who, I can say without any fear of contradiction, has had no ax to grind. I do not have any of the so-called joint operating newspapers within my district. I have felt no great pressures from newspapers. I must say too, in the beginning, that when I first heard the testimony of some of the witnesses I had reservations about this particular legislation, but I believe that the House Committee on the Judiciary, by some of the amendments that it has made to the language of the bill that was passed overwhelmingly by the other body, has greatly improved the bill that we have before us.

Mr. Chairman, I want to thank my chairman, and I want to thank the ranking Republican member on the committee, the gentleman from Ohio (Mr. McCULLOCH) for the work that they have done, and to say at the outset that this particular bill has undergone a great deal of consideration, and I submit I think that there have been some substantial improvements that make it a meritorious bill.

The history of the newspaper industry strikingly reveals the dangerous trend toward a complete elimination of competition between daily newspapers in the same city. From 1880 to 1968 the number of cities with two or more commercially competing dailies had fallen from 239 to 45. While in 1880 38.3 percent of the cities in this country had only one daily newspaper, and while there existed then only one city with single ownership of two newspapers, in 1968 85.6 percent of our cities had but one daily newspaper.

The dangerous significance of this trend becomes clearly apparent when one considers that since 1941 there have been no newspapers of general content and circulation successfully established in cities of 200,000 or more. Whether caused by rising costs, by the growth of the suburbs, by increasing competition from radio and television, or by the changing appetite of newspaper readers, the result is the same: fewer and fewer voices to express diverse editorial and reportorial voices.

In an open society like ours such a trend toward monopoly in communications can only be destructive of the freedom upon which the vitality of this Nation is based.

Mr. Chairman, the Newspaper Preservation Act has been attacked as special-interest legislation for the benefit of certain newspapers. I submit that if there is any special interest served it is the special interest of providing the people served by these newspapers with diversity in communications.

This bill is not a panacea for the ills of the newspaper industry, but it is much-needed legislation. It is a reasonable and fair solution to the complex problem of accommodating the demands of commercial competition with the desirability if not absolute necessity in a free society for editorial and reportorial competition.

Mr. Chairman, what changes have been made in this legislation in my opinion to make it meritorious? Well, No. 1, as passed by the whole body, there was a very loosely worded definition of "failing newspaper," that has been substantially changed so that in the case of any kind of a prospective application a tougher definition of "failing newspaper" has been added to the bill.

What does that mean? It means that before any future joint operating arrangements will be permitted, those newspapers that want to enter into this kind of arrangement must go to the At-

torney General and they must get his approval—and the Attorney General will use this stringent definition of a failing newspaper—much more stringent than the one enacted in the whole body to determine whether he should approve of the arrangement.

Second, why do we make a distinction? Nobody has answered that question—why do we make a distinction in the case of the 22 joint operating arrangements? Well, No. 1—some of them have been in existence—one of them has been in existence since 1940 but the Department of Justice did not act for over 25 years while those 22 joint operating arrangements were coming into existence.

Now what happens without some legislation in this particular area? It means that where there is a failing newspaper—and there are many failing newspapers in these cities—in the case of the Tucson paper, they lost their revenue for many years and, yet, the Supreme Court did not hold that that was a failing newspaper. But they actually had losses and the owner of the paper was actually paying some of the costs out of his own pocket and was drawing no salary.

It means that a newspaper, a failing newspaper, would have been permitted to sell to an outside interest. But if there was no outside interest, then it would have been permitted to sell outright and completely to the other paper, if that other paper had been willing to buy it, which it probably would have been willing to do.

What is the end result of this? It means that there would be a reduction of competition because then there would be one single owner instead of two owners with diverse editorial policies. This is the reason for this legislation.

But, bear in mind, we are not making any great exemption, so far as the prospective application. It is true that we are making a distinction as to these 22 existing arrangements because the Department of Justice did not do anything for about 25 years.

This particular legislation specifically provides—and this is something we did in the House, the Senate did not have this language in it—we specifically provide there must be separate reportorial staffs and separate editorial staffs plus separate editorial policies. This is another thing that I think has substantially improved this legislation.

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

Mr. RAILSBACK. I yield to the gentleman.

Mr. BELCHER. I think the reason the Attorney General or the Department of Justice waited for 25 years to file that suit is—and I represented Tulsa during the 18 years in which one of these operations have been operating between the World and the Tribune—and I have never had in the 18 years one single letter from anybody complaining about that operation. That is the reason why the Department of Justice never got interested—because nobody ever complained about it. If there was anything wrong with that kind of an operation, most certainly you would have found people complaining about it.

Mr. RAILSBACK. Not only that—and I thank the gentleman—but the Department of Justice, the Assistant Attorney General, in appearing before our committee recognized exactly what the gentleman has said in arguing that trouble damages should not be permitted against those existing arrangements.

Mr. BURTON of California. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman.

Mr. BURTON of California. I, too, would like to join in support of this measure.

The fact is that if the joint operating agreement was prohibited, not permitted to proceed in our city as is currently the case, where we have two newspapers with two entirely different and distinct editorial policies, we would either have one newspaper or we would have two newspapers owned by one firm. So in our experience the utilization of this joint operating agreement has worked well. The passage of this bill would allay any concern there may be that this kind of operation could be prohibited by the intervention of the Justice Department.

For that reason, based upon our own experience in San Francisco, I join with my many colleagues in support of this legislation.

Mr. RAILSBACK. I thank the gentleman.

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

Mr. RAILSBACK. I yield to the gentleman from Utah.

Mr. LLOYD. I would like to compliment the gentleman in the well for the many constructive contributions he has made to the bill. As a matter of legislative record, I would like to inquire of the gentleman concerning section 4(a).

With respect to the standard in section 4(a), do I correctly understand the bill, in concluding that by employing the term "financially sound publication" as to existing joint operating arrangements a court would not look only to imminency of failure as the proper test, but rather would look to the prospects of success as revealed by such factors as declining income or net losses, accounting ratios such as net income as a percentage of invested capital, and as a percentage of gross income, gross income as a percentage of invested capital, curent assets to current liabilities, and other such ratios which bear upon financial stability? In addition, that a court should consider long-term indebtedness, declining circulation trends, increased costs, increased advertising and circulation rates without corresponding increases in income, declining trends in percentage of newspaper columns used for advertising purposes, extent of investment required for fixed assets, adverse legal developments, and financial instability shown by reliance upon stockholders or parent companies rather than inherent strength of the publication itself.

Will the gentleman tell me if I am correct in that interpretation?

Mr. RAILSBACK. I would say that is correct, and I wish to point out that section 4(a) is the retroactive section and would not apply to future arrangements, which would come under the definition of failing newspaper, which appears in the preceding section.

Mr. LLOYD. I thank the gentleman.

Mr. McCULLOCH. Mr. Chairman, I yield such time as he may consume to the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Chairman, I rise to express my full support for H.R. 279, the Newspaper Preservation Act, and to urge favorable action by the House of Representatives on this important legislation today. Last year I joined a number of my colleagues in introducing legislation similar to the measure before us today because of my sincere belief that such action is clearly in the public interest.

I am certain that we are all aware of the tragic loss of many excellent newspapers throughout the country during the past several years. Rising production costs and increasing competition from other news media have placed a great many newspapers in such critical financial straits that in many cities only one daily newspaper has survived; while in others the existing dailies have merged under one ownership. Mr. Speaker, each paper that dies takes with it a separate editorial voice—and this Nation is weakened by the loss of this diversity of opinion. If the present trend continues unabated, there is a danger that no city in the United States will have more than one printed news and editorial voice.

In 22 U.S. cities, however, newspaper publishers have developed what has, in my judgment, proved to be a viable and reasonable solution to the foregoing economic dilemma. They have entered into agreements with other publishers in the same city to combine their commercial and production facilities, while fully maintaining their separate editorial policies and separate ownership.

Although such joint operating agreements have survived an average period of over 20 years and have thus afforded their reading population with the diversity of editorial and news presentation so important to an informed public, they are now faced with dissolution as a result of a 1969 Supreme Court decision declaring one such joint agreement to be in violation of the Federal antitrust laws.

In this decision, affecting a Tucson, Ariz., agreement, the Court did not address itself to any of the economic considerations which led to the agreement or which would result from a dissolution of the joint operating arrangement. In basing its decision on a narrow reading of the antitrust laws, the Court declared such economic considerations to be outside the province of the courts and a matter to be decided by congressional or Executive action.

The legislation before us today would decide this policy question in a manner which, by preserving news competition in at least 22 cities, is fully in line with the intent and purpose of our Nation's antitrust laws. H.R. 279 would grant a limited exemption in the antitrust laws to legalize the existing joint operating agreements and would allow future agreements between viable and failing

newspapers upon approval by the Attorney General.

Mr. Chairman, the threat of the current economic problems confronting the newspaper industry as well as of a failure by the House to act today in response to the 1969 Supreme Court decision is felt quite keenly in my congressional district. In Birmingham, Ala., we are fortunate to have two separate and distinct editorial voices—in the Birmingham News and the Birmingham Post-Herald. These two papers were in complete competition—commercial and editorial—up until 1950. However, in the late 1940's, the News began to materially increase its circulation, while the Post-Herald was unable to keep pace. As the News increased its circulation, it obtained more advertising. The Post lost advertisers as it fell behind in circulation. Soon the limited profits of the Post turned into substantial losses. And, because of the increasing expense of newspaper production—with tremendous increases in the costs of newsprint and of labor—the News had only modest profits.

At the same time, the newspapers in Birmingham, as in all other sections of the country, were meeting increased competition for advertising revenue from broadcasting—radio and television—magazines, and the suburban press.

It was during this financial squeeze that the Post and the News entered into a joint operating arrangement. This arrangement recognized that Birmingham could not support two competing papers, but while the two newspapers could no longer compete commercially, they could provide for continued competition in news and editorial opinion. As I understand the situation, the papers have merged commercially, yet the Post has complete control over its news and editorial content, and the News has like controls in its paper.

Maybe, if this were the best of all possible worlds, we in Birmingham would have complete competition between our two papers, or maybe even a third or fourth daily paper. But that is just not the case today, nor is there any indication that the future offers any hope for a revival of big-city newspapers.

We must do what we can to maintain those editorial voices we still are fortunate enough to have. We, in Birmingham, do not believe that we would be better off if the Post and News were required to break up their joint operating arrangement—as apparently is required by the Department of Justice pursuant to the decision in the Tucson case. If this should occur in Birmingham, we fear the result would be only one paper, or the morning and evening papers owned by one publisher. We have little hope that a new newspaper would fill the void left by a closing or merger, since we are all too aware of the results of the attempt at starting a paper in Atlanta a few years back. The people of Birmingham think they are better off today than they would be if the joint operation were terminated.

I firmly believe this Nation finds its strength in the free confrontation of widely differing ideas. The Newspaper Preservation Act is, in my judgment, urgently needed to assure the separate news and editorial voices in our Nation's newspapers. In this important sense it will preserve, rather than adversely affect, free competition. It would seem proper to me, furthermore, that the antitrust laws should be so written as to take into account the effect of their enforcement upon the public, particularly in such a vital area as the newspaper industry.

Mr. Chairman, the cosponsorship of this and similar bills by over 100 Members of the House of Representatives as well as the favorable action already taken by the Senate on its Newspaper Preservation bill (S. 1520) clearly indicates the extent of concern in the Congress about this matter. This legislation is also endorsed by both the administration and the House leadership. I cannot urge too strongly that my colleagues join me today in giving a firm stamp of approval to this important legislation.

Mr. KASTENMEIER. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. FEIGHAN), a member of the Judiciary Committee.

Mr. FEIGHAN. Mr. Chairman, the antitrust laws of the United States, as embodied in the Sherman Act, the Clayton Act, the Federal Trade Commission Act, the Robinson-Patman Act, and the Celler-Kefauver Act are designed to guarantee to the public the natural economic advantages of the competitive marketplace. Exemptions from the antitrust laws should only be sanctioned where the public interest would be seriously threatened by the strict application of traditional antitrust concepts. Congress, within its wisdom, has granted such exemptions most sparingly, for instance, the pooling of separate rights in the telecasting of professional sports events, the merging of professional football clubs, the failing of banks, and certain activities of labor organizations, small businesses, and agricultural cooperatives. No substantial evidence has been produced to justify the sweeping exemption from the antitrust laws which would result from enactment of this bill. In my testimony before Subcommittee No. 5 of the Judiciary Committee, I stated that any legislation granting an exemption from the antitrust laws for newspapers must be carefully drawn so that the public interest will not be endangered through practices traditionally prohibited by the antitrust laws.

In its present form, this bill would grant too broad and indefinite an exemption.

H.R. 279 would permit price-fixing, profit pooling and market allocation between publications entering into joint operating agreements. The Sherman Act has continuously struck down these activities as per se violations of its provisions. No evidence has been presented which demonstrates that price fixing and profit pooling are necessary to the successful joint operation of newspapers. Permitting joint printing, production, distribution, business departments, and advertising rates should be sufficient to assure the viability of the newspapers involved. The guidelines set forth by the Supreme Court in *Citizens Publishing Co.* v. *United States*, 394 U.S. 131 (1969) do not forbid such activities. Significantly, there is no proof that any of the present joint operations would not operate profitably within the confines of the Court's decision.

Moreover, enactment of this bill would be detrimental to the successful operation of small weekly newspapers soliciting advertising.

The definition of a failing newspaper as a publication which is in probable danger of financial failure is not specific enough adequately to protect the public from joint activities between traditional competitors where one newspaper is experiencing financial difficulty because of poor management. The exemption should be confined to newspapers which would actually cease to function without entering into a joint agreement. A publication, initially realizing that it may lose money, frequently will be sold to a third party who feels that he can compete effectively in the market. Allowing such a publication to enter into a joint agreement at the point of probable danger of financial failure does not serve the public interest.

For these reasons, I urge defeat of H.R. 279.

Mr. KASTENMEIER. Mr. Chairman, for a diversity of editorial opinion, I yield 4 minutes to the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Mr. Chairman, free enterprise is always easier to defend in theory than it is in practice. Like the people who advocate open occupancy, so long as it is not next door, many of the publishers who advocate this bill sermonize against all kinds of interferences with the free market—until their ox is gored. The Newspaper Preservation Act is bad legislation. It is special interest legislation, and sets an unwise precedent by creating a special exception for monopolistic, anticompetitive practices—an exception which this House will be pressured to follow for other industries.

H.R. 279 NOT NECESSARY UNDER EXISTING LAW

The Newspaper Preservation Act, formerly called the Failing Newspaper Act, was ill-conceived from the outset. The bill was originally introduced in reaction to the Supreme Court's decision in *Citizen Publishing Co.* v. *U.S.*, 394 U.S. 131 (1969). That decision affirmed the finding of the U.S. District Court for Arizona, 280 F. Supp. 978 (D. Ariz., 1968), which held that a joint operating agreement between the Tucson Daily Citizen and the Arizona Daily Star violated the antitrust laws.

But the agreement which was struck down by the Court was the most aggravated kind of anticompetitive behavior. It included profit pooling—which has long been considered a per se violation of the antitrust laws, 280 F. Supp. at 980–81. It specifically contemplated price-fixing by the newspapers involved, 180 F. Supp. at 982—finding of fact No. 38. It was intended to, and did, insure that the two newspapers involved could control entry into the daily newspaper business in Tucson, 280 F. Supp. at 983—finding of fact No. 49. The Citizen Publishing case also

involved an illegal acquisition of one of the newspapers involved by the stockholders of the other in direct violation of the antimerger provisions of the Celler-Kefauver Act. In short, the activities found illegal in the Citizen case were the most heinous and obvious kind of antitrust violations. And it was these activities which the Supreme Court found illegal.

Under the Supreme Court's decision in Citizen, any number of joint activities are still entirely legal and proper. The decree permits joint printing; joint distribution; joint clerical and administrative staffs; an optional, fully cost-justified combination advertising rate; allocation of markets; a joint Sunday edition; and a single advertising staff to handle combination advertising. In light of the seriousness of the anticompetitive practices involved in Citizen Publishing, and in light of the wide latitude which the Court left for legal joint activities, the argument by sponsors of this bill that the Court adopted a "narrow reading of the antitrust laws in the Citizen Publishing Co. case," is totally unconvincing. Far from a narrow reading, the Court took care to condemn only the most offensive anticompetitive activities—profit pooling, price fixing, and market allocation. It left a wide field for legitimate joint activities which were not intended to promote monopoly power and which do not do so. Admittedly it did not do what this bill seeks to do; namely, give newspapers a virtual "pass" through to antitrust laws. It is argued that no one is against this bill. Well the AFL–CIO is against it, the Newspaper Guild is against it, and so is the public interest. I include a letter from the AFL–CIO to that effect:

AFL–CIO,
Washington, D.C., July 8, 1970.

Hon. ABNER J. MIKVA,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN: On July 8, 1970, the House of Representatives is scheduled to consider H.R. 279, the "Newspaper Preservation Act."

H.R. 279 is designed to legalize joint publishing arrangements between newspapers in Tucson, Arizona and 22 other cities. Although the stated purpose of the bill is to provide for diversity of news coverage and ideological viewpoint, this would be at the expense of a retroactive exemption from the antitrust laws' prohibitions against price-fixing, profit-pooling and market-splitting.

We do not believe that exemption from the antitrust laws is justifiable or necessary to achieve the objectives which joint operating arrangements seek to accomplish. The greater economies result from merged printing and distribution facilities and the courts have found that this is not forbidden by the antitrust laws. Nor do we believe that the exemption is without danger to independence of news coverage and ideological viewpoint, as the sponsors of the legislation contend.

In October 1969 the 8th Constitutional Convention of the AFL–CIO adopted a resolution stating the opposition of the AFL–CIO to "enactment of the broad, unnecessary unregulated and perpetual antitrust immunity of the newspaper preservation bill." This resolution confirmed a position taken two years earlier by the AFL–CIO on similar legislation. I am enclosing herewith a copy of the resolution adopted by the 8th Constitutional Convention in Atlantic City, New Jersey on October 6, 1969.

I would appreciate it if you would make known to the members of the House of Representatives the strong objections of the AFL–CIO to H.R. 279 and the fact that we believe that this bill, which we believe to be a "newspaper enrichment bill", should be rejected by the House of Representatives.

Sincerely,

ANDREW J. BIEMILLER,
Director, Department of Legislation.

AFL–CIO RESOLUTION—NEWSPAPER ANTITRUST EXEMPTION

The U.S. Federal Courts, including the Supreme Court, have found the price-fixing, profit-pooling and market-splitting provisions of a joint publishing arrangement between two newspapers in Tucson, Arizona, to be in violation of the nation's antitrust laws and ordered the joint arrangement modified to eliminate those provisions.

The Supreme Court further ruled that the Tucson papers' anticompetitive operations could not be justified under the "Failing Company" doctrine since one of the papers was not "on the verge of going out of business, nor was there a serious probability" that one would "terminate its business and liquidate its assets" unless it joined with its competitor.

Newspaper publishers involved in joint publishing arrangements in Tucson and 22 other U.S. cities for more than two years have been attempting to persuade the Congress to grant them unregulated, retroactive and perpetual exemption from the antitrust laws' prohibitions against price-fixing, profit-pooling and market-splitting. (Bills to accomplish this now before Congress are S. 1520 and H.R. 279, titled the "Newspaper Preservation Act." Predecessor bills before the 90th Congress were S. 1312 and H.R. 7446, known as the "Failing Newspaper Act.")

These publishers also are asking Congress for a special definition of "Failing Company" as it applies to a newspaper: one which, "regardless of its ownership or affiliations, appears unlikely to remain or become a financially sound publication."

These same publishers in more than 30 days of hearings before the antitrust subcommittees of the Senate and House have failed to demonstrate that price-fixing, profit-pooling and market-splitting are vital to continued publication of more than one newspaper in the 23 cities in which joint publishing arrangements exist.

Jointly operating publishers in more candid days have stated, however, that the greatest economies of joint publishing are had from merged printing and distribution facilities, which, the Courts have pointed out, are not forbidden by the antitrust laws.

The stated purpose of the proposed antitrust exemption is to preserve diversity of news coverage and ideological viewpoint, but neither the bills now before Congress nor their predecessors carry any guarantee of such diversity.

Newspaper combinations involving such close community of economic interest as price-fixing and profit pooling have resulted largely in less diversity of news coverage and muted expressions of ideological differences, while virtually precluding establishment of newspapers which would provide true diversity and commercial competition.

The 1967 AFL–CIO Convention went on record during the 90th Congress "strongly opposing" enactment of S. 1312 and its companion bill H.R. 7446, known as the Failing Newspaper Act. Therefore, be it

Resolved: The 8th Constitutional Convention of the AFL–CIO opposes enactment of the broad, unnecessary, unregulated and perpetual antitrust immunity for the business practices of the newspaper industry embodied in the Newspaper Preservation bill, S. 1520 and H.R. 279.

And further, this Convention calls upon affiliates to use all means at their disposal to inform union members everywhere of the nature of this antitrust exemption continue to convey to Congress our opposition to passage of the measure.

FAILING NEWSPAPERS ALREADY PROTECTED

The sponsors of this special interest legislation—designed to protect the newspapers in 22 cities which already have joint operating agreements even if they purposely violate the antitrust laws—do not say much about the financial condition of the publications they are seeking to shelter here. In its former incarnation, this bill was called the Failing Newspaper Act. There are two very good reasons why the sponsors of this bill did not call it the Failing Newspaper Act when it was reintroduced in the 91st Congress.

In the first place, these newspapers which are now party to joint operating agreements have made no showing that they are, in fact, failing. The financial data obtained by the committee has been—by agreement with the newspapers involved—kept secret. In the absence of a compelling showing of the threat of failure, this House should be most skeptical of inferring that the danger of newspaper failure is the real motive behind this bill. In any case, H.R. 279 does not even require that a newspaper be failing in order to justify a joint operating agreement which includes profit pooling, price-fixing and market allocation. Most of the joint agreements now in effect were made in earlier years and under different economic circumstances than prevail today. Moreover, 15 of the newspapers involved are not lonely, one-city publications, but affiliates of massive newspaper chains like Hearst, Knight, Newhouse, and Scripps-Howard.

Indeed, the widespread support which this measure has amassed is much more a measure of the "clout" of these nationwide newspaper chains than it is of the failing economic condition of the papers involved.

The second reason that this bill could not and cannot be sold as an aid to failing newspapers is that the antitrust laws already contain a judicially created exception for businesses which are in dire economic condition. Indeed, it was this very exception which the defendants in Citizen Publishing tried unsuccessfully to use as a defense. The Supreme Court specifically cited the district court's finding that:

> Citizen Publishing was not then—at the time the joint operating agreement was entered—on the verge of going out of business, nor was there a serious probability at that time that Citizen Publishing would terminate its business. . . . (*Citizen Publishing Co.* v. *U.S.*, Slip Opinion at 5–6.)

PROPOSED JUSTIFICATIONS NOT CONVINCING

The supporters of H.R. 279 offer two justifications for this otherwise extraordinary exemptions from the Federal antitrust laws. They argue, first, that enactment of H.R. 279 will allow the 44 newspapers in 22 cities which are now parties to joint operating agreements to continue to "compete" in the realm of editorial policy, news coverage, and idea dissemination. They argue, second, that the bill will allow newspapers which experi-

ence financial difficulties in the future to enter joint operating agreements, with the approval of the Attorney General, and thus spare the Nation the loss of still further newspapers.

The fact that joint operating agreements would allow editorial and news competition does not mean that it would guarantee such competition. In fact, the likelihood is that editorial and news competition will be reduced by this bill, rather than promoted. The reason for this is that while H.R. 279 would guarantee the existence of two newspapers—although not guaranteeing two independent editorial or news policies—it would virtually insure that there are no more than two newspapers in any city where a joint operating agreement is in effect. Thus two existing papers in any city where a joint operating agreement now applies can divide markets, pool profits, and fix prices in such a way that they absolutely preclude the entry of any new competitors. Indeed, this was the stated objective of the Tucson agreement, and that was—the court found—its precise effect. Having the market and the profits neatly divided among themselves, they will insure that their comfortable arrangement is not upset by any upstart newcomers. The almost inevitable effect is to guarantee their comfort at the expense of potential competition.

The proponents of this special interest legislation would like to wrap themselves in the mantle of the first amendment—just as the defendants in Citizens Publishing Co. tried to do. The Supreme Court would not buy this phony justification. I do not believe that this House should either. The Court said, citing an earlier decision in *Associated Press* v. *U.S.*, 326 U.S. 1, 20:

> The First Amendment, far from providing an argument against application of the Sherman Act, here provides powerful reasons to the contrary. The Amendment rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public, that a free press is a condition of a free society. Surely a command that the government itself shall not impede the free flow if ideas does not afford nongovernmental combinations a refuge if they impose restraints upon that constitutionally guaranteed freedom. Freedom to publish means freedom for all and not for some. Freedom to publish is guaranteed by the Constitution, but freedom to combine to keep others from publishing is not. Freedom of the press from governmental interference under the First Amendment does not sanction repression of that freedom by private interests. The First Amendment affords not the slightest support for the contention that a combination to restrain trade in news and views has any constitutional immunity. (*Citizen Publishing Co.* v. *U.S.*, slip opinion at 7–8.)

The second justification of proponents of this bill is no more convincing than the first. The fact that some failing newspapers will be allowed, with the Attorney General's consent, to enter joint operating agreements will not guarantee the survival of any publication. In fact, by encouraging this kind of artificial shelter from the competition of the newspaper marketplace, the potential antitrust exemption may be a positive detriment to the newspaper business. It will keep alive old, tired, noncompetitive newspapers at the expense of other new, more vigorous potential entrants into the market.

H.R. 279 IS ONLY THE BEGINNING

Finally, Mr. Chairman, I predict that the special exemption which we are creating in H.R. 279 is only the beginning. If this bill passes, it will create a new class of industry—a class of industry which is exempt from the long-standing rule of a capitalistic economy: that over the long term, the consumer will benefit most by vigorous but fair economic competition among producers. This rule applies as well to producers of news and advertising—to newspapers—as to producers of automobiles, aircraft, breakfast cereals, computers, or any of a thousand products and services.

As soon as this exemption is written into the law on the basis of the special position of the newspaper industry, we will be hearing from the automobile industry, which is also special. Next from the textile industry, which is also special. Then from the defense industry, then from oil industry, then from the mining industry, and so on ad infinitum. Every conceivable industry can make an argument about why it is special. If it is not under the first amendment, it will be on grounds of national defense, or economic welfare, or foreign competition. We are opening a Pandora's box with this bill. I dare say that there will be members of this House and of the Committee on the Judiciary who will come to regret the day that the first exception was made, for it opens the door to all the others.

To me the acid test of whether this bill is in the interest of the newspaper industry as a whole—or only in the interest of 44 newspapers in 22 cities—is the reaction of the little guy, the small publisher. And in my experience the small publishers consider this bill as special interest legislation for the big guy. What is almost as important is the effect which this bill will have on entry into the market by those who may not even be competitors or potential competitors at present. What we are sanctioning here are agreements which will allow those publications which already exist to continue existing and to make it more difficult for new competition to arise. We are doing nothing to insure that real competition—either economic or editorial—is fostered and encouraged.

As I said at the beginning, free enterprise is a hard way to go. Some enterprises will fall by the way. But the genius of the system is that it lets the people decide who should serve them. When we leave that guiding fundamental, whether by licensing or by allowing or encouraging monopoly to exist, we look only to the impact on the pockets of those involved. This may be good legislation for the profits of the 44 newspapers involved. It is very bad for the people. I will vote no.

Mr. McCULLOCH. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana (Mr. ZION).

Mr. ZION. Mr. Chairman, my interest in this legislation, the bill H.R. 279, relates to the preservation and survival, if you will, of two outstanding daily newspapers published in the congressional district which I serve. I share with my good friends, the gentleman from Ohio (Mr. DEVINE), the gentleman from Illinois (Mr. RAILSBACK), the gentleman from Oklahoma, and the gentleman from Hawaii, the same interest they have, in that these papers are in the district which I serve.

The two papers I refer to are the Evansville Press, published 6 days a week in the afternoon, and owned by the Scripps-Howard Newspapers, and the Evansville Courier, locally owned and published 6 mornings a week.

Both of these newspapers combine, on a half-and-half ownership basis, to publish an outstanding Sunday newspaper, the Evansville Sunday Courier and Press. All three of these newspapers serve a wide area of southwestern Indiana, and also have substantial circulation in neighboring Illinois and Kentucky.

These newspapers have operated under a joint agreement in which business, circulation and mechanical operations are combined in the interest of economy and survival.

What we have in Evansville, Mr. Chairman, are three newspapers each with a separate identity. From my own observation in the civil life of the community before coming to Congress, and in my role as representative here for that area, I can tell you that this is a healthy situation. There is keen competition in the news-gathering activities of each publication. This competition exists among the individual staffs for news, society, sports, and in the editorial departments. There has always been considerable comment about the daily Courier and Press being "at odds with each other" on editorial policy, and in their respective approaches to news gathering. One of these newspapers endorsed me in my 1966 candidacy; the other was neutral. Each endorsed opposing candidates for the office of mayor in the recent city elections. Indeed, I could give many examples of divergent opinions which stimulated community thought and action.

Without this joint arrangement, Evansville and the tristate area would be without competing newspaper voices. I am told that only one newspaper could survive, were it not for the economies effected in the joint printing and business operating agreement. Without this joint publishing operation, Evansville could indeed become a one-newspaper community.

I am urging that the House look favorably upon this legislation which will permit these Evansville newspapers, each with separate identity, to continue to serve the tristate area under a healthy cooperative arrangement which has proved so fruitful over the past 30 years.

Mr. McCULLOCH. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. FULTON).

Mr. FULTON of Pennsylvania. Mr. Chairman, I favor this legislation strongly. As a newspaperman myself, I feel it is a very fine approach.

I strongly support passage of the Newspaper Preservation Act, H.R. 279. This is well-conceived and well-written legislation, and will actually contribute to the sustaining of healthy competition.

Likewise, this legislation will preserve in cities independence of news reporting and independence of editorial judgment and opinion, while permitting the joint use of plants, printing facilities, and certain business management joint operations. This results in much-needed economies and better efficiency in service to the public.

As one of the original cosponsors of the bills filed in 1967, 90th Congress, first session, I have followed closely the progress of the original bill—H.R. 7446—of Congressman MATSUNAGA and the House Judiciary Committee work through its Antitrust Subcommittee. My own bill—H.R. 8938 of the 90th Congress—was the third original cosponsorship under the leadership of Congressman MATSUNAGA.

In the 91st current Congress, I have cosponsored H.R. 8765, the present Newspaper Preservation Act, similar to H.R. 279, now under consideration, filed January 3, 1969, by Congressman MATSUNAGA.

I would call special attention to the purpose of the bill, as amended, from the committee report:

PURPOSE OF BILL AS AMENDED

H.R. 279 as amended by the Committee is designed to accomplish the following objectives:

1. To declare a public policy applicable to certain joint newspaper operating arrangements in the interest of maintaining a newspaper press editorially and reportorially independent and competitive in all parts of the United States.

2. To grant a limited exemption from the antitrust laws for joint newspaper operating arrangements that have been entered into prior to the effective date of this Act in twenty-two cities, communities, or metropolitan areas of the United States.

3. To provide a limited exemption from the antitrust laws for joint newspaper operating arrangements entered into in the future with the prior written consent of the Attorney General of the United States after the Attorney General has made certain determinations defined in the Act.

4. To permit the joint newspaper operating arrangement in Tucson, Arizona, to be reinstituted notwithstanding the opinion of the Supreme Court in *Citizens Publishing Company* v. *United States*, 394 U.S. 131 (1969).

5. To declare that the limited antitrust exemption provided in the Act shall apply to the determination of any civil or criminal antitrust action pending in any district court of the United States on the date of enactment wherein it is alleged that a joint newspaper arrangement is unlawful under any antitrust law.

I believe portions of the statement of the committee should be specially emphasized, also the testimony of Mr. MATSUNAGA:

STATEMENT

Joint newspaper operating arrangements are a product of the depression years. During the 1930's many metropolitan daily newspapers found that vigorous competition resulted in financial difficulty. Failure or elimination of a weaker newspaper competitor necessarily reduced the availability to the public of diverse and independent editorial viewpoints and news policies. The joint newspaper operating arrangement, first launched in Albuquerque, New Mexico, provided a method to reduce costs by combining the economic and business aspects of newspaper production, and at the same time permitted the newspaper participants to maintain separate editorial and reportorial staffs and independent editorial and news policies.

Representative Spark M. Matsunaga, who testified as spokesman for 59 of the more than 100 sponsors of this legislation, described the economic condition of the newspaper industry, and the utility of joint operating arrangements to preserve a diversity in editorial viewpoint.

Mr. Matsunaga stated:

"The history of newspaper economies demonstrates that although the total number of newspapers in operation has not changed radically over the years, nevertheless, economic conditions have created a situation in which a large majority of American communities have already become one owner newspaper communities.

"In 1910 there were an all-time high of 2,202 English language dailies in the United States. In the communities served by these newspapers, 1,307 or slightly over 40% were served by just one newspaper, and almost 60% had two or more. By 1945 total dailies had fallen to 1,744, but at the beginning of 1968, the number was almost exactly the same, 1,746. During the years from 1910 to 1968 a number of new newspapers had been commenced in new communities, often in suburbia and in older smaller communities that had experienced rapid growth in recent years, so that by 1968 the number of communities served by at least one newspaper had risen to 1,500.

"But the number of one-newspaper towns had risen sharply in that time, reflecting an important change in competitive conditions. Of the 1,500 cities served by a daily newspaper, 85.6% were one-newspaper towns. Although another 150 cities were served by two dailies, these dailies were under single ownership. Thus, in total, over 95% of the communities of the country at the beginning of 1968 had newspapers that were controlled by a single owner.

"There are, nonetheless, still a significant number of communities that have two or more newspapers owned by different persons. By the beginning of 1968, 45 of the 1,500 daily newspaper cities had two or more competing dailies; five cities had more than two dailies, but in only three of those cities are there more than two newspaper owners (i.e., Washington, D.C., Boston and New York—Chicago has four dailies published by two publishers and Philadelphia has three newspapers published by a total of two publishers.) In addition, editorial competition between different publishers has been maintained in 22 cities by resort to the joint operating arrangement. Although commercial competition may have been affected to some extent by these arrangements, they have achieved the more important objective of preserving separate editorial voices.

* * * * *

"In response to these conditions, the newspaper industry itself developed the joint newspaper operating arrangement some 40 years ago. The purpose was two-fold: (1) To reduce costs and thereby eliminate potential losses and (2) to maintain editorial independence. Under these arrangements, two newspapers, at least one of which was in a threatened economic condition, were able to maintain their editorial independence by combining their production and business operations. This permitted a substantial reduction in costs by the elimination of duplication of equipment and manpower and especially by the more efficient utilization of expensive plant facilities for printing of two newspapers."

In the period from 1933, when the first joint newspaper operating arrangement was started in Albuquerque, New Mexico, to 1966, twenty-two joint arrangements have been put into operation in 19 States. The communities, the participants, and the year of organization, of joint newspaper operating arrangements that now are in operation are set forth below:

City, year, and participants

(a) Birmingham, Ala., 1950, Birmingham News Co.; Birmingham Post Co.

(b) Tucson, Ariz., 1940, Citizen Publishing Co.; Arden Publishing Co.; Tucson Newspapers, Inc.

(c) San Francisco, Calif., 1964, Chronicle Publishing Co.; Hearst Publishing Co.; San Francisco Newspaper, Printing Co.

(d) Miami, Fla., 1966, Miami Daily News, Inc.; Miami Herald Publishing Co.

(e) Honolulu, Hawaii, 1962, Hawaii Newspaper Agency, Inc.; Honolulu Star Bulletin, Inc.; Advertiser Publishing Co., Ltd.

(f) Evansville, Ind., 1938, Evansville Courier, Inc.; Evansville Press Co.; Evansville Printing Corp.

(g) Fort Wayne, Ind., 1953, News Publishing Co.; Journal-Gazette Co.; Fort Wayne Newspapers, Inc.

(h) Shreveport, La., 1953, Times Publishing Co., Ltd.; Journal Publishing Co.; Newspaper Productions Co.

(i) St. Louis, Mo., 1957, Globe Democrat Publishing Co.; Pulitzer Publishing Co.

(j) Albuquerque, N. Mex., 1933, Journal Publishing Co.; New Mexico State Tribune; Albuquerque Publishing Co.

(k) Lincoln, Nebr., 1950, Journal-Star Printing Co.; Star Publishing Co.; State Journal Co.

(l) Columbus, Ohio, 1959, Dispatch Printing Co.; E. W. Scripps Co. (Columbus Citizen-Journal).

(m) Tulsa, Okla., 1941, Tulsa Tribune Co.: World Publishing Co.; Newspaper Printing Corp.

(n) Franklin-Oil City, Pa., 1956, Venango Newspapers, Inc.; News-Herald Printing Co., Derrick Publishing Co.

(o) Pittsburgh, Pa., 1961, Pittsburgh Press Co.; Post-Gazette Publishing Co.

(p) Bristol, Tenn.-Va., 1950, Bristol Independent Publishing Corp.; Bristol Newspaper Printing Corp.; Bristol Herald Courier Publishing Corp.

(q) Knoxville, Tenn., 1957, Knoxville News-Sentinel Co.; Roy N. Lotspeich Publishing Co., Inc.

(r) Nashville, Tenn., 1937, Nashville Banner Publishing Co.; Tennessean Newspapers, Inc.; Newspaper Printing Corp.

(s) El Paso, Tex., 1936, El Paso Times, Inc.; Herald-Post Publishing Co.; Newspaper Printing Co.

(t) Salt Lake City, Utah, 1952, Salt Lake Tribune Publishing Co.; Deseret News Publishing Co.; Newspaper Agency Corp.

(u) Charleston, W. Va., 1958, Daily Gazette Co.; Charleston Mail Association; Newspaper Agency Corp.

(v) Madison, Wis., 1948, Wisconsin State Journal Co.; Madison Newspapers, Inc.; Capital Times Co.

A number of the participants in the existing joint newspaper operating arrangements are members of newspaper chains. Multiple-newspaper owner participation in the several joint newspaper operating arrangements are as follows:

Chain, city, and paper

Block newspapers, Pittsburgh, Pa., Post Gazette Publishing Co.

James M. Cox newspapers, Miami, Fla., Miami Daily News, Inc.

Hearst newspapers, San Francisco, Calif., Examiner.

Knight newspapers, Miami, Fla., Miami Herald Publishing Co.

Lee newspapers, Midwest: Lincoln, Nebr., Star Publishing Co.; Madison, Wis., Wisconsin State Journal Co.

Newhouse newspapers: Birmingham, Ala., Birmingham News Co.; St. Louis, Mo., Globe Democrat Publishing Co.

Scripps-Howard newspapers: Birmingham, Ala., Birmingham Post Co.; Evansville, Ind., Evansville Press Co.; Albuquerque, N. Mex., New Mexico State Tribune; Columbus, Ohio, Columbus Citizens-Journal; Pittsburgh, Pa., Pittsburgh Press Co.; Knoxville, Tenn., Knoxville News-Sentinel Co.; El Paso, Tex., Herald Post Publishing Co.

In Pittsburgh, Pa., we have two excellent city and countywide newspapers that are operated under these joint business management, and joint printing arrangements—the Pittsburgh Press and the Pittsburgh Post Gazette. Each of these newspapers have separate and independent news gathering and reporting facilities and practices. Likewise each paper maintains a separate and independent editorial staff, and diversity of opinion is maintained in our area.

Other smaller newspapers in Western Pennsylvania can likewise be immensely benefited through joint business arrangements of the type that will be approved under the exception and exemption to the antitrust acts provided by this legislation. Therefore, the bill should be passed by the House by a large majority, which I strongly urge.

(Mr. FULTON of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. McCULLOCH. Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee (Mr. DUNCAN).

(Mr. DUNCAN asked and was given permission to revise and extend his remarks.)

Mr. DUNCAN. Mr. Chairman, I rise in support of H.R. 279, known as the Newspaper Preservation Act.

A similar bill passed the Senate in January by a healthy margin of 64 to 13. Members of the House of Representatives have shown great support with at least a fourth of the membership actively backing this bill to preserve newspapers that might otherwise be forced out of business.

More than ever before, I believe we need more than one voice speaking to us in our cities. People need exposure to all sides of an issue. At stake now is the freedom of choice of information in 22 major cities. In each case two newspapers share plant and bookkeeping facilities, but maintain separate news and editorial policies and staffs.

These cities cannot support two full daily newspaper operations regardless of how badly they want two separate operations.

With advertising limits coupled with increasing costs some newspapers cannot help but disband. The closing of a newspaper is more than depriving citizens of another version of the news. With no competition the surviving newspaper could tend to lag in its job, giving citizens less objective reports than before.

It takes many employees to operate a newspaper, and when the paper is gone so are their jobs. Thus, enacting the Newspaper Preservation Act provides for continued employment.

The enactment of this legislation would not have adverse effects on competing media because the publishers of the cooperative papers would still be subject to provisions of and limitations of the antitrust laws—the joint operators being considered the same as a one-owner situation.

At this time 22 cities have newspapers that will be jeopardized if some measure is not enacted since the Supreme Court has affirmed that a joint operating arrangement is in violation of the antitrust laws. There are 35 cities which still have two or more separately owned newspapers and which could seek to enter into such arrangement should one paper begin to fail.

Under the Newspaper Preservation Act the joint operating arrangement would stand as a total merger, but the independent and competing editorial voices would still be heard.

In my district the Knoxville News-Sentinel and the Knoxville Journal "merged" plant, advertising, circulation, and related functions in 1957. However, they maintain a healthy competitiveness that their readers appreciate. The Sentinel publishes daily, evening, and Sunday and the Journal Monday through Saturday, mornings. In Tennessee's capital city, Nashville, are two excellent newspapers that are good examples of the public value of the joint operating arrangement—the Nashville Banner and the Nashville Tennessean.

Joint newspaper operating arrangements have proved their worth and value to the public for 40 years. They bring good rather than ill effects on our economy, and they, most important, give our citizens a choice of opinions. I urge my colleagues to vote for H.R. 279.

Mr. McCULLOCH. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona (Mr. STEIGER).

Mr. STEIGER of Arizona. Mr. Chairman, I, too, come to you as a supporter of this legislation, without the onus of a particular parochial interest.

In fact, within my State the two newspapers involved have the distinction of probably agreeing on only one thing; that is, that STEIGER has done nothing of note. I would point out, not only do they not support me, but also they go out of their way to ignore me, which I find, as all of you I am sure will recognize, the grossest insult of all.

I would point out that really, in back of all this verbiage, lies a relative simple principle.

The gentleman from Chicago was outraged because we were legalizing profit pooling. Others were concerned that the advertiser is going to be victimized. Others were concerned that there will not be genuine editorial difference.

I agree. We are not going to legislate genuine editorial difference. But the alternative to this legislation is one-owner rule or one-owner domination within the same community.

I believe the most sophisticated Member will be hard pressed to say that we are going to get a greater editorial difference under one owner or that the advertiser is going to get a greater break under one owner. That would not be sophistry, gentlemen; that would be the sheerest of nonsense.

I will state that this is good legislatin because it is specifically designed to protect the institution, if journalism can be classified as that, that is in serious jeopardy through virtually no fault of its own.

I congratulate the committee. I even congratulate the opponents, because their arguments have been obviously unable to convince any of us who support the legislation, and, therefore, they have not been excessive in their abuse of the truth.

Thank you, Mr. Chairman.

Mr. McCULLOCH. Mr. Chairman, I yield 3 minutes to the gentleman from Utah (Mr. LLOYD).

Mr. LLOYD. Mr. Chairman, most of us would like to live under ideal conditions which would allow the operation of a large number of newspapers in every market, competitive in every detail, including not only editorial policy, but also the price charged for advertising lineage, the retail price of newspapers, and all the rest. The overwhelming evidence in this country, however, is that newspapers do not survive under these ideal circumstances, and so we are faced not with the option of the survival of many competing newspapers within a single market but with the reality of providing those conditions under which a community hopefully may be served by more than one newspaper so that competition in editorial and reportorial content can be preserved and readers provided with a larger variety of opinion from editorial writers, from columnists, and from reporters than one newspaper can provide.

In Salt Lake City, which I represent, the survival of two newspapers has been made possible by the combination of advertising, printing, circulation, and certain business operations, and by the reasonable pooling of profits. This agreement was entered into 18 years ago. Our smaller newspaper, which is the afternoon newspaper, the Deseret News, is church owned. Spokesmen for this newspaper have convinced me both by their testimony and by the factual evidence that this newspaper cannot survive without a subsidy to cover losses unless the combination of services, entered into 18 years ago, including advertising services, is permitted.

The larger newspaper, the Salt Lake Tribune, which is a morning paper, has presented testimony to show that the combination of services allowed by the decision in Tucson would result in a larger profit to that newspaper than would be possible under H.R. 279, and conversely the afternoon newspaper would barely exist and undoubtedly be forced to operate at a loss within a short time under the provisions set forth in the Tucson decision. The question naturally arises, therefore, as to why the larger newspaper, the Salt Lake Tribune, which would profit to a greater degree under the already existing Tucson decision, favors H.R. 279, and the cynical will immediately suspect that there is some devious and undisclosed reason for the support of this bill by the larger newspaper. However, the answer in my area is very simple. The larger newspaper does not consider it to be in its best interest to secure a monopoly in the growing Salt Lake market, and it realizes that an afternoon newspaper

is needed in the interests of the social and economic progress of the area and in the interest of effective and progressive journalism. The survival of that afternoon paper simply makes economic and practical good sense because it is in the public interest.

I regret that the combination of advertising facilities and the pooling of profits not permitted under the Tucson decision is necessary for the survival of these two newspapers in my city, but I repeat that I am convinced by the testimony and the factual evidence that this legislation is necessary for the survival of two editorial opinions and for the survival of the present number and variety of reportorial and publication services which we now enjoy.

Some would argue that the law would establish a license allowing an exempt publisher to engage in predatory conduct and thereby monopolize or attempt to monopolize the newspaper industry. There are two obvious answers to these apprehensions. The first is that if only one newspaper survives, the monopoly will not be partial, as would be the case under H.R. 279, it will be total, which means that the feared predatory practices would be much easier to promulgate. The other answer is in the bill itself, section 4(c), which reads in part:

> Nothing contained in this act shall be construed to exempt from any antitrust law any predatory pricing, any predatory practice or any other conduct in the otherwise lawful operations of a joint newspaper operating arrangement which would be unlawful under any antitrust law if engaged in by a single entity.

A spokesman for weekly newspaper publishers in my market for whom I have the greatest respect remains fearful that this legislation will encourage predatory practices and he believes that somehow both of our daily newspapers will exist profitably even though this legislation is defeated. I can only say that upon the most careful examination of the facts, I cannot agree with this belief. I deeply regret this honest difference of opinion exists. It would be much more pleasant if our differences could be amicably resolved.

The editorial and reportorial rivalry in my city is real, and it is vital and a healthy circumstance for the Salt Lake market. As a representative of the people and as an individual citizen, I want to see that healthy competition continue.

If we are to have a free press, we must have a responsible press, and if we are to have a responsible press, we must preserve competition. Rigidity in the application of the antitrust laws will destroy rather than preserve the competition in the publication of the news in my district.

It is unfortunate the increased costs of the publication of a newspaper require that we recognize this limited exemption, but those are the realities which we face.

The legislation before us today is designed not to create a monopoly but to prevent it. Evidence presented to me indicates that in the case of Salt Lake City, costs of duplicating the advertising staffs of the two newspapers would be about $2.2 million. Moreover, applying the Tucson plan to income and expenses of the Salt Lake City newspapers in 1968 show that with separate advertising staffs and allocation of advertising and circulation income actually earned by each newspaper as required under the decision, the Salt Lake newspaper with the smaller circulation would drop from an actual 4.8 percent profit on sales to 0.79 percent—less than 1 percent. This assumes the most ideal conditions for the smaller newspaper. Applying the same assumptions to the other 21 cities in which joint agreements are in effect, only six newspapers would show a profit under the Tucson plan, while 16 would show an immediate loss.

While the entity and status which the law would allow the parties to create and use for the purpose of maintaining separate editorial voices may not be attacked simply because it has resulted in or maintained one morning, one afternoon, and one Sunday newspaper in a given market, such a natural monopoly must be used without any specific intent to engage in predatory conduct and without abuse of the economic power which it would lawfully possess and could use under the law. Beyond that limited authorization, there would be no exemption from the antitrust laws. Such a result is conceptually consistent with antitrust purposes. The entire concept was concisely summarized by the Supreme Court of the United States in the case of *Appalachian Coals, Inc., et al* v. *United States of America*, 288 U.S. 344, 77 L.Ed. 825, where the Supreme Court held that the creation of an exclusive sales agency by producers of coal did not violate the Sherman Act. The Court said:

> We agree that there is no ground for holding defendants' plan illegal merely because they have not integrated their properties and have chosen to maintain their independent plants, seeking not to limit but rather to facilitate production. We know of no public policy, and none is suggested by the terms of the Sherman Act, that in order to comply with the law those engaged in industry should be driven to unify their properties and businesses in order to correct abuses which may be corrected by less drastic measures. Public policy might indeed be deemed to point in a different direction. If the mere size of a single, embracing entity is not enough to bring a combination in corporate form with the statutory inhibition, the mere number and extent of the production of those engaged in a cooperative endeavor to remedy evils which may exist in an industry, and to improve competitive conditions, should not be regarded as producing illegality. The argument that integration may be considered a normal expansion of business, while a combination of independent products in a common selling agency should be treated as abnormal—that one is a legitimate enterprise and the other is not—makes but an artificial distinction. The Anti-Trust Act aims at substance. Nothing in theory or experience indicates that the selection of a common selling agency to represent a number of producers should be deemed to be more abnormal than the formation of a huge corporation bringing various independent units in one ownership. Either may be prompted by business exigencies and the statute gives to neither a special privilege.

My support of H.R. 279 represents support of the widest possible publication of the news and the widest possible variety of editorial opinion. The economic realities require the enactment of H.R. 279 if these conditions are to exist, and so I support H.R. 279 not because it will provide the reader with the most ideal conditions in which to enjoy public expression but because it will give the reading public the opportunity for maximum benefits under the realistic costs and conditions which prevail in today's economy.

Mr. KASTENMEIER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New York (Mr. WOLFF).

Mr. WOLFF. Mr. Chairman, I speak today as one of the founding members of the Newspaper Guild. As well, I spent some 25 years in the communications business before coming to Congress. I do not speak as a Congressman from one of the 22 areas directly affected by this legislation.

And as a principal sponsor of this legislation I am proud to speak in favor of its passage.

At the outset I would like to offer a relevant comment on what has become the short title of the bill. It is known as the Newspaper Preservation Act. I would respectfully suggest that the legislation should be seen in a much broader light; it should be viewed in terms of the reason why we wish to preserve certain newspapers. The bill could be aptly named the Public Information Act since the clear and overriding purpose of this legislation is to continue to provide as many news outlets and editorial voices for our citizens as possible.

Yes, we do seek to preserve certain newspapers that would otherwise succomb to the plight of rising costs and decreasing revenues. But we do not seek to preserve those newspapers for their own sake. We are attempting, rather, to insure that the American people will be afforded the largest number of possible news sources because of the historical precedent that competing news sources serve to protect the public interest and expound competitive rather than complimentary editorial voices.

I believe it important to emphasize our goal in this manner because exempting any business from antitrust laws is reason enough to raise eyebrows both within and without the Congress. I would not support such an exemption, and I am sure the more than 100 cosponsors of this legislation would not support such an exemption, were it merely to provide a profit for certain newspaper owners.

This is not our goal. We have a much larger purpose in desiring freedom of information and access to different news sources—and the precedents are on our side. Let me explain.

Newspapers, because of their unique place in American society, have for years been permitted to cooperate on various aspects of their business in all three of their primary areas of concern—editorial matter, advertising, and circulation.

We all know that the wire services provide, on a shared cost basis, hundreds of newspapers with the same information. In addition there are countless syndicated features available to all newspapers, even those competing in the same community. Moreover there are edito-

rial matrix services that provide any number of newspapers with identical columns and editorials. My point here is simply that there is a precedent for newspapers to share certain editorial materials that individual newspapers could not afford to buy on their own.

The precedent for cooperation in advertising, in situations without joint operating arrangements, is very important for your consideration because this is one area of joint operation that has engendered much criticism. For decades national advertising representatives have represented many newspapers, including some in competition. In fact it has not been uncommon for these national advertising representatives to solicit advertisements in packages that provide special deals if the advertiser decides to use more than one client of the advertising representative.

Moreover, national advertising representatives sometimes go even further than joint operating arrangements when they package a product for competing newspapers, radio stations and television stations in the same city, such practices have become a routine business operation.

On the third area of newspaper concern—circulation—there is again a clear precedent for the cooperation of joint operating arrangements. Certain newspapers sell subscriptions in concert with each other. But this has been done for years by newspapers in the same city without any joint operating arrangements.

Now I know the arguments that are raised about newspapers sharing the same buildings and printing facilities and how this is disruptive to competition. Yet newspapers have used their printing facilities for job printing for decades. It is not at all unusual for a newspaper to print other newspapers in their plant in the absence of a joint operating arrangement. Despite this precedent, and despite the highly desirable effect of maintaining as many editorial voices as possible, the joint operating newspapers have been the whipping boy of some.

I believe the precedents are clearly established for the type of cooperation that insures from joint operating newspapers. However given the legal history of the Tucson case I believe it is extremely important to codify as soon as possible these precedents and this can be done by passage of the legislation now before us.

Considering all the arguments in favor of this legislation, and especially the existence of adequate precedents for its passage, I urge immediate favorable consideration.

Finally, I would emphasize that our goal is not to destroy competition in any sense but to encourage, promote and provide an environment conducive to competition between the news and editorial voices of joint operating newspapers. This is an important goal consistent with freedom of expression and clearly in the public interest.

Mr. KASTENMEIER. Mr. Chairman, I yield 4 minutes to the gentleman from Missouri (Mr. HUNGATE).

Mr. HUNGATE. Mr. Chairman, I would like to pay tribute to the gentleman from Wisconsin (Mr. KASTENMEIER) for the fine work that he has done with this bill. I likewise pay tribute to the gentleman from Hawaii (Mr. MATSUNAGA), the gentleman from Ohio (Mr. MCCULLOCH), the ranking Republican Member, without whose intrepid help this and much other worthwhile legislation would not be enacted, as well as the gentleman from Illinois (Mr. RAILSBACK) the gentleman from Minnesota (Mr. MACGREGOR) and the gentleman from Illinois (Mr. MIKVA) and the other distinguished members of the committee for the improvements which they have worked on the bill and other improvements they may offer. Some have complained about the exemption of this from the antitrust law and I suppose the question is whether we would extend to some extent to the newspaper profession under the first amendment what we have previously in one way extended to professional football.

Mr. Chairman, as one who has observed the preservation of competing news presentations and separate editorial voices in the city of St. Louis, Mo., I rise in support of H.R. 279, the Newspaper Preservation Act.

In 1959, two of the Nation's most prestiguous newspapers, the St. Louis Post-Dispatch and the St. Louis Globe-Democrat, entered into a so-called joint newspaper operating arrangement. The necessity of such joint operation is not disputed. In fact, it is conceded that under the financial conditions then prevailing both newspapers could not have survived if they had continued to compete commercially with each other while they competed at the same time with other media, such as radio and television, as well as with "weeklies" and magazines.

Today, the two newspapers continue to compete strongly with each other in their news and editorial departments. The residents of St. Louis and of the surrounding metropolitan area are the true beneficiaries of this continued competition between the two dailies.

Having noted the experience of the two St. Louis newspapers, I am convinced that the very essence of the antitrust laws—competition—has not only been preserved, but it has actually been advanced by the joint newspaper operating arrangement. The alternative to such arrangement in St. Louis could well have been the demise of one or both of its newspapers, or possibly the merger of the two newspapers with the resultant disappearance of two independent editorial opinions and news presentations. The present situation—the survival of two newspapers under separate ownership—is indeed infinitely better than one which would have allowed the survival of a single newspaper or two newspapers under single ownership.

The continued existence of two independent newspapers, whether in St. Louis or in any of the other 21 cities in which a joint newspaper operating arrangement is found, is the best answer to those who oppose this legislation. It is difficult to perceive, under their view, wherein competition would be fostered by a situation leading inevitably to the merger or the demise of one of two rival newspapers. After all, a free press would be meaningful to the public whom it serves only by the sustained life of two or more competing newspapers which extend to their readers the benefit of independent editorial views and newsgathering efforts.

I think the passage of this bill, which I urge, Mr. Chairman, may also remind us of some of the important writings recently, such as those by Prof. Jerome Barron who in discussing the real interest of the public stated that to a great extent it lies in the widespread dissemination of information and the broadest possible spectrum of debate of differences of opinion and not simply profitmaking.

I think it may cause us to think as we pass legislation such as this whether we may not at some time supply the newspaper industry with a code of ethics such as we have for doctors and lawyers. For if doctors and lawyers do not perform their public duties correctly, they may be penalized by suspension or their licenses may be removed. We may some day face this problem with the newspaper industry. But I think that the Constitution and the objectives of the first amendment can best be served at this time by enactment of this legislation so that we will preserve competition.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MCCULLOCH. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia (Mr. THOMPSON).

Mr. THOMPSON of Georgia. Mr. Chairman, I thank the gentleman for yielding.

I spoke out earlier in opposition to this bill. However, I now thank the members of the committee for the explanations that they have given, because they have, indeed, changed my opinion on this particular piece of legislation.

My objection lies toward a monopoly in the news service. A monopoly exists in approximately 150 communities where there is a single ownership of two papers. This is an area in which I would like to see legislation passed.

I will have an amendment that I will offer to this particular bill. I understand that the germaneness of the amendment will be questioned. But, indeed, it does appear to me after listening to the gentlemen on the committee who have given considerable time to this legislation, that they have a very valid point. In 22 areas where there is a diversity of ownership but a joint operation, indeed, an exemption to the antitrust laws is in order.

I would like to go further, however, and prohibit the single ownership in the 150 areas in the United States wherein there is a single ownership of more than one newspaper. Why? Because we do want to maintain a dual editorial voice, and we do want to maintain freedom of the press, and freedom of the press, of course, exists with the owner, for the owner of the paper has the right to print in his paper what he desires. He is not required or compelled to print my opinion or the opinion of anyone else. By virtue of his community spirit he may well

sometimes give the opposite side—the view of the opposite side. But diversity of ownership is the best means of guaranteeing this.

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

Mr. THOMPSON of Georgia. I yield to the gentleman from Hawaii.

Mr. MATSUNAGA. Mr. Chairman, I thank the gentleman from Georgia for yielding to me. I am certainly happy to note that the gentleman has finally seen the merit of the bill, H.R. 279.

If the gentleman will offer a bill—not an amendment to this bill, because it would not be germane—but if he would introduce a bill to do precisely what he stated he would like to have done, I would be happy to join the gentleman.

Mr. THOMPSON of Georgia. Mr. Chairman, I thank the gentleman from Hawaii. It was certainly the overwhelming logic of the gentleman from Hawaii that helped me to change my opinion in this matter.

The CHAIRMAN. The time of the gentleman has expired.

Mr. McCULLOCH. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. BROWN), who is also my neighbor from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I do not intend to enter into an argument with the gentleman from Missouri as to which of the two St. Louis papers are more prestigious, the one which supports the gentleman or the one which does not. But I would like to take this moment for the benefit of the gentleman from Arizona, who was apparently unable to get anybody to read the minority views to him, that the problem of the newspaper industry is that it is failing generally. In that regard I would just like to read a couple of sentences from the minority views which state:

> While the total number of daily newspapers has remained fairly constant since the end of World War II, advertising revenues have increased from approximately $1,900,000,000 to $5,250,000,000, circulation is up from 51,000,000 to 62,500,000 and the size of the average daily newspaper has increased from 27 to 55 pages. *Editor and Publisher*, the weekly newsmagazine of the newspaper industry reports that the average "medium-city" newspaper is growing and is very profitable. From 1967 to 1968, operating profits increased 28.6%. . . .

The problem here then is not that all papers are losing money, but that just a few have some problems. However, that has not been alleged as the main consideration. The main consideration for favoring this legislation, we are told, is the necessity of maintaining competition of viewpoints.

My question is—how many local television stations compete for the viewpoints of the readers of these newspapers in their communities?

How many local radio stations offer competitive views?

Should they be covered by this legislation?

How many weekly newspapers serve the circulation zone of the metropolitan papers?

How many local magazines?

How many national newspapers circulate in these communities?

Are we to say that the Wall Street Journal or the National Observer, because they maintain competitive ideas in these exempted communities—could they be exempted if they should get in trouble?

How many national magazines compete for ideas in these exempted communities? Is the issue maintaining competing viewpoints?

No, my friends, the issue at stake here is money—profit. The rising costs of producing newspapers have eaten into the profits of some metropolitan newspapers.

Advertiser preference for the biggest circulation paper and readers' preference for the biggest and best edited newspaper have caused some deterioration of the second and third newspapers.

Costs, however, can be cut and have been cut by many newspapers.

Some newspapers which are seeking no special favors from the Government, through labor saving technology in production, which is legal; and through joint printing arrangement, which is legal; and through joint staffing arrangement, which is legal; and even by seeking less profits, which is also legal. The bill, I might point out to you, is simply not necessary. The bill is also highly undesirable.

Mr. KASTENMEIER. Mr. Chairman, I yield such time as he may require to the gentleman from Montana (Mr. OLSEN).

Mr. OLSEN. Mr. Chairman, I rise in support of this legislation.

I would hope that this kind of operation of assistance to the weekly newspapers cooperating in their printing process together with weekly or daily newspapers will continue.

We already have that situation occurring in my State of Montana, and I should like to see it prevail. I do not think it has had any affect whatsoever on their independent editorial policy, but it has kept many newspapers alive, and I should like to see all of this editorial comment kept alive.

Mr. KASTENMEIER. Mr. Chairman, I yield to the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Chairman, there are times when our devotion to the appearance of competition can lead us to actions that serve to stifle competition rather than to promote competition.

When we are dealing with the field of communications, we are not just talking about the competition for dollars and cents in the marketplace, but rather and more importantly to the democratic process is the preservation of the competition of ideas. We are not serving this essential field of competition when our obsession with ostensible and full economic competition causes us to silence one or two competing editorial voices in a community.

I believe I speak for a community with some pertinent experience in this matter. El Paso, Tex., was the second community in the Nation in which a joint newspaper operating agreement was adopted. The El Paso Times and the El Paso Herald Post entered into such an agreement in 1936, following the pattern set in Albuquerque in 1933. These were depression years, and the alternative was either for one newspaper to absorb the other, or for one to simply go out of business. The Herald and the Post had combined, and another El Paso newspaper, the World News, suspended operations.

The joint operating agreement drawn up between the Times and the Herald Post stated that, under no circumstances, would either newspaper try to dictate or control the editorial policy of the other. Nor would the joint operating corporation exercise such control over editorial policy.

I can assure my colleagues, from personal observation and experience, that the healthy competition of ideas has been preserved in the El Paso press. Each newspaper has developed its own personality, as well as its own editorial policy. And, as a concomitant of this editorial competition has come an intense competition for readership and subscribers.

Its editors and its staff members have competed for community favor, and have competed in community service. In fact, each newspaper has a different Washington correspondent.

I maintain that this is a healthy situation, both economically and in the more important field of the competition of ideas. I ask you to consider the alternatives.

In a number of cities, larger than El Paso, when one newspaper found itself in economic distress, it was absorbed by another newspaper, which would then publish a morning and an evening newspaper, with the same characteristics, the same personality.

In other cities, the weaker newspaper has simply folded up, and many cities which formerly had competing editorial voices now have only one newspaper.

I was very interested in the report of the committee in which it stated that 95 percent of the communities in this country, at the beginning of 1968, had newspapers that were controlled by a single owner.

The El Paso agreement, and many others which have followed, had long been in successful operation when the Department of Justice, in 1965, initiated an antitrust suit against a similar operation in Tucson, Ariz. In April, 1965, a district court found these newspapers in violation of antitrust laws, a finding which was upheld by the Supreme Court last year.

I believe these decisions call forcibly for action by Congress to recognize the fact that the healthy competition of ideas is a part of our heritage of free speech and a free press.

I believe we would do a great disservice to such an ideal if we permitted overzealous antitrust actions to destroy some of the finest newspapers in this Nation.

Without this act I know that my hometown would eventually have only one daily newspaper.

The legislation before us, H.R. 279, is just what its title proclaims—a newspaper preservation act, intended to preserve the freedom of the press to which we are all devoted.

Mr. McCULLOCH. Mr. Chairman, I yield 1 minute to the gentleman from Kansas (Mr. WINN).

Mr. WINN. I thank the gentleman. I

would like to ask the gentleman from Ohio (Mr. BROWN) with his knowledge of the newspaper business, if it is not true that many of the union settlements across the Nation in the newspaper field include the agreement that want ads that run for 2, 3, or 5 days be "reset" in each issue?

Mr. BROWN of Ohio. There may be such uneconomic requirements in individual labor contracts signed between certain newspapers and their unions and this could be one of the reasons for the request for this legislation to exempt newspapers from antitrust procedures, because such provisions in contracts could prevent economies in operation that might otherwise be possible in the newspaper business.

Mr. WINN. I thank the gentleman.

Mr. McCULLOCH. Mr. Chairman, I yield 5 minutes to the gentleman from Oklahoma (Mr. BELCHER).

Mr. BELCHER. Mr. Chairman, I wish to thank the gentleman from Ohio for yielding to me this time. In Oklahoma we have an illustration of two ways in which to operate newspapers. In Oklahoma City for the last 50 or 60 years one man has owned both daily newspapers, a morning and an evening newspaper. Just the other day he celebrated his 97th birthday. He still drives his automobile. He still goes to his office every day. A man who has that kind of monopoly in a city as big as Oklahoma City is certainly going to get along all right.

In the city of Tulsa we have two newspapers that have been vigorous competitors for the last 30 or 40 years. For the last 20 or 30 years they have printed their papers together. I mentioned the man who celebrated his 97th birthday. A man who was celebrating his 93d birthday was asked, "How does it feel to be 93?" He said, "It feels pretty good, because the alternative is not so good."

I merely want to point out to you that the alternative to these joint operations is not so good. A while ago the gentleman from Iowa asked if under this bill there could be price fixing.

In the Oklahoma City operation there has been price fixing by one man for the last 40 or 50 years, and there has been one editorial policy by one man for the last 40 or 50 years.

Also, if these Tulsa newspapers were to divide up and were to buy new presses and establish a completely new newspaper plant, it would be impossible for the two of them to exist.

The mere fact that there are two newspapers in a city who print their papers separately and are completely separate in their operations does not prevent any kind of price fixing. Those two people can get together on the prices they charge, just as easily as if they print their papers together. So I do not see any reasonable argument at all against this kind of operation, when we say a one-owner operation is absolutely not against the antitrust law, but if two owners print together, that violates the law. I do not know who passed that law or I do not know who made those interpretations, but that certainly does not look reasonable to me.

Mr. KASTENMEIER. Mr. Chairman, I yield 5 minutes to the gentleman from Arizona (Mr. UDALL).

Mr. FULTON of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Tennessee.

Mr. FULTON of Tennessee. Mr. Chairman, I would like to ask the gentleman this question: Does the language used in section 4(a) of the bill include a situation where both newspapers were "failing newspapers," as this phrase is used in the bill, at the time the original operating arrangement was first entered into?

Mr. UDALL. It certainly does.

Mr. FULTON of Tennessee. I thank the gentleman.

Mr. UDALL. Mr. Chairman, my hometown is Tucson, Ariz., and that is the place where all this debate about failing newspapers and joint operating agreements began 5 years ago. I support and sponsor this bill, not because it represents all that is good and virtuous and true, or because it will make this a perfect newspaper world, but because it is the only approach I know which stands a chance of checking the downward spiral of newspaper publishing in this country.

Ideally, I would want to see full and complete competition between and among all business entities in this country, including newspapers. But this is not a perfect world, and I think it is a mistake to give up what is merely good in a hopeless struggle for the perfect. Insisting on perfect competition between newspapers in each and every market may sound great, but I fear the result would be disaster—more newspapers ceasing publication, more newspapermen out of work, and more Americans with but one point of view in their daily newspaper diet. For residents of most American cities newspaper monopolies are no longer a threat, or an exceptional case. Monopolies are now the rule in 160 cities; two or more editorial voices are left in only 59.

I am told by some of my friends that defeat of this bill will be good for the country because it will enhance competition, root out the newspapers that can't compete, and create openings for new newspapers to come into being. If this were true, I would certainly oppose the bill and allow the milennium to happen. But this is indeed a vain hope, without substance and without historical precedent. The chilling truth is that in 43 years every attempt to start a new metropolitan newspaper in competition with an existing newspaper has failed. I know personally of three such attempts in my own State of Arizona in the last 25 years. Therefore, to vote against this legislation in the expectation that its defeat will stimulate new competition in newspaper publishing would seem to be highly unrealistic.

Let me tell you about these two newspapers in Tucson which prompted this whole debate. They have been battling each other in news and editorials as long as I can remember. Sometimes they get very angry with one another. They usually support competing political candidates. They more often than not take opposite sides in public debates over zoning, freeways, annexation, bond issues, fund drives and the like. Editorially, they are out to beat each other on news stories every day of the week. In short, they are separate and very distinctly different newspapers, having different policies, and different ways of covering the day's news. But they have had for nearly 30 years, a kind of joint operation of circulation, printing, advertising and other commercial functions.

This is the newspaper situation the court has said is illegal, a threat to public welfare and free competition.

Now let me drive you 120 miles north to Phoenix. Here we find not a combination based on a joint operating agreement, but a total monopoly—two newspapers owned by the same publisher. There are no other daily newspapers in Phoenix; those that tried to compete failed miserably. On all important issues the two Phoenix newspapers take virtually the same editorial stands. This arrangement the court has said is perfectly legal and can continue indefinitely, regardless of the fate of the bill before us today.

Let me say that I am not criticizing the Phoenix papers for being a monopoly or for presenting a united front. If I owned two newspapers, I probably would not come out for Nixon in one and Johnson in the other, or for the Vietnam war in one and against it in the other; this would be the worst kind of cynicism, obviously self-defeating. But my point is that defeat of this bill will not touch the true newspaper monopolies that exist; it will merely disrupt the combinations of the Tucson type which have provided such variety, such spice, such diversity to the cities in which they have been operating these many years.

How ironic that would be. And how doubly ironic if our failure to support this legislation resulted in a succession of total mergers effectively eliminating any semblance of editorial diversity in the 22 cities where joint operating agreements are now in effect.

This is an important point which opponents of this bill apparently fail to appreciate. The courts have allowed all sorts of total mergers to occur in the newspaper field. What they have rejected in this one instance, in the Tucson case, was a partial merger—that is, of advertising and circulation functions. Under our antitrust laws as they stand today it is highly likely that after 2 or 3 years of separation a total merger of any pair of these newspapers in any city could be made to hold up in court. It is only the partial mergers that would be struck down.

Justice Stewart in his dissent in the Tucson case quoted an excerpt from the record of the trial which I think is highly illuminating. The attorney for the defendant asked the Court:

> Well, would Your Honor then think if they had dissolved Star or Citizen or both and simply merged them all into one company. then the failing company doctrine would apply?

The Court's reply was very candid:

> I think if Star acquired all of Citizen's asset and gave stock to the owners of Citizen,

it probably would. I would say that the Government wouldn't have much chance in this particular case of attacking that acquisition.

All we have to do is look at the rest of the Nation to see what is at stake in this legislation. In these 22 cities there is still editorial competition; people can still read more than one point of view in their hometown papers. There are just 37 other cities in which there is still any semblance of editorial competition. But there are 160 cities—more than 73 percent of the total—in which all of the newspapers are owned by a single newspaper publisher.

I know that opponents of this bill hope that the 22 could be joined to the 37 to make 59 cities with full and complete newspaper competition. But I fear that the result would be just the opposite—a movement toward more one-newspaper or one-publisher cities.

In my view, any such "victory" for the cause of antitrust would be a disaster for the country.

Mr. Chairman, I do not lightly advocate a departure from the letter of our antitrust laws. I support the fullest enforcement of these laws, and I favor legislation to extend them into areas, not now protected. But I cannot ignore the rather remarkable disparity between the letter and the spirit of the law in these newspaper cases. Pursuing the letter of the law and its recent interpretation by the court can mean a sharp decline in newspaper competition; modifying the law slightly, as we would do with this legislation, can insure that many cities will continue to enjoy the benefits of the kind of healthy competition I have described.

I urge the passage of H.R. 279 to permit the reinstating of the point operating arrangement in Tucson, Ariz., now barred by the Supreme Court decree in Citizen Publishing Co. against the United States and to provide a limited exemption from the antitrust laws for the other joint operating arrangement cities.

Mr. FULTON of Tennessee. Mr. Chairman, there is no doubt that newspapers in many areas across the country have been experiencing serious economic problems. The Newspaper Preservation Act, I believe, offers a realistic and desirable solution to many of these problems.

At the beginning of 1968, only 67 cities in the United States were fortunate enough to have at least two separately owned newspapers. The number of cities so served has been shrinking steadily over the past 30 years.

Although there is general agreement that failing newspapers are in need of assistance, some have questioned whether the Newspaper Preservation Act provided the best means of supplying that assistance.

What, then, does the bill provide? It provides for a limited antitrust exemption for newspapers which have joint newspaper operating agreements. What would be legalized, in addition to the joint procedures now allowed, would be joint advertising and circulation functions, and agreements to share in profits according to a prior established formula, so-called profit pooling.

Of the 67 two-newspaper cities with separate ownership, 22 of them have entered into some type of joint operating agreement.

Opponents have claimed that these steps are not needed, and that sufficient economies can be gained merely through joint printing, the use of the same delivery trucks and the like. Of course, they do not present actual cases to document their theoretical economic analyses. Indeed, the continuing list of defunct and merged newspapers bears witness to the faultiness in that analysis.

Critics have also warned that advertisers and subscribers would be gouged by the monolithic rate schedules set by the joint commercial operation. That has not been the case, despite the fact that some of the operating agreements date back almost 40 years. I am informed that advertising rates in Hawaii, for instance, have actually declined since the agreement was entered into.

Profit pooling has been a particular target for opponents of the bill. But the sharing of profits arising from the joint commercial venture goes to the very heart of the bill. There is no realistic alternative. Without profit pooling, the bill provides negligible economic benefit to the beleaguered newspapers. And if profits are left to be divided some other way not predetermined—circulation, for instance, or advertising lineage carried for a particular period—the weaker paper will almost certainly suffer because of its less favorable bargaining position at the beginning.

Some of the bill's critics have suggested that we rely on the traditional market mechanisms to eliminate inefficient publishers, and therefore keep open the opportunity that some other, more vigorous competitor will come along to fill the void. This argument ignores history. In cities of 200,000 population or more, there has been no successful new daily newspaper started since 1941. Moreover, there is a viable argument that the bill may actually promote more frequent entry into the newspaper business in certain cities. If someone is considering starting a morning newspaper, for instance, in a city where there is presently only an evening paper, he may be less reluctant to invest substantial capital if he knows that he may be able to negotiate a joint operating agreement with the existing newspaper should his daily prove unable to compete fully.

In short, Mr. Chairman, it seems clear to me that H.R. 279 confronts a real economic problem in a realistic, responsible way. I urge this body to vote its approval.

Mr. McCULLOCH. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. HALPERN).

Mr. HALPERN. Mr. Chairman, as a cosponsor of the Newspaper Preservation Act, I rise in support of this bill which would grant to newspapers a limited antitrust exemption to enable them to enter into joint business and mechanical operations when necessary to avoid business failure.

There is little disagreement, I think, with the judgment that the public can only benefit from having access to the news presented from more than one point of view. The two leading newspapers here in Washington, the Post and the Star, are a case in point. Regretfully, however, the economic and business facts of life have dictated just the opposite trend in this country since the beginning of the 20th century, to the point where some experts estimate that a market area of 650,000 people or more is necessary if two daily newspapers are to compete and survive. Senator INOUYE, the principal sponsor of this measure in the Senate, indicated during the Senate hearings that today only five cities in the Nation have three or more daily newspapers; only 59 have separately owned, editorially distinct, newspapers; and 22 of the latter have the same kind of joint printing and business procedures used by the Tucson papers against which action was brought by the Justice Department in 1965.

It is clear that if joint operating procedures of this sort are going to be prosecuted under the antitrust laws, the Congress must take action to preserve the independent newspaper voices in many of our cities. According to William A. Small, Jr., owner of the Tucson Daily Citizen, the Antitrust Division of the Justice Department has taken the position that the merger of the commercial aspects of the Tucson newspapers under their joint operating agreement is illegal per se, regardless of any economic justification:

(T)he Division disregarded the economic background and reasons for the joint arrangement between the Citizen and the Star. It disregarded the fact that the Citizen clearly would have failed without the joint arrangement. It disregarded the fact that preservation of two separate news and editorial voices is in the public interest. It disregarded the fact that rates charged by the two newspapers for advertising are reasonable and competitive with other media. These facts are irrelevant, according to the Division.

And in response to the argument of the Tucson papers that termination of the joint operating agreement would cause one of the papers to fail, the Justice Department replied by quoting a statement from a 1963 Supreme Court decision, *United States* v. *Singer*, 374 U.S. 174, 196:

Whether economic consequences of this character warrant relaxation of the scope of enforcement of the antitrust laws, however, is a policy matter committed to congressional or executive resolution. It is not within the province of the courts, whose function is to apply the existing law.

Hence, Congress must act if there is to be any change.

I have cosponsored this legislation in the House because I think this is a case where the spirit, rather than just the letter, of the law must be applied. The purpose of the antitrust laws is to foster competition, not to stifle it. Yet unless this bill is enacted, the effect of existing law will be to drive many editorially independent newspapers out of business, to the long run benefit only of the larger newspaper chains.

I think we must consider the unique position of newspapers in our communities. I certainly recognize that the fundamental principles of antitrust laws are

valid and that they are necessary to guard against abuses in business conduct and to preserve our competitive economy. But newspapers are not like the products of other industrial companies, and we must consider what the long-term effects of the strict application of these laws to joint newspaper operating agreements are going to be. My good friend and colleague from New York, EMANUEL CELLER, summed up this argument very well in a 1963 interview which appeared in Editor and Publisher:

> Personally, I incline to the view that perhaps there might be immunization for newspapers from anti-trust laws in certain cases. If the anti-trust laws were rigidly enforced it may be shown that more harm than good would result.
>
> We are interested in keeping the newspapers alive. We must realize that anti-trust laws in some instances might cause the death of dailies. Then we must ask ourselves: which is more important, maintenance of the anti-trust laws or preservation of the free press?
>
> When it comes down to that kind of choice, I think the preservation of the press outweighs a violation of the anti-trust laws . . .

This bill would exempt from the anti-trust laws the kind of joint business and commercial operating agreement undertaken by many newspapers in order to survive. It appears to me that this is an eminently practical arrangement. Advertising is the lifeblood of newspapers, and although the population is continually expanding, the market for newspaper advertising is not keeping pace because of increasing competition for advertising from other media like radio and television. Since advertising goes to the paper that can reach the most customers at the lowest price, the publication with the smaller circulation must cut costs to keep up with his competitor, the quality of his paper will suffer as a result, he will lose even more advertising revenues, and he will be caught up in the downward spiral toward complete collapse. Thus, it makes sense for two newspapers, which could not both survive in a given area on a completely independent and competitive basis, to join forces to realize the economies of a joint business and commercial operation, that would then divide revenues in excess of costs between the two papers in accordance with a predetermined formula. It makes sense from a business point of view and from the point of view of the public interest, for it will enable both newspapers to continue to compete in the area of news coverage and editorial opinion. The arrangement has apparently worked well in Tucson, to the benefit of the public as a whole, because both papers consistently spend more on news and editorial content than most publications of comparable size, and because both have won many awards for editorial excellence.

In sum, I would urge my colleagues to support H.R. 279. It recognizes the economic realities of today which newspapers face, and it offers them a way to join together to solve the business problems of operating a newspaper while enabling them to maintain independent editorial policies. It recognizes that while commercial competition in some cities means certain death for one of the competitors, commercial cooperation will help to keep editorial competition alive. And above all it recognizes that the diversity of information and opinion resulting from two editorially independent newspapers is a highly desirable social value which we should go to great lengths to preserve.

Mr. McCULLOCH. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana (Mr. ADAIR).

Mr. ADAIR. Mr. Chairman, the Supreme Court has stated that it must strictly enforce the antitrust laws without weighing competing public policy factors, as that is the "responsibility of the Congress." Thus, the Congress is obligated to make a final determination as to whether the public policy justifications for a joint newspaper operating arrangement outweigh the considerations underlying the antitrust laws. Basically, this is a choice between fostering editorial competition and diversity on the one hand and wide-open competition without regard to its effect on the preservation of independent competing editorial viewpoints, on the other. Since this weighing of alternatives was not undertaken by the Supreme Court in the Tuscon case, any reliance on the case for our decision today is misplaced.

The recent Tuscon joint newspaper operating agreement case has made this legislation essential. That decision misapplied, in my opinion, the "per se" antitrust rule and set forth too stringent requirements for the failing company defense.

Heretofore, only a contract, combination, or conspiracy having no other purpose than the sole one of suppressing competition was considered a "per se violation" of section 1 of the Sherman Act. The joint operating arrangement merges only the business functions of the two city dailies, and continues two separate corporate entities which maintain separate independently operated news and editorial departments that are competitive. This two-level function which is a unique characteristic of the daily newspaper business was totally ignored by the Supreme Court.

Moreover, the stringent prerequisites set forth for the establishment of the failing company defense to section 2 of the Sherman Act and section 7 of the Clayton Act are unrealistic as applied to a failing newspaper. The strict standard announced in the International Shoe case of a "grave probability of business failure" is not applicable to newspapers as a dying daily cannot recover its lost circulation and advertising revenues by its sole efforts. The other requirement that the acquiring company be the only available purchaser also has no application as a daily on the verge of bankruptcy is not salable.

The experience of Fort Wayne Newspapers, Inc., in Fort Wayne, Ind., which prints the Fort Wayne News Sentinel and the Fort Wayne Journal-Gazette, is illustrative of the need to allow joint operation. The main purpose of the arrangement was the survival of two daily newspapers and editorial viewpoints.

Today, as a result of their joint operating arrangement, both newspapers are published in a modern, efficient plant. Both papers are competitive editorially, and Fort Wayne is one of the few cities of its size in the Nation whose citizens can read daily the articulate and diverse viewpoints of two competitive hometown daily newspapers.

Mr. McCULLOCH. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. MAILLIARD).

Mr. MAILLIARD. Mr. Chairman, I also want to express my support for this legislation because of the experience we have had in San Francisco, where we have dropped in recent years from four to two daily newspapers. I fear without the approval of the present arrangement between our existing two daily newspapers we would soon be down to a single newspaper, which I believe would be contrary to the interest of the people of the community.

Mr. KASTENMEIER. Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma (Mr. JARMAN).

Mr. JARMAN. Mr. Chairman, today, economic conditions in communities across the country have made it difficult for two or more newspapers in any given city to remain commercially competitive enterprises. News sources and editorial comment are thus being imperiled.

Costs have escalated rapidly and the source of revenue from advertising is crucial to the success or failure of any given newspaper. It has been proved to be more economical to advertise in the stronger newspaper even though its rates are higher. The weaker newspaper is then forced to compensate for the loss of revenue by cutting back its news and editorial departments. In response to these conditions, the newspaper industry itself developed the joint newspaper operating arrangement to reduce costs and thereby eliminate potential losses. This arrangement has permitted both the weak and strong newspaper to maintain their editorial competition and independence by combining their production and business operations.

A recent court ruling, however, would require that, despite the public interest of maintaining several editorial voices in a community, a newspaper must be in an extreme financial situation before it is allowed to take remedial action. The critical economic problems confronting many newspapers resulting from this case are of such serious proportions as to require immediate legislative action. Instead of a complete merger of the two competitors that would result in the disappearance of all competition between the two, this proposed legislation would allow a joint operating arrangement. It would simply amend the law so that such an arrangement would be considered to be a complete merger. Mr. Chairman, I believe the public interest will be served by the retention of competition in editorial voices and I urge the passage of this bill.

Mr. MURPHY of New York. Mr. Chairman, today's passage by the House of the Newspaper Preservation Act is indeed a victory for freedom of the press in America. It insures the continuation of the

free interplay and competition of ideas that is essential to a well-informed electorate, and to the democratic institutions on which this Nation relies.

For the passage of this act will permit the survival of two independent newspaper voices in 22 cities presently operating under joint agreements, and in most of the 37 American cities which remain with two or more publishers printing in separate plants. By preserving separately staffed newspapers, this legislation also protects employees on those newspapers.

Briefly, the measure exempts joint newspaper operating arrangements from antitrust laws if only one of the newspapers involved is a financially sound publication. The law as it existed until today allowed a total merger with the elimination of commercial and editorial competition, but prohibited a commercial merger which preserves news and editorial competition. The Newspaper Preservation Act gives joint newspaper operating arrangements the same legal standing as a total merger. And, it reopens for consideration all previous joint newspaper operating agreements which were held to be unlawful under antitrust laws.

The Newspaper Preservation Act is truly consistent with the intent and purposes of the antitrust laws—the preservation of competition where it otherwise could not exist. By preserving news and editorial competition, this measure enhances the purpose of the first amendment of the Constitution. Free speech, free press, and the interplay of divergent views have been preserved today.

Mr. LEGGETT. Mr. Chairman, in recent years it has become increasingly apparent that an independent and inquiring press is neither a convenience nor a luxury but rather an essential component of a free society.

The traditional balance of powers between the branches of Government has in some cases not been sufficient. In foreign policy, the Congress is just now beginning to rid itself of its mystical belief that the President is the only one who knows what is going on and the only one who can make major decisions.

I, for one, am more than half convinced that, were it not for the editors and reporters who, unlike the Congress, had the temerity and the integrity to look behind the official euphoria emanating from Southeast Asia, we would blithely have sailed into war with China or worse. For this and many other reasons I am most impressed by the performance of the American news media.

For the benefit of any Agnew devotees who may be present, perhaps I should specify that my high opinion of the gentlemen of the press continues even though they have occasionally had the arrogance, venality, duplicity, and incompetence to fail to treat my pronouncements with appropriate reverence.

But however noble and exhilarating the substantive aspects of journalism may be, the financial aspects can only be described as harrowing. This is particularly true in cities which support more than one paper. A newspaper can go from reasonable prosperity to permanent extinction in a matter of weeks.

The present deteriorated economy has exacerbated the newspapers' predicament even further. In recent months we have even heard sounds of desperation coming from the Nation's foremost newspaper, the New York Times.

For many papers, merger has been the only alternative to extinction. But in a city having only two papers, merger spells monopoly, with concomitant complacency and lack of editorial incentive. It was one thing for the New York World, Sun, Telegraph, Herald, and Tribune to merge over a period of time, for the city still had the Times, Post, and News. But it is quite another thing for both papers in a two-paper city to come under one management.

Desirable as it may be for a city to have more than one independent paper, a newspaper cannot continue if it cannot get out of the red. So we have seen one paper after another go under, and today only 37 cities in the United States are served by two or more competing papers.

However, we also have 22 cities in which two papers operate under what might be called a semimerger. They cut costs by having one advertising department, one circulation department, one accounting department, one printing plant, and so forth. But they serve the public by having two independent and competing publishers, news departments, and editorial departments.

This arrangement, which began in Albuquerque in 1933, has been made possible by a kind of informal nonenforcement of the antitrust laws. But now it appears that, unless we formally legalize them, newspaper semimergers are going to be disallowed under the antitrust laws.

In my opinion, they should be legalized. The function of the antitrust laws, which I enthusiastically support, is the prevention of monopolies. But outlawing semimergers will not prevent monopolies; it will create them. It will force full mergers and end editorial competition in at least 22 cities.

So we must make a carefully specified and carefully controlled exception to the antitrust laws in this one instance in which they are counterproductive. That is the purpose of the act before us, and that is why I shall vote for it.

Mr. EDWARDS of California. Mr. Chairman, separately owned newspapers serving a particular area may legally enter into joint operating agreements which insure substantial savings to each. Under the Tucson case and a ruling by the Department of Justice the major permissible joint activities include joint printing, joint circulation facilities, joint Sunday edition, cost-justified combination advertising rates, and partial joint accounting and billing.

The operating agreements may not include, as a violation of the antitrust laws, price fixing, and profit pooling because these, as a practical matter, eliminate all competition between the two newspapers.

Beginning in 1933, however, newspapers have been operating under agreements providing for price fixing and profit pooling in addition to the five legal activities. It is to the Justice Department's discredit that it did nothing for decades, leading these newspapers to conclude that the operating agreements had the tacit approval of the Justice Department.

The refusal by the Justice Department to institute actions against these agreements for more than 30 years was of concern to many members of the House Judiciary Committee. The Department's dereliction for such an extended period allowed stockholders' rights to become fixed. In 22 cities throughout the country competing newspapers assumed that the Justice Department approved of joint operating agreements that included price fixing and profit pooling. Consideration was given by the Judiciary Committee to legislation that would outlaw future joint operating agreements while permitting existing ones to continue for a definite or indefinite period of time. We immediately concluded, of course, that such a law would be unconstitutional as class legislation.

The Judiciary Committee did improve the Senate-passed version by making it more difficult for new joint agreements providing for profit sharing and price fixing to come into existence. Any new agreements must be approved in advance by the Attorney General, and prior to granting such approval, the Attorney General must determine that not more than one of the newspapers involved in the arrangement is a publication other than a failing newspaper and that approval of such arrangement would "effectuate the policy and purpose of this act."

Regardless of the more stringent requirements for future agreements, enactment of the legislation as proposed would be such a major exemption of the Federal antitrust laws as to make it unwise. Its passage would open the door to new operating agreements throughout the country that would include price fixing and profit sharing. A new regulatory Federal agency to police the agreements would inevitably result. This raises the prospect of Government regulation of newspapers, a loss of editorial independence, and a compromising of the traditional independence of the American press could do irreparable damage to our political, economic, and social fabric. These grave dangers outweigh the considerations raised by the delinquent conduct of the Justice Department in allowing violations to go unheeded for decades, and the legislation should be defeated.

Mr. ANNUNZIO. Mr. Chairman, I rise in support of H.R. 279, the Newspaper Preservation Act. The importance of the Newspaper Preservation Act cannot be overemphasized. This legislation is designed to protect the public interest and and maintain editorially independent and competitive newspapers in the United States by providing them with an exemption from antitrust laws. This exemption would permit them to enter into certain joint operating arrangements when they are in financial difficulty and enable them to survive.

Many metropolitan newspapers during the 1930's discovered that strong compe-

tition resulted in serious financial difficulties. And when a weaker newspaper was eliminated or failed, this meant that the public was deprived of diverse and independent news policies and editorial points of view. The first joint operating arrangement between two newspapers was initiated by the Journal Publishing Co. and the Albuquerque Publishing Co. in Albuquerque, N. Mex., in 1933. This arrangement provided a method of reducing costs by joining the economic and business aspects of newspaper production, and at the same time permitting the two newspapers to maintain separate editorial and reporting staffs and independent editorial and news policies.

In recent years, newspapers in many American cities have encountered financial difficulties. As a result, a distressing number of daily newspapers have ceased publication. Between 1910 and 1968, the total number of daily newspapers has dropped from about 2,200 to 1,746.

During the same period, the population of our country more than doubled. In 1960, only 61 cities had two or more competing dailies, compared with nearly 700 in 1910. Between 1929 and 1950, 600 dailies started, but 750 ceased operation. Today, only five cities have three or more dailies; 59 cities have two separately owned, editorially distinct newspapers but in 22 of these cities, editorial independence has been continued only through the utilization of certain joint operating facilities.

Although newspapers receive large revenues from circulation, the real economic struggle for survival depends on their advertising revenues. Today, the newspapers' primary source of income, advertising, is faced with new problems. As a result of competition from other advertising media, mainly television, magazines and suburban news publications—the central city newspapers have suffered a decline in their share of both local and national advertising dollars. Local advertising, both retail and classified, has followed the population shift to the suburbs while simultaneously national advertising has been lured away by television. This combination of unusual circumstances has created a vicious cycle because reducing advertising revenues tends to curtail news, editorials and feature content, thereby making the paper less attractive to readers which in turn cause a decline in circulation. And because advertising rates are necessarily based on consumer exposure, a decline in circulation may lead to a reduction in advertising rates, which in turn further diminishes advertising revenues. Once this downward spiral is set in motion, it all too often ends in complete financial disaster.

The rising costs of publication are creating still another economic problem for newspapers. Labor costs have increased considerably. For example, several of the larger metropolitan dailies are bearing labor costs almost three times the World War II level. In addition, the equally important cost of newsprint has more than doubled during the same period.

To these problems can also be added certain built-in economic peculiarities in the newspaper publishing industry. For example, a single newspaper often can only use its printing facilities for a fraction of its capacity. An afternoon daily, for instance, may operate its presses at full capacity for only 3 or 4 hours for its edition—the remainder of the time the presses may be idle. Job printing is often insignificant because of union contracts that require full shift wages for a few hours work.

Therefore, the only means of survival for many newspapers would be through the use of joint operating facilities. Under the joint operating arrangements afforded by H.R. 279, the Newspaper Preservation Act, separate and independently owned newspapers could continue to serve the public and compete, yet operate editorially as distinct news sources as before, but on a sound financial basis. This pooling arrangement of production facilities eliminates duplication and makes for a more efficient utilization of publishing and printing facilities.

The courts have on occasion approved mergers based on the applied test that an acquired company is virtually beyond salvage. This test is inadequate for newspapers. The most important assets of a newspaper are its personnel and reputation, and these may be lost as financial failure approaches. Generally by the time the newspaper is sufficiently beyond hope to satisfy the "failing company" tests of the courts, it may well be of little value as an acquisition. Yet under present law the courts have to apply the extremely narrow "failing company" doctrine as it has developed in those industries lacking the unique characteristics of the newspaper business.

I feel that in order to promote healthy competition among newspapers by providing an economic environment in which competitors can survive we need the kind of legislation provided in the Newspaper Preservation Act. Recent economic history of the newspaper business clearly indicates that limited exemptions from the antitrust laws should be given to this most vital institution of our democracy.

Mr. Chairman, I would like to call to the attention of my colleagues and to include at this point in the CONGRESSIONAL RECORD editorials published recently in support of the Newspaper Preservation Act by two leading newspapers in my city—the Chicago Daily News and the Chicago Sun-Times. The editorials follow:

[From the Chicago Daily News]

KEEPING THE PRESS ALIVE

Because of the skyrocketing costs of operation, the newspaper industry, especially in the larger cities, has suffered spectacular attrition in recent decades. One result has been a drastic reduction in newspaper competition as city after city found itself reduced to a single editorial voice, whether in one newspaper or a one-ownership combination of morning and evening newspapers.

To combat this trend and to preserve editorial competition in the face of costs that would otherwise have been intolerable, newspapers in several cities began combining certain of the operations—production, circulation, advertising, or some combination thereof—while continuing the editorial departments as vigorously competing entities under separate editors.

The U.S. Supreme Court, in deciding that the merger of two Tucson newspapers, the Citizen and the Arizona Star, should be dissolved, ruled that while combined production facilities are apparently acceptable, combining circulation and advertising departments or the pooling of profits from those departments is not.

The court also drastically narrowed the application of the "failing company doctrine" under which a merger was recognized as immune from the antitrust laws if one of the publications appeared certain to fail unless the merger took place. The court ruled that:

"The failing company doctrine plainly cannot be applied in a merger or in any other case unless it is established that the company that acquires it or brings it under domination is the only available purchaser."

The court also held that "the burden of proving that the conditions of the failing company doctrine have been satisfied is on those who seek refuge under it."

The first thing to be said of the decision is that it threatens to put many newspapers out of business, and thus to slash back the very competition the antitrust laws were written to preserve and extend. Newspapers in 22 other cities including San Francisco, Honolulu, Salt Lake City, Miami, Tulsa and Shreveport have similar combined circulation and advertising setups or profit pooling arrangements. Regardless of the fact that many such arrangements have been in operation for many years, and have been responsible for survival of whatever editorial competition remains in those cities, the companies are clearly considered fair game for the Antitrust Division of the Justice Department under the new decision.

The legal technicalities involved are many, and this is not the place to debate them. What appears unarguable to us is that the Supreme Court, charged with defending the rudiments of American freedom, has lost sight of the forest for the trees. For the nation to have a free press it must first have a press, operating in as competitive a manner as possible. As we read the record in Tucson the newspapers were operating as competitively as they could in the economic stringencies—and certainly to the far greater benefit of the reader than if a single newspaper had monopolized the field—an arrangement that would evidently have been blessed by the court.

The ruling that the failing company must have proved that it tried its best to sell to a noncompetitor strikes us are having no validity whatever. There is simply no market for a failing newspaper except with a competitor. The whole bleak story of the diminishing field of daily newspapers in the United States make it abundantly clear that to seek an "outside," noncompetitive buyer for an economically troubled newspaper would be to seek a needle in a haystack. We were accordingly pleased to note that Justice Stewart dissented from this finding.

But the real remedy lies in legislation. The body that wrote the antitrust laws has the authority to make certain they serve only good purposes.

Various measures have been introduced in Congress in recent years to accomplish this purpose regarding joint newspaper operations. The most recent and best of these is Senate Bill 1520 (identical with House Resolution 8765) specifically exempting from the antitrust laws "certain combinations and arrangements necessary for the survival of failing newspapers."

Citing the public interest "of maintaining the historic independence of the newspaper press in all parts of the United States," the measure declares public policy to be "to

preserve the publication of newspapers" wherever "a joint operating arrangement has been or may be entered into because of economic distress."

The measure would have no bearing in any case of "predatory pricing . . . practice . . . or other conduct . . . which would be unlawful if engaged in by a single entity." In short it would provide no special privilege for newspapers. But it would enable two competing editorial departments to survive and serve a community on the basis of shared business and production facilities, and it would commute the death sentences of any newspapers already condemned under the Supreme Court ruling.

In urging Congress to adopt this legislation, The Daily News speaks as a party not operating under any such arrangements as affected by The Supreme Court decision. We speak simply as a member of the free press, concerned for the continuing exercise of that freedom.

[From the Chicago Sun-Times]

TO PRESERVE EDITORIAL COMPETITION

The federal antitrust laws were intended to prevent the growth of business monopolies that would take away from the public the benefits of healthy competition in the market place.

It is ironic that in the application of rigid interpretations of the law to the newspaper industry, the U.S. Supreme Court recently brought closer the day when the public would lose the benefit of competing newspaper voices in those few cities where they remain.

Unless Congress takes action those communities inevitably must wind up with but one daily newspaper—one enterprise with no competition either for business or editorial expression.

The court opinion does not affect the newspaper situation in Chicago where two strong independent corporations compete, each with two newspapers morning and afternoon. Rather, our concern is with those other communities where two independent voices still are maintained but only because they have combined their financial operations.

There are 22 such communities, including San Francisco, Honolulu, Pittsburgh, Salt Lake City, Miami, Tulsa and Shreveport, La. In each city the two independent newspaper publishers print in one plant and pool their profits from circulation and advertising.

Such arrangements have generally been considered exempt from the antitrust law under the so-called "failing company" doctrine. This offers a defense for corporate consolidations that would ordinarily violate the anti-trust law if it can be proved that without the merger, one of the companies would have gone under and there would be no competition anyway.

In a case involving the two newspapers in Tucson, Ariz., and going back to an arrangement made in 1940, the court ruled the pooling of circulation and advertising revenue could not take place unless it were shown that the dominant company that in effect took over the failing company was the only available purchaser.

The hard economic facts are these:

There are virtually no available purchasers for failing newspapers except their own competitors. The tremendous costs of organizing and operating a metropolitan paper make new entries into the field virtually nonexistent. In 1,510 cities there is now only one daily. In 168 cities, one owner publishes two dailies as a morning-evening combination. Only 37 cities remain in which two newspapers are published by separate commercial operations in separate plants. Even these, no doubt, some time may be forced to enter into the arrangements made in Tucson and the 21 other cities if two editorially independent newspapers are to be preserved in all but the biggest metropolitan areas, like Chicago.

Sen. Daniel Ken Inouye (D-Hawaii) has introduced a bill (S 1520) which would preserve competition in news and editorial voices in cities where such competition remains. It would not exempt newspapers from the general provisions of the antitrust act with regard to predatory pricing and other practices outlawed to protect customers, advertisers or competitors. But it would recognize the unique character of the newspaper business today in which the joint operating technique cannot harm or keep out competitors because competition is shrinking out of existence.

The antitrust acts were never intended to drive newspapers out of existence, as the Supreme Court's rigid application of them will do. It was never intended to take away from the public healthy competing voices of American journalism.

To preserve those remaining independent newspapers we urge Congressmen to support S 1520. They will be acting in the spirit of the Constitution's pledge that freedom of the press for the benefit of the people be maintained.

Mrs. GREEN of Oregon. Mr. Chairman, few things in our modern society can be more important than the preservation of differing viewpoints. Americans cherish the right to speak their minds, and by reasoned discourse, to change the minds of others.

American newspapers are the greatest vehicle for this impinging of fact upon fact and reason upon reason, but because of the economics of newspaper publishing there has been a steady decline in the number of independent competing papers, and as a result a decline of independent competing additional viewpoints.

According to studies made by the House Committee on the Judiciary of the 1,500 American cities with daily newspapers, 85.6 percent were one-newspaper towns, and over 95 percent of these communities were served by papers under a single ownership.

The bill before us today, H.R. 279, would preserve the efforts made in 22 cities to keep competitive American journalism flourishing.

It would also save editorial competition from certain death in those instances where a newspaper is failing financially by permitting it to enter into a joint newspaper operation agreement with one or more other papers. Under such an arrangement only the business end of the paper is joined; the editing and reporting functions remain free and separate.

Passage of this bill is essential because the 22 papers which currently operate under a joint agreement are technically in violation of the Sherman Antitrust Act, although their joint ventures have come about as a result of their fierce determination to provide independent editorial voices to their reading public.

It is ironic that if any of the economically distressed papers had not felt so strongly about its editorial and reportorial responsibilities it could have easily sold out to its competitor and the resulting monopoly ownership would not have been in violation of the antitrust laws.

I include at this point in the RECORD letters from two journalists, for whom I have great respect, and who argue persuasively that the public interest will be better served if this legislation is enacted:

THE OREGONIAN,
Portland, Oreg., February 25, 1969.

Representative EDITH GREEN,
House Office Building,
Washington, D.C.

DEAR MRS. GREEN: Have endeavored to reach you by telephone today to discuss legislation in which our people are interested. Lacking contact, I shall outline briefly our observations on the subject.

We are sure that you are familiar with the plan for joint mechanical, advertising and circulation operations by newspapers in 22 cities. These arrangements affect 44 newspapers. While affording important and necessary savings in operating costs, the arrangements have enabled these newspapers to maintain independent editorial and news voices in these cities.

The Anti-trust Division of the Justice Department brought an action against such a joint operation in Tucson, and the court held that the arrangement was a per se violation of the anti-trust laws, although it had been in existence since 1940.

The anomoly in the law is that, had the newspapers completely merged, there would have been no violation. But, by trying to maintain competitive news and editorial departments, the court found that there was. The case is on appeal.

Anticipating the possible attack on similar arrangements in many cities, and the fact that such an attack may force many of these newspapers out of business and destroy their competing editorial voices, legislation was introduced last session to clarify and correct this situation. After full hearings the legislation was finally amended to H.R. 19123 and S. 1312. The Senate Anti-trust and Monopoly subcommittee reported favorably in the last days of the session. The House subcommittee did not complete action before adjournment. New legislation identical to the above is being introduced. Representative Edmondson of Oklahoma will serve as principal sponsor in the House and Senator Inouye in the Senate.

It is hoped that not less than 25 co-sponsors will add names to the bill. We would be very pleased if you were one of them. I am sending you a brief commentary on the bill. Morris J. Levin, a Washington attorney, is assisting on the legislation. If you desire, he would be pleased to discuss the matter with you.

The Anti-trust laws were enacted to preserve competition in the public interest yet the present litigation, in the absence of corrective legislation, could serve to destroy the competitive news and editorial voices of many newspapers.

Sincerely,

ROBERT C. NOTSON.

CASTLE & COOKE, INC.,
Honolulu, Hawaii, May 12, 1969.

Hon. EDITH GREEN,
House of Representatives,
Washington, D.C.

DEAR MRS. GREEN: I seldom write letters to Hawaii's congressmen, let alone those of other states. But there is legislation soon to come before both houses that is of considerable concern to Honolulu's morning newspaper and, in turn, to a city that knows how well it serves the community.

I am referring to the Newspaper Preservation Bills. A recent Supreme Court ruling in the Tucson newspaper case would seem to pose a threat to the future of the Honolulu Advertiser. An ailing newspaper a few years ago, the Advertiser merged its commercial functions with those of the afternoon Honolulu Star-Bulletin, yet maintained a

completely independent newsroom operation.

The arrangement has been highly successful. There's no question that it saved the independent life of the Advertiser.

But, best of all, the community is now reading two vastly improved newspapers. Both papers, thanks to savings in operations, have put new money into editorial content. News staffs have remained fiercely competitive. Better salaries and working conditions have attracted more competent reporters. Better wire services, better interpretive writing, better picture coverage, better everything has resulted.

As a former newspaperman of 20 years experience, I believe I am qualified to say that these papers have improved 100 percent since they created an agency system. There is no question that the ability to merge mechanically, circulation and advertising functions made improved editorial operations possible.

Now this would appear to be threatened by the court's decision. The irony of all this is that, if the papers had fully merged (and this likely would have swallowed up the Advertiser entirely), it would have been legal under the Sherman act. It is partial merger that has been ruled illegal.

The Newspaper Preservation Bills (S–1520 and HR–8765) provide that when a going-under newspaper merges its commercial but not its editorial functions with a stronger paper, the result will be treated under law as if it were a full merger.

I assure you that the Honolulu community has never been better served by its major newspapers than since this partial merger. To change the arrangement could only weaken one editorial voice—and might destroy it entirely.

I can only speak as a witness in Hawaii, but I suspect a similar situation exists in 21 other U.S. cities where like arrangements have been made.

I believe your support of this legislation will be in the best interests of journalism in this country. It is so much better to have two voices—rather than one—in a community.

Sincerely,

DAVID W. EYRE.

Mr. STRATTON. Mr. Chairman, I rise in support of H.R. 279, the Newspaper Preservation Act, a piece of legislation which I have joined in cosponsoring under my own name as H.R. 10511.

The purpose of this legislation is very simple and very forthright; namely, to preserve separate editorial positions and presentation of the news in communities where the completely separated printing and publication of several modern newspapers is no longer financially possible. Indirectly, if not directly, this is the situation which exists in the capital district area of New York State, a part of which I have the honor to represent, and it is a situation that also exists in many other areas of our country.

Because of the pressure of competition from other media and the severe rise in production costs, many newspapers have faced financial collapse and many cities today are served by only one daily newspaper. In fact the number of cities so affected has increased from 509 in 1910 to 1,284 in 1968, and only 45 cities in the country have two or more commercially competing dailies.

In such circumstances it has developed that the only possible way to provide for separate editorial competition in a community is for two papers to undertake joint operation rather than trying to continue to maintain separate facilities for producing, publishing, distribution, and advertising solicitation. However, this arrangement, which is the only practical way to maintain a measure of editorial competition in many communities, and is presently in operation in 22 communities, has recently come under a legal cloud as far as the operation of the Federal antitrust laws are concerned in the Supreme Court decision handed down in Citizen Publishing Co. against the United States in late 1969. The decision in the Citizen Publishing Co. case left it clearly to Congress to resolve the policy question thrust upon us by the Court's narrow interpretation of the antitrust laws.

The Newspaper Preservation Act which is before us today decides this question by placing Congress on the side of preserving a free press rather than stressing the technical sanctity of a narrow reading of the antitrust legislation. Specifically it makes a joint operating agreement in the case of a newspaper, which is clearly facing economic collapse, possible without being in violation of the antitrust laws. Failure to enact this legislation would mean the death of at least 22 newspapers in 22 American cities where such joint operating agreements are now in effect to preserve editorial competition while combining publication and distribution facilities, and it could also create problems for other communities, such as Albany and Schenectady, where a somewhat different legal arrangement for carrying out these cooperative arrangements now exists.

I believe that the interests of the people in all of these areas affected, and the freedom of expression and freedom of the press which are involved, dictate the prompt enactment of H.R. 279.

Mr. HOGAN. Mr. Chairman, as one of the many cosponsors of the Newspaper Preservation Act, I would like to express to the Members my personal conviction that this legislation offers an opportunity for the Congress to remedy a situation which might otherwise do irreparable damage.

We are all aware of the declining number of metropolitan newspapers in the United States, and of the accompanying loss of separate editorial voices. Though we wish it were otherwise, the death of a newspaper today does not lead to the institution of a new newspaper in its place, but results only in a void which is never adequately filled. I am told that the economics of newspaper publishing have undergone tremendous changes—including great increases in the costs of newsprint and labor, and increased competition for advertising revenue from other media, such as television, radio, regional magazines, and shoppers papers. Because of these increases in costs and in competition, we have apparently reached a point in time where most cities cannot economically support two commercially competing newspapers.

Today there are only 217 cities in the United States which have more than one daily newspaper. In 150 of these cities, the morning and evening newspapers are owned by one person. Of the 67 remaining, there is total competition—commercial and editorial—in 45 cities, and the other 22 have some form of joint operating arrangement which provides for editorial and news competition, while eliminating commercial competition.

The intent and purpose of the newspaper preservation bill is to insure that the editorial and news competition in the 22 cities with joint operating arrangements will not be destroyed by forcing the newspapers in these cities to revert to commercial competition. The bill would also provide a means of saving editorial and news competition in one or more of the 45 cities where there is now commercial and editorial competition, but where one or more of the papers may become a failing newspaper. The bill would have no effect upon the 150 cities which have one owner of morning and evening newspapers. To the contrary, this bill would treat the 22 cities with joint operating arrangements in the same manner as is now the case in the 150 cities with one-owner operations.

The Founding Fathers of this Republic were cognizant of the importance of freedom of expression and the need for diversity of opinion in order to shape and sustain our form of government. In the first amendment to the Constitution of the United States they prohibited any governmental interference with the freedom of the press. But, neither the framers of the Constitution nor this Congress can legislate a means of maintaining diversity of opinion where the economics of publishing a newspaper dictate its demise.

In 1933, two conscientious publishers in Albuquerque, N. Mex., thought they had found a means of maintaining two editorially competing newspapers, although the city could not support both newspapers commercially. They entered into the first joint operating arrangement—a merger of the commercial aspects of publishing the two papers, while providing for continued news and editorial competition. This arrangement in Albuquerque was successful, and its example has been followed in 21 other cities, where otherwise only one newspaper could survive. In each of these 22 cities, commercial competition between the papers ended, but the public was still offered two different points of view.

The existence of these arrangements was known to the Congress and the Department of Justice. Apparently there was no question as to their legality. Then, in 1965, the Antitrust Division of the Department of Justice moved against a joint operating arrangement in Tucson which had been in existence since 1940. The court in Tucson, since affirmed by the U.S. Supreme Court, has found that these arrangements violate the antitrust laws. The Justice Department has announced that Tucson is the test case, and its results will affect each of the other cities with like arrangements.

In introducing and supporting the newspaper preservation bill, I am not condemning the Justice Department or the courts, for they have followed the antitrust laws in a literal manner. I do urge the Congress to now amend the antitrust laws so that their original intent—to preserve competition—will be

followed, by providing for the maintenance of the only competition now available—competition in news coverage and editorial comment.

By treating a joint operating arrangement as a commercial merger, and thus on a par with the 150 one-owner cities, the Congress will help preserve competition in the marketplace of ideas.

This is not to say that we do not desire commercial competition where it now exists. We do and should encourage it wherever it is economically feasible. Fortunately, in Washington and in Baltimore there is commercial and editorial competition. So far as I know, the daily newspapers in these cities do not need or desire the relief which would be provided by this bill. But in the 22 cities where joint operating arrangements now exist, and where there is no commercial competition between the papers, the existence of editorial competition is dependent upon passage of the newspaper preservation bill.

We must consider the alternatives available, and it is my firm belief that the preservation of diverse editorial voices, as provided by this legislation, is in the public interest.

Mr. BUTTON. Mr. Chairman, the Newspaper Preservation Act now before this body is an important piece of legislation that demands our wholehearted support. At stake, quite realistically, is the whole issue of a free and responsible press.

We know already, from testimony heard before the Judiciary Committee, that a failure to enact this legislation will cost us separate editorial voices in 22 cities where joint operating agreements already exist. In these 22 cities, two separate newspapers operate only because the high costs of production have been minimized through the joint agreements.

One printing plant produces both papers, and in some cases, one advertising sales force serves both papers. The important thing, however, is that the newspapers maintain separate editorial voices that are unaffected by the joint operation agreement.

Citizens in these cities benefit with the airing of public opinion from two viewpoints. Two independent voices represent their important interests. And while the cost of losing this free and separate press in 22 cities is high, the ultimate cost—if we fail to pass this legislation—is even greater.

Newspapers in other cities are facing rising production costs that could spell the end for many more competing newspapers in this country. A look at the record does not inspire confidence should we fail to act. In 1920 there were 550 cities in this country with competing daily newspapers. By 1945, the number had dropped to 117 cities. Today, only 59 cities enjoy a competing press.

By failing to approve this bill, we will lower that number to 37 cities. More than that, however, we will be seriously jeopardizing this Nation's free press, for other newspapers in other cities find themselves in similar financial difficulties.

The action of the Supreme Court in the Citizen Publishing Co. case in Tucson could well spell the end for the competing daily. As one who has spent a good part of his life in newspapers as a reporter and editor, I am both sorrowed and shocked at the prospect. I cannot imagine the catastrophic results, should all the urban centers of this Nation be reduced to the poverty of only one newspaper voice.

Many factors have contributed to this precarious vulnerability on the part of our Nation's press. Perhaps the chief factor has been part and parcel of our own technological revolution with television coming into its own at the same time newspaper's traditional audience, the city dwellers, have moved further and further away from the urban centers. The logistics of moving newspapers over greater and greater distances have been a major factor leading to this situation.

As former executive editor of the Albany Times-Union in my own State of New York, I knew only too well the huge costs involved in putting out a good newspaper. By being joined for the past decade with the Albany Knickerbocker News, it is possible for both papers to produce a fine journalistic product that provides a substantial forum for the people.

The experience of the Honolulu newspapers with a joint operating agreement has proven so successful that my colleagues from Hawaii have received the enthusiastic endorsement of business, labor, and government leaders, who all have urged adoption of this act.

I think it necessary to point out to critics of this bill that the provisions are very circumspect with regard to maintaining an independent editorial voice. The bill provides for joint operating agreements that cover production, advertising, circulation, and general business practices, but does not exempt from antitrust action any other practices like predatory pricing.

And, as a further precaution, the bill provides that any future joint operating agreements must be submitted to the Attorney General's Office, thus preserving the integrity of independent newspapers who may fear pirating from large operations.

I enthusiastically urge the adoption of this bill—which has received a great deal of support in the newspaper profession—to preserve our Nation's free and independent press.

Mr. McCLOSKEY. Mr. Chairman, I vote for the Newspaper Preservation Act today with mixed emotions. Two competing principles are involved, both of which have considerable merit. On the one hand, we seek to preserve a free press with as much encouragement as possible for the preservation of competing editorial voices. On the other hand, we have long recognized that fair competition in our economic system requires prohibition of agreements in restraints of trade.

The press is not merely a voice for news and editorial opinion; newspapers are also commercial businesses. Like public utilities, they are sui generis and it is a close question as to whether we should give priority to independent editorial comment or to strict application of the antitrust laws. In deciding this issue, I have reached the conclusion that the benefits of preserving independent editorial comment outweigh the drawbacks. I reach this conclusion by reason of the following facts:

During the 30-year period from 1930 to 1960, the number of urban areas of population of 2,500 or more, with a total population of 60 million, increased from 3,165 to 5,022 in number, with a total population of over 113 million. During the same period of time, however, those areas which had competing ownership in at least two newspapers dwindled from 288 to 61.

By 1968, the total number of urban areas with competing newspapers had been further reduced to 45, with 22 additional cities compelled to have separately owned papers operating under some form of joint operating agreement.

Underlying this trend toward fewer local dailies have been the economies inherent in large-scale business enterprise, not unique to the newspaper business. Capital expenditures have rapidly increased and wages have trebled since World War II. This has benefited the larger newspapers and permitted them to offer lower advertising rates as their circulations increased. Since advertising provides nearly 70 percent of total revenues in the newspaper business, smaller newspapers have been forced to economize by cutting back on news reporting and editorial comment. A spiraling effect has resulted, whereby smaller circulation has led to further cutbacks, with further decrease in circulation. Thus, when one urban newspaper has begun to lose its circulation to a competitor, the successful paper has been able to cut its advertising rates as well. Once a major newspaper begins to successfully outstrip its competition, the result is to speed up rather than slow down the demise of the less-successful paper.

The evidence adduced in the committee hearings also reflects that once a daily newspaper dies in a multiownership city, its place is not taken by new competitors. There has been no successful daily paper of general circulation established in any city of over 200,000 population since 1941.

Prior to the Tucson decision last year, 44 competing newspapers in 22 separate cities had managed to preserve competing editorials voices by combining their production and advertising operations. The Supreme Court held, and I believe properly so, that these joint operating arrangements were in violation of the antitrust laws.

It is clear that such arrangements permitted the two competing newspapers to substantially increase their advertising rates, a clear violation of the antitrust laws.

The question then arises as to whether or not such price fixing is justified by the preservation of competing editorial voices. In the San Francisco Bay area, for example, the San Francisco Chronicle and Examiner have operated under such an arrangement for several years,

and we are faced squarely with the question as to whether or not the preservation of their independent editorial views justifies, in the San Francisco Bay area, the higher advertising costs to the public. I am satisfied, that had the joint operating agreement not been entered into in San Francisco, the Examiner would ultimately have gone out of business, leaving its competitor free to increase such advertising rates anyway. Likewise, I am not convinced that potential competitors for either the Chronicle or the Examiner would have been inhibited by competition against only the survivor of such competitors, rather than under the present circumstances where any new newspaper will have to compete two existing dailies.

For these reasons, then, I believe it appropriate to provide an exception to the antitrust laws to permit competing urban newspapers to operate under joint operating agreements in the manner set forth in the act. I feel that the problems involved in "the one-newspaper town" outweigh the single problem generated by granting the exception to this single type of business which plays so important a part in the Nation's search for truth.

The CHAIRMAN. All time has expired.

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

The Clerk read as follows:

H.R. 279

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

SECTION 1. This Act may be cited as the "Newspaper Preservation Act".

DECLARATION OF POLICY

SEC. 2. In the public interest of maintaining a newspaper press editorially and reportorially independent and competitive in all parts of the United States, it is hereby declared to be the public policy of the United States to preserve the publication of newspapers in any city, community, or metropolitan area where a joint operating arrangement has been heretofore entered into because of economic distress or is hereafter effected in accordance with the provisions of this Act.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "antitrust law" means the Federal Trade Commission Act and each statute defined by section 4 thereof (15 U.S.C. 44) as "Antitrust Acts" and all amendments to such Act and such statutes and any other Acts in pari materia.

(2) The term "joint newspaper operating arrangement" means any contract, agreement, joint venture (whether or not incorporated), or other arrangement entered into by two or more newspaper owners for the publication of two or more newspaper publications, pursuant to which joint or common production facilities are established or operated and joint or unified action is taken or agreed to be taken with respect to any one or more of the following: printing; time, method, and field of publication; allocation of production facilities; distribution; advertising solicitation; circulation solicitation; business department; establishment of advertising rates; establishment of circulation rates and revenue distribution: *Provided*, That there is no merger, combination, or amalgamation of editorial or reportorial staffs, and that editorial policies be independently determined.

(3) The term "newspaper owner" means any person who owns or controls directly, or indirectly through separate or subsidiary corporations, one or more newspaper publications.

(4) The term "newspaper publication" means a publication produced on newsprint paper which is published in one or more issues weekly (including as one publication any daily newspaper and any Sunday newspaper published by the same owner in the same city, community, or metropolitan area), and in which a substantial portion of the content is devoted to the dissemination of news and editorial opinion.

(5) The term "failing newspaper" means a newspaper publication which, regardless of its ownership or affiliations, is in probable danger of financial failure.

(6) The term "person" means any individual, and any partnership, corporation, association, or other legal entity existing under or authorized by the law of the United States, any State or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any foreign country.

ANTITRUST EXEMPTION

SEC. 4 (a) It shall not be unlawful under any antitrust law for any person to perform, enforce, renew, or amend any joint newspaper operating arrangement entered into prior to the effective date of this Act, if at the time at which such arrangement was first entered into, regardless of ownership or affiliations, not more than one of the newspaper publications involved in the performance of such arrangement was likely to remain or become a financially sound publication: *Provided*, That the terms of a renewal or amendment to a joint operating arrangement must be filed with the Department of Justice.

(b) It shall be unlawful for any person to enter into, perform, or enforce a joint operating arrangement, not already in effect, except with the prior written consent of the Attorney General of the United States. Prior to granting such approval, the Attorney General shall determine that not more than one of the newspaper publications involved in the arrangement is a publication other than a failing newspaper, and that approval of such arrangement would effectuate the policy and purpose of this Act.

(c) Nothing contained in this Act shall be construed to exempt from any antitrust law any predatory pricing, any predatory practice, or any other conduct in the otherwise lawful operations of a joint newspaper operating arrangement which would be unlawful under any antitrust law if engaged in by a single entity. Except as provided in this Act, no joint newspaper operating arrangement or any party thereto shall be exempt from any antitrust law.

PREVIOUS TRANSACTIONS

SEC. 5. (a) Notwithstanding any final judgment rendered in any action brought by the United States under which a joint operating arrangement has been held to be unlawful under any antitrust law, any party to such final judgment may reinstitute said joint newspaper operating arrangement to the extent permissible under section 4(a) hereof.

(b) The provisions of section 4 shall apply to the determination of any civil or criminal action pending in any district court of the United States on the date of enactment of this Act in which it is alleged that any such joint operating agreement is unlawful under any antitrust law.

SEPARABILITY PROVISION

SEC. 6. If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this Act, and the applicability of such provision to any other person or circumstance, shall not be affected thereby.

Mr. KASTENMEIER (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the substitute committee amendment be dispensed with and that it be printed in the RECORD and be open to amendment at any point.

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

There was no objection.

AMENDMENT OFFERED BY MR. JACOBS

Mr. JACOBS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JACOBS: Page 7, line 12, strike out "enforce, renew, or amend" and insert "enforce, or renew".

Mr. JACOBS. Mr. Chairman, the purpose of this amendment obviously is, on page 7, line 12, to strike the word "amend."

I can understand, although perhaps not agree with, because I have not made up my mind yet—I can understand the philosophy of this bill to create a kind of grandfather clause for these joint operating agreements that already exist. I can understand why the authors would want to permit "the performance" and "the enforcement" and even "the renewal" of these operating agreements. I cannot understand, however, why they would want to legalize "amendments" of those agreements with what appears by the language of section 4 to be a carte blanche right to amend in any way, and I presume to add as many successful newspaper companies around the country as they might desire, merely by filing with the Department of Justice the terms of the amendment. I think this is a creep-through loophole in the announced or expressed intent of this legislation.

If there is going to be any amendment or any new agreement under the heading of an amendment, I think it should be under the other provisions of the bill, which require the Attorney General's consent to make the change.

Mr. MACGREGOR. Mr. Chairman, will the gentleman yield to me?

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

Mr. MACGREGOR. I wish to commend the gentleman for his amendment. I think the reasons he has given for offering the amendment make remarkably good sense. The adoption of the amendment would make this bill considerably less undesirable than it is in its present form. I am pleased to support the gentleman from Indiana and urge my colleagues to do likewise.

Mr. JACOBS. I thank the gentleman.

I repeat, Mr. Chairman, this amendment simply does nothing more than make the bill conform to the purpose of the bill "as advertised."

Mr. BOGGS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and members of the committee, I am quite certain that the distinguished chairman of the subcommittee as well as the distinguished gentleman from Hawaii will handle the

merits of the amendment offered by my good friend from Indiana. I think on its face it would have a very bad effect on the purpose of this legislation.

Mr. Chairman, I rise in support of this bill. I do so largely because of the reasons stated this afternoon by the distinguished gentleman from Hawaii when he pointed out so succinctly that the purpose of this legislation is to end the trend toward newspaper monopoly, to end the trend of newspapers dying because of the fantastic costs of operating a newspaper, and to maintain, I think in some 22 cities, operations which have proved effective in keeping alive vital organs of public opinion.

Now, I see my good friend from Louisiana, my colleague (Mr. HÉBERT), standing there. When he was growing up—and he is just a year or two older than I am—there were at least three separately owned newspapers in the city of New Orleans, independently owned, but gradually they were combined until today there is only one newspaper publishing company in New Orleans, with a morning and an afternoon newspaper. The editorial policies of these newspapers are set freely and independently by the local management in New Orleans.

The point I make is that today the operation of a newspaper is frightfully expensive. I cannot name—and I doubt if anyone in this Chamber can name—a newspaper which has come into existence in the last 25 years and has been successful.

I remember that Marshall Field, who had more money than he could count, tried to start a newspaper in New York City, and despite the fact that he spent millions and millions of dollars, he finally had to give up.

In truth and in fact, what has happened is that everywhere newspapers have been going out of business. New York City is a good example—the biggest city in our country. Years ago there were a dozen newspapers in that city. Today I think there are three—there may be more when you count some of the suburban papers. However, the same thing can be said about almost every large city in this country.

This bill does not create monopolies. It does just exactly the opposite. It permits different enterprises under a totally different ownership, advocating entirely different editorial points of view, having an entirely different approach to the reporting of the news to be able to maintain themselves in one plant.

Now, we built a plant in New Orleans not very long ago and I think it cost something over $13 million or $14 million just for the plant alone.

Mr. Chairman, this bill is not a unique concept in our society. Many of us have argued here for a long time when we have considered matters like hospital legislation, the idea that if there were 10 hospitals in one community, each one of those hospitals had to have a kidney machine, each one of them had to have the most expensive and modern electronic devices and various accessory equipment and so forth. Well, what we have tried to do is to let these hospitals use this equipment collectively. That is what is involved in this legislation.

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

Mr. BOGGS. I am glad to yield to my distinguished colleague.

Mr. HÉBERT. I want to say to my colleague that I certainly associate myself with the remarks he is making. I wish he would elaborate upon one situation he touched upon and that is the independence of editorial policy particularly relating to the papers in New Orleans, the Times Picayune and the States-Item.

Those papers have diametrically opposite views, and have independently supported those views, independent one from the other. I wish the gentleman from Louisiana would elaborate on that policy which I think is a healthy policy, and within the same building their spirit of competition is something that is very keen.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. BOGGS was allowed to proceed for 2 additional minutes.)

Mr. BOGGS. Mr. Chairman, I thank my colleagues for the additional time.

The gentleman from Louisiana has made a very significant point. These newspapers are owned by the same owner, yet they are completely independent editorially. Now, someone may say, "Well, this is only a game," but it is not. Their editorial staffs are competitive. The net result is that we have people writing editorials who have to be knowledgeable and who have to do research. And today I think that there has been a tremendous improvement in the quality of both of those newspapers because of that competition.

But the significant thing about this bill is that if we fail to act—I always like to look at alternatives—that if we fail to act, in my judgment, we are going to see the end, the death and the demise of some of the finest newspapers in the country. I have seen it happen since I came to Washington. When I first came there was the Washington Times-Herald, and it does not exist any more. I am told that Scripps-Howard is only able to maintain its fine newspaper because it is subsidized from profits made elsewhere.

So, Mr. Chairman, again I commend the committee and particularly the gentleman from Hawaii (Mr. MATSUNAGA) who has worked for this bill, who has shepherded it through the Committee on Rules, and who has shown not only knowledge of the newspaper business here this afternoon, but a keen appreciation of the antitrust laws of this country.

The Newspaper Preservation Act has been described—accurately, I believe—as a bill that chooses to preserve a free press rather than the technical sanctity of the Federal antitrust laws.

I believe that this bill is in concert with the spirit and purpose of the antitrust laws, specifically, to foster and encourage competition. What H.R. 279 proposes, is that divergent editorial voices and competition in news coverage be maintained. The basic theory of the bill is built on a reasonable extension of the long-established "failing company" doctrine.

The Supreme Court has recognized that a merger between two competitors, one of which is failing, can have no adverse impact on competition. Whether or not the merger occurs, the failing company would disappear as a competitive factor.

Unfortunately, since to qualify as a "failing company" a newspaper must be virtually on the verge of bankruptcy, the Court-created defense has been of little value to the newspapers. An owner with other resources whose newspaper has begun spiraling downward is more likely to seek merger with, or sell his assets to, another local newspaper, than he is to put good money after bad.

Ironically, the antitrust laws would permit a merger under these conditions. An agreement to share operating expenses and revenues, however, is a per se violation, despite the fact that the latter arrangement allows the preservation of multiple, independent editorial viewpoints.

The limited exemption proposed by H.R. 279 is certainly not without precedent. Over the years, Congress has made the judgment that in certain cases the national interest would best be served by exempting farmers cooperatives, fishermen, labor unions, banks, small businesses, professional sports and certain other groups from the general framework of antitrust enforcement. The national interest in preserving a free press, I believe, deserves no less a consideration.

Moreover, Mr. Chairman, the exemption proposed by this legislation is as narrow as possible. Any predatory practice or pricing by the joint arrangement is specifically prohibited.

However wistfully we might hope to the contrary, we must realize that the antitrust laws cannot create commercial competition where the market will simply not support two totally competing daily newspapers. If those laws are amended as H.R. 279 proposes, we can at least foster the competition of ideas embodied in separate news gathering staffs, separate editorial viewpoints and separate ownership.

I urge Members to vote for passage of H.R. 279.

Mr. KASTENMEIER. Mr. Chairman, I rise in opposition to the amendment.

Very briefly, Mr. Chairman, the word "amend" has to remain in the bill.

Mr. Chairman, the committee devoted considerable time to this, and decided it was absolutely necessary for the operation of those operations involved in such agreements to continue, to contain the word "amend." Newspapers do amend their agreements sometimes on an annual basis for the purpose of labor contracts and for many other operational reasons.

Both the subcommittee and the full committee considered this, and we determined that we would not require prior approval of the Attorney General to agree to such amendments because it would work a hardship on the papers that have enjoyed such agreements for

years. Accordingly, we specifically included the word "amend" to refer to changes that might take place in the course of ordinary business operations.

On the other hand, the fear of the gentleman from Indiana has been relative to the addition of other newspapers to an existing joint operating agreement. I am convinced, as far as the committee is concerned, that we did not contemplate in the renewal of the mandatory process under section 4(a) the possibility that any agreement would be amended to add additional newspapers. This would be in our view something that would come under 4(b), and would be in the nature of a new joint operating arrangement for which prior approval of the Attorney General would be required.

Mr. MIKVA. Mr. Chairman, will the gentleman yield for a question?

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

Mr. MIKVA. Mr. Chairman, I would ask the gentleman from Wisconsin if I am correct that the present newspapers that are intended to be blanketed in under section (a), all involve operating agreements between two newspapers; is that correct?

Mr. KASTENMEIER. That is correct, assuming that the Sunday entity and the third-party entity are included——

Mr. MIKVA. And are treated as one.

Mr. KASTENMEIER. In the normal consideration of the word there are two papers involved.

Mr. MIKVA. Not more than two, is that correct?

Mr. KASTENMEIER. Not more than two; that is correct.

Mr. MIKVA. And is it correct that it was not the intention of the full committee to encompass by the word "amend" the possibility of adding additional newspapers under the grandfather clause; is that correct?

Mr. KASTENMEIER. The gentleman states the position of the committee correctly.

Mr. MIKVA. Subject to what happens on this amendment, I am reserving the right to offer another amendment that will clearly spell that out. It is my understanding from the committee hearings that it was intended to operate in that way.

Mr. KASTENMEIER. I think both the gentleman from Illinois and the gentleman from Indiana are doing a service in calling attention to this, what may be in the minds of some, an ambiguity. But nonetheless I must oppose the amendment because the word "amend" and the subsequent word "amendment" on line 19, page 7, is necessary for the ordinary operations of the newspapers involved.

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

Mr. KASTENMEIER. I yield to the gentleman.

Mr. JACOBS. The gentleman from Indiana understands the purpose of this language in the bill.

Amendment from time to time to arrangements are probably quite in order within the theory of this bill.

Would the gentleman agree to an amendment in the proper language that would leave in the word "amend" so that they could amend technically but also place a restriction that while amending under this carte blanche authority no other newspaper could be added to the arrangement?

Mr. KASTENMEIER. In the opinion of the gentleman from Wisconsin, that amendment is not necessary and I would certainly reserve the right to examine such an amendment to see if it might be acceptable.

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

Mr. KASTENMEIER. I yield to the gentleman.

Mr. EDMONDSON. I concur with the gentleman from Wisconsin that the amendment that has been offered would be both mischievous and undesirable.

I think it would severely handicap the normal operations of newspapers to have this amendment placed in the bill.

On the other hand, it is my understanding of the position of the gentleman from Wisconsin that if it were intended to have a joint operating arrangement that brought in additional newspapers that those additional newspapers' operating arrangements would come under 4(b); is that not correct?

Mr. KASTENMEIER. That is correct.

Mr. EDMONDSON. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. JACOBS).

The amendment was rejected.

AMENDMENT OFFERED BY MR. THOMPSON OF GEORGIA

Mr. THOMPSON of Georgia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. THOMPSON of Georgia: On page 5, line 17, after "Act," insert the following: "and require separate ownership of newspapers in any city, community or metropolitan area where the normal circulation areas are substantially identical."

On page 7, between lines 9 and 10, insert the following:

"(7) the term 'owner' means any individual, partnership, corporation, association or other legal entities who by virtue of simple or entangled financial structure exercises control over a newspaper.

"(8) 'normal circulation area' means any geographical area in which a daily or weekly newspaper dispenses more than 51 per centum of each issue of the paper."

On page 8, between lines 13 and 14 insert the following:

"(d) It shall be unlawful for any one owner to publish or offer for sale more than one daily or weekly newspaper in any one normal circulation area if the newspaper utilizes any subsidized class of U.S. mail for delivery of any of its papers anywhere or if the sale of any of the papers affect interstate commerce."

POINT OF ORDER

Mr. KASTENMEIER. Mr. Chairman, I make a point of order against the amendments.

The CHAIRMAN. The gentleman will state the point of order.

Mr. KASTENMEIER. Mr. Chairman, the amendments contemplate more than the bill as authorized by the Committee on Rules comes to us and encompasses.

The bill is for the purpose of exempting from the antitrust laws certain joint newspaper operating arrangements.

As I understand the amendments, they would go beyond the joint newspaper operating arrangements and go to general or other ownership with respect to newspapers and, in addition thereto, make reference to the U.S. mail and other matters that are not germane to this bill.

The CHAIRMAN. Does the gentleman from Georgia (Mr. THOMPSON) desire to be heard on the point of order?

Mr. THOMPSON of Georgia. Yes, Mr. Chairman; I do.

The bill we have before us is a bill to amend the antitrust laws by providing certain exemptions to certain classes of newspapers engaged in joint operation. The amendments that I have offered would prohibit the joint operation of a newspaper where there is a single ownership. In substance, it provides an additional antitrust law. For that reason I feel it would be germane.

The CHAIRMAN. The Chair is ready to rule. The bill deals with a very narrow area of joint operation of newspapers in relation to the antitrust law. The gentleman's amendment obviously goes far beyond the matter covered in the bill and brings into consideration matters of the ownership of newspapers, which is not concerned in the bill. It also brings in the involvement of subsidized mail, not covered by this bill. Because it does go so far beyond the text of the bill, the Chair rules that the amendments are not germane and therefore sustains the point of order.

AMENDMENT OFFERED BY MR. THOMPSON OF GEORGIA

Mr. THOMPSON of Georgia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. THOMPSON of Georgia: On page 9 before line (1) add the following:

"SEC. 6. Notwithstanding anything to the contrary herein, antitrust exemptions provided by this act shall not apply to any joint operation unless separate advertising rates are published and no effort is made to require advertisers to advertise in more than one paper.

On line 2 change "Sec. 6." to "Sec. 7."

(Mr. THOMPSON of Georgia asked and was given permission to revise and extend his remarks.)

Mr. THOMPSON of Georgia. Mr. Chairman, the purpose of the amendment is very clearly stated in the amendment itself. It merely provides that if there is to be an antitrust exemption granted in the joint operation of newspapers, it shall apply only if there is no coercion by the owners to require an advertiser to advertise in both newspapers. In other words, they must publish separate advertising rates for each newspaper. If one is a morning paper and the other is an afternoon paper, they must publish the rate for the morning paper and the rate for the afternoon paper, and the joint operation may not coerce advertisers to advertise in both as opposed to one of the newspapers.

I submit that this is an amendment which is needed to the bill. If we are going to give special antitrust exemption, certainly we must look to the public interest. We must look to the interests of

the individual advertiser, who may not want to advertise in both newspapers, but he may be forced to do so unless an amendment such as the one offered is adopted.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield for a question?

Mr. THOMPSON of Georgia. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. The gentleman says that the newspaper publishers should publish their rates for advertising. Would he mind describing to the House what he has in mind when he says that they shall be required to publish their rates? Will they have to publish the rates every day when they publish the newspaper, or does the gentleman think it would suffice if the rates they proposed to charge and do charge are available upon request to those who do advertise?

Mr. THOMPSON of Georgia. I would like to state to the gentleman that by publication I mean publication in the same manner in which they are now published, but as an individual rate. You would simply call the newspaper, and they must have on hand separate rates. If you would request them, you would be given a list of the separate rates. Obviously they could change as economic conditions change.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield further?

Mr. THOMPSON of Georgia. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. The gentleman realizes that when newspapers engage in joint operations for economy's sake, there is some economy to advertising in what are called combination papers, does he not?

Mr. THOMPSON of Georgia. The gentleman's question is simply that possibly because of the making of one print, as opposed to two, to be published in both papers there may be a certain economy that can be taken into account in the rates. But the point I am making is that there must be separate rates for each paper. If one wishes to advertise in the two, there could be a rate for the two together.

Mr. WAGGONNER. I thank the gentleman.

Mr. WOLFF. Mr. Chairman, I take it the gentleman is familiar with the fact that there is published on a regular basis in a publication called standard rate and data advertising rates of newspapers throughout the country. As well, each newspaper publishes a rate card which is available to all advertisers. The gentleman's amendment specifically states he would not permit the newspaper to require advertising in both newspapers.

Mr. THOMPSON of Georgia. That is correct.

Mr. WOLFF. However, it also precludes the advertiser from getting the advantage of advertising in both newspapers at reduced combination rates.

Mr. THOMPSON of Georgia. Not at all. I certainly feel it does not preclude the advertiser from having the advantage, but the decision would be his as to whether he desires to advertise in the morning paper and in the afternoon paper or whether he desires to advertise in only one. In other words, it would eliminate coercion.

Mr. WOLFF. But the gentleman does not say "coercion," he says "require." But, in order to get a special discount rate the advertiser would be required to advertise in both newspapers, otherwise he would lose the opportunity of a joint reduced rate.

Mr. THOMPSON of Georgia. When one is required to advertise in both papers, I would say that is coercion.

Mr. WOLFF. When an advertiser could take advantage of lower if he advertised in both papers.

Mr. THOMPSON of Georgia. If one wants to advertise in only one paper, I would say he is being coerced to have to advertise in both, because there is no other avenue in which to advertise. It is all or nothing.

Mr. WOLFF. But if one advertises in both newspapers so that he can avail himself of a discount, the gentleman considers that coercion?

Mr. THOMPSON of Georgia. The point is this: Is the discount a true discount, or is the discount one to require advertising in both papers?

Mr. KASTENMEIER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I will not take the full 5 minutes. I merely wish to suggest that the gentleman's amendment really repeals part of the bill establishing advertising rates. It was not part of the testimony before the committee that this is a problem.

I recognize the gentleman from Georgia suggested earlier he did have a problem in Atlanta. It is not a city that has members operating under a joint agreement. But I suggest the amendment is one which is absolutely unacceptable and extremely destructive. What it suggests is that no effort may be made to require advertisers to advertise in more than one paper. This is really undue interference with the normal practices followed by newspapers which have not been particularly complained about in our hearings.

I must respectfully suggest, Mr. Chairman, that the amendment would literally undo the bill or a major portion of the bill relating to advertising practices within these operating agreements, and it must be rejected.

I might indicate, as the gentleman from Oklahoma indicated earlier, that part of the reason for this is the economic efficiency for these newspapers. To destroy an essential ingredient in the joint operating agreement tends to destroy the whole purpose of the bill and the arrangements which have been working for so many years.

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

Mr. KASTENMEIER. I yield to my friend, the gentleman from Hawaii.

Mr. MATSUNAGA. Mr. Chairman, is it not true that under section 4(c) of the bill itself there is protection for advertisers against "any predatory pricing" which might be used by the two newspapers. Section 4(c) reads:

> Nothing contained in this Act shall be construed to exempt from any antitrust law any predatory pricing, any predatory practice, or any other conduct in the otherwise lawful operations of a joint newspaper operating arrangement which would be unlawful under any antitrust law if engaged in by a single entity.

That means, of course, that what the gentleman anticipates is already outlawed under section 4(c) and his amendment is totally unnecessary.

Mr. KASTENMEIER. The gentleman is correct. At this point in the RECORD I want to respond to request from Andrew J. Biemiller, AFL–CIO, to incorporate the position of his organization on this legislation:

AFL–CIO,
Washington, D.C., July 8, 1970.

Hon. ROBERT W. KASTENMEIER,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN: On July 8, 1970, the House of Representatives is scheduled to consider H.R. 279, the "Newspaper Preservation Act."

H.R. 279 is designed to legalize joint publishing arrangements between newspapers in Tucson, Arizona and 22 other cities. Although the stated purpose of the bill is to provide for diversity of news coverage and ideological viewpoint, this would be at the expense of a retroactive exemption from the antitrust laws' prohibitions against price-fixing, profit-pooling and market-splitting.

We do not believe that exemption from the antitrust laws is justifiable or necessary to achieve the objectives which joint operating arrangements seek to accomplish. The greatest economies result from merged printing and distribution facilities and the courts have found that this is not forbidden by the antitrust laws. Nor do we believe that the exemption is without danger to independence of news coverage and ideological viewpoint, as the sponsors of the legislation contend.

In October 1969 the 8th Constitutional Convention of the AFL–CIO adopted a resolution stating the opposition of the AFL–CIO to "enactment of the broad, unnecessary, unregulated and perpetual antitrust immunity of the newspaper preservation bill." This resolution confirmed a position taken two years earlier by the AFL–CIO on similar legislation. I am enclosing herewith a copy of the resolution adopted by the 8th Constitutional Convention in Atlantic City, New Jersey, on October 6, 1969.

I would appreciate it if you would make known to the members of the House of Representatives the strong objections of the AFL–CIO to H.R. 279 and the fact that we believe that this bill, which we believe to be a "newspaper enrichment bill", should be rejected by the House of Representatives.

Sincerely,

ANDREW J. BIEMILLER,
Director, Department of Legislation.

AFL–CIO RESOLUTION—NEWSPAPER ANTI-TRUST EXEMPTION

The U.S. Federal Courts, including the Supreme Court, have found the price-fixing, profit-pooling and market-splitting provisions of a joint publishing arrangement between two newspapers in Tucson, Arizona, to be in violation of the nation's antitrust laws and ordered the joint arrangement modified to eliminate those provisions.

The Supreme Court further ruled that the Tucson papers' anticompetitive operations could not be justified under the "Failing Company" doctrine since one of the papers was not "on the verge of going out of business, nor was there a serious probability" that one would "terminate its business and liquidate its assets" unless it joined with its competitor.

Newspaper publishers involved in joint publishing arrangements in Tucson and 22 other U.S. cities for more than two years

have been attempting to persuade the Congress to grant them unregulated, retroactive and perpetual exemption from the antitrust laws' prohibitions against price-fixing, profit-pooling and market-splitting. (Bills to accomplish this now before Congress are S. 1520 and H.R. 279, titled the "Newspaper Preservation Act." Predecessor bills before the 90th Congress were S. 1312 and H.R. 7446, known as the "Failing Newspaper Act.")

These publishers also are asking Congress for a special definition of "Failing Company" as it applies to a newspaper: one which, "regardless of its ownership or affiliations, appears unlikely to remain or become a financially sound publication."

These same publishers in more than 30 days of hearings before the antitrust subcommittees of the Senate and House have failed to demonstrate that price-fixing, profit-pooling and market-splitting are vital to continued publication of more than one newspaper in the 23 cities in which joint publishing arrangements exist.

Jointly operating publishers in more candid days have stated, however, that the greatest economies of joint publishing are had from merged printing and distribution facilities, which, the Courts have pointed out, are not forbidden by the antitrust laws.

The stated purpose of the proposed antitrust exemption is to preserve diversity of news coverage and ideological viewpoint, but neither the bills now before Congress nor their predecessors carry any guarantee of such diversity.

Newspaper combinations involving such close community of economic interest as price-fixing and profit pooling have resulted largely in less diversity of news coverage and muted expressions of ideological differences, while virtually precluding establishment of newspapers which would provide true diversity and commercial competition.

The 1967 AFL–CIO Convention went on record during the 90th Congress "strongly opposing" enactment of S. 1312 and its companion bill H.R. 7446, known as the Failing Newspaper Act. Therefore, be it

RESOLVED: The 8th Constitutional Convention of the AFL–CIO opposes enactment of the broad, unnecessary, unregulated and perpetual antitrust immunity for the business practices of the newspaper industry embodied in the Newspaper Preservation bill, S. 1520 and H.R. 279.

And further, this Convention calls upon affiliates to use all means at their disposal to inform union members everywhere of the nature of this antitrust exemption continue to convey to Congress our opposition to passage of the measure.

Mr. MIKVA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think this amendment sort of summarizes the problems with this bill. Again I have to emphasize that under the Supreme Court decision—Citizen Publishing Company—which gave rise to this bill, all kinds of things were allowed. Even with that decision, it allowed specifically an optional, wholly-cost-justified advertising rate, to which my colleague, the gentleman from New York (Mr. WOLFF) referred and which he described.

We do not need this bill to provide that. The present law also allows an allocation of markets, joint printing, joint distribution, joint clerical and administrative staff.

What that decision did not allow is for a newspaper or a combination of newspapers to use a joint operating agreement as a club with which to hit advertisers over the head, to force them to take two when they wanted one, which is what the amendment seeks to cure; also the decision would not allow them to pool their profits.

The main thrust of this bill—and that is why it is true that the amendment would gut the bill—is to give those newspapers that were under joint operating agreements a complete pass under the antitrust laws.

Mr. Chairman, it is perfectly true that free enterprise and the free market become very hard to defend some times. It might well be that some newspapers might go under but for this bill, but I suggest to the members of the committee that is the price one pays for free enterprise.

Who better than the people should decide how many newspapers should serve a town? I am somehow not convinced that the Congress, acting in its infinite wisdom, is going to do a better job than the people themselves.

That is what is involved in this amendment.

Mr. THOMPSON of Georgia. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to the gentleman from Georgia.

Mr. THOMPSON of Georgia. Is it not true under the present bill a joint owner may require, if a person is to advertise at all, that he advertise in both papers?

Mr. MIKVA. Under section (a) that is correct.

Mr. THOMPSON of Georgia. If the amendment is adopted then it would be prohibited, if they are to be antitrust exempt, to require advertising in both papers.

Mr. MIKVA. I would point out to my colleague that the purpose of this bill is to allow them to do what the gentleman is trying to preclude them from doing. That is why it is a gutting amendment. That is why, for example, the AFL-CIO has come out unequivocally against the bill. It is intended to do the very thing the amendment would prohibit.

I say to my colleague, if he is right, the best thing to do is to vote "no," which I intend to do.

Mr. THOMPSON of Georgia. Mr. Chairman, will the gentleman yield further?

Mr. MIKVA. I yield further to the gentleman from Georgia.

Mr. THOMPSON of Georgia. In the one area of the advertising, requiring someone to advertise something he does not want to advertise, I agree with the gentleman, but the joint publication and joint printing is something else.

Mr. MIKVA. That is all allowed without the bill. That is allowed under the present Supreme Court decision.

What the gentleman is doing is ameliorating this bill, so that instead of being 9 months pregnant, it will only be four and a half months pregnant. I am not sure that is a great service to the public.

Mr. PUCINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, my colleague from Illinois has raised a most cogent point on this particular amendment.

I should like to ask the sponsors of this legislation a question which disturbs me very much about this bill. I am concerned—deeply concerned about the financial plight of America's newspapers and I want to do everything possible to help them.

But, for years, from the very birth of this Republic, the American press has provided for us those safeguards and those protections that no constitution can provide in itself. It has provided those safeguards simply because it has been totally free and unfettered, responsible to no one but its readers and its responsibility to its highest traditions of independence.

I wonder if this will continue to be so among those newspapers which seek relief under paragraph (b), section 4, of this act which provides, on page 7:

It shall be unlawful for any person to enter into, perform, or enforce a joint operating arrangement, not already in effect, except with the prior written consent of the Attorney General of the United States. Prior to granting such approval, the Attorney General shall determine that not more than one of the newspaper publications involved in the arrangement is a publication other than a failing newspaper, and that approval of such arrangement would effectuate the policy and purpose of this Act.

How free will these newspapers be when they seek relief under this section? How free will they be when they have to go hat in hand to get the consent of the Attorney General, when they have to make available to him all their books and records for him to examine under this section the things he must ascertain before he can grant approval? He can examine all their books and records, to see how much money they may have spent on the investigation of his own office, if such a need might have arisen at some earlier date.

How free will these newspapers be? Will they indeed be able to exercise complete and unfettered freedom, which we cherish so much in the press of this country, which is protected by the Constitution, when they have to be beholden to the Attorney General for his consent before they can seek relief under this act?

I would like one of the sponsors of the bill to comment on this.

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

Mr. PUCINSKI. Yes. Of course.

Mr. KASTENMEIER. These papers will be free as they have always been. You know the economics of the newspaper industry throughout this country. There have been mergers.

Mr. PUCINSKI. But mergers did not require the consent of the Attorney General, nor did they have to turn over their books and records to the Attorney General for his scrutiny and approval. They did not have to go to him hat in hand and say "Here is our problem. We need your consent before we move forward."

Mr. KASTENMEIER. Any combination or indeed all of these 44 newspapers have some relationship to the Federal Government or the Attorney General.

Mr. PUCINSKI. Did they have to get his approval? Did any newspaper in this country that is free and cherishes its freedom have to be beholden to any agency of the Government?

Mr. KASTENMEIER. Your colleague has been referring to the Tucson case where apparently the newspaper there had to have the approval of the Attorney General and any judge of a court which may impose on it whatever it wishes. Is that a free newspaper?

Mr. PUCINSKI. How much confidence can the people of that community have in a newspaper and its editorial policies and contents when it is beholden to the Attorney General for this relief? Mr. Chairman, I know how desperately many papers need help in this country but I believe the conditions required by this act are too costly in freedom to make it worthy of support.

Mr. KASTENMEIER. Will the gentleman yield further?

Mr. PUCINSKI. Yes. Certainly.

Mr. KASTENMEIER. I will finally say only that the newspapers will be as free as they have always been because it is the people of this country who buy the newspapers and the businessmen who advertise in them and not the Attorney General.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. THOMPSON).

The amendment was rejected.

AMENDMENT OFFERED BY MR. JACOBS

Mr. JACOBS. Mr. Chairman, I offered an amendment.

The Clerk read as follows:

Amendment offered by Mr. JACOBS; page 7, line 21 strike out the period and insert "and that the amendment does not add a newspaper publication or newspaper publications to such a management."

Mr. JACOBS. Mr. Chairman, this amendment, I think, meets the objection to my other amendment stated by the manager of the bill and hones it down from a shotgun approach to a rifle approach.

All this amendment does is to put in writing what the authors and the supporters of the bill say the intent of the bill is, namely, that if the existing arrangement is amended, it can be amended to streamline the operation and have a variety of corporate changes. But it cannot be amended to add new newspaper publications or a new newspaper publication to the "arrangement."

I ask the attention of the gentleman from Wisconsin and inquire as to whether he finds fault with this amendment.

Mr. KASTENMEIER. Will the gentleman please restate his amendment?

Mr. JACOBS. The amendment simply states that an existing newspaper arrangement which is given the grandfather clause under section 4 of the bill can be amended in any way except that it cannot be amended to add more newspapers to the arrangement, thereby requiring the addition of any new newspaper publications to be done under another section of the bill.

Mr. KASTENMEIER. Would my friend in the well allow the rereading of the amendment?

Mr. JACOBS. Surely.

Mr. KASTENMEIER. Mr. Chairman, I ask unanimous consent that the Clerk reread the amendment.

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

There was no objection.

The Clerk reread the amendment.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield further?

Mr. JACOBS. I yield to the gentleman.

Mr. KASTENMEIER. May I inquire of the gentleman whether or not this would prevent the existing newspaper from assigning its interest to another newspaper?

Mr. JACOBS. It says a "newspaper publication." Therefore, it is the entity of the publication itself rather than the ownership.

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

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

Mr. RAILSBACK. It is your intention as I understand it to prevent any additional newspapers to be added. In other words, if there is a change in corporate identity that would not necessarily be involved if your amendment is adopted?

Mr. JACOBS. Not as I read the language of the amendment.

Mr. RAILSBACK. Mr. Chairman, if the gentleman will yield further, the gentleman does not want additional newspapers to be added?

Mr. JACOBS. My answer to the gentleman from Illinois is the language of the amendment and the previous statement of the gentleman from Wisconsin.

Mr. RAILSBACK. I think it is a reasonable amendment and I think I am speaking for the ranking minority member of the committee.

Mr. KASTENMEIER. Mr. Chairman, will the gentleman yield further?

Mr. JACOBS. I yield further to the gentleman from Wisconsin.

Mr. KASTENMEIER. The language of the amendment might be acceptable if it provided that it would not bar, for example, two newspapers from operating a third newspaper in that city, and thereby giving more service to the people of that city. I see no particular objection to it. What the gentleman has in mind, as I understand the amendment, is to prevent the use of a joint operating agreement in one city from being applied to a different city?

Mr. JACOBS. The purpose is very simple. The carte blanche authority to amend the arrangement without any limitation whatsoever means authority to add every newspaper in the country if someone chooses to do so without having to secure permission from the Attorney General. I might say to my friend, the gentleman from Illinois (Mr. PUCINSKI), permission from the Attorney General is permission to violate the basic laws of the land as they stand today, the antitrust laws.

Mr. KASTENMEIER. If I may further inquire of the gentleman, if two owners within a city with a joint operating agreement had two newspapers, would your amendment prevent them from operating a third paper in that city?

Mr. JACOBS. I think so; to take a third paper in. The gentleman told me himself he believes that would be a new arrangement. Therefore, why should it not come under the provisions for a new arrangement?

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

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

Mr. RAILSBACK. Right now is it not true we are giving certain privileged treatment to the existing joint operating arrangements? We are not requiring them to obtain approval. So what the gentleman is trying to do is to assure before any additional newspaper publications are involved that in addition they will have to obtain approval to become a legitimate joint operating arrangement?

Mr. JACOBS. Precisely.

Mr. RAILSBACK. Yes?

Mr. JACOBS. Precisely.

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

Mr. JACOBS. I yield to the gentleman.

Mr. KASTENMEIER. At the risk of belaboring the point would the gentleman further define the sort of situation that this amendment, if adopted, would prohibit? In other words, what sort of situation would the gentleman's amendment prohibit?

Mr. JACOBS. All right. You have two newspapers in a joint operating arrangement. Whether the third newspaper is in town, out of town, or out of State, it cannot be added under the guise of an amendment to the existing arrangement. If they want to amend and add a newspaper they must come under another section of the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. JACOBS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: On page 7, line 2, after "which" strike out the remainder of the line, and add on page 8 after the language on line 5 the following:

"In making such determination the Attorney General shall not consider a publication to be a failing newspaper if the company which owns or operates such publication is not itself in probable danger of financial failure. The term 'company which owns or operates such publication' shall for this purpose include:

"(1) any parent company or holding company which, in the opinion of the Attorney General based upon reasonable evidence, controls the corporation or business entity which owns or operates such publication, and

"(2) any corporation in which the publishing corporation, or the parent company or holding company which controls it, owns more than 50 per centum of the capital stock.

If either such parent company, holding company, or subsidiary company is not in probable danger of financial failure, the Attorney General shall not consider the publication to be a failing newspaper. The term 'company' as used in this section includes corporation, partnership, or other business entity and, where the business is operated by an individual without limitation of liability, the total business operations of the individual."

Mr. ECKHARDT (during the reading).

Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

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

There was no objection.

Mr. ECKHARDT. Mr. Chairman, the language of this amendment has been supplied to the table on both sides and to certain other Members interested in the bill.

In discussion in general debate with the very able chairman of the subcommittee, whose views on this point I highly respect, he answered me with respect to whether or not a corporation owning a newspaper, which corporation was itself not failing, and which corporation owned a bank, hotels, mercantile establishments and the like, could get the benefits of this bill if, though the other businesses were making money, the newspaper was failing. He answered, "Yes."

It seems to me that this exemption should not be granted in that case.

Now, I have drawn this amendment extremely narrowly. It does not apply to the grandfather clause provision. So that 22 newspapers that already have this arrangement are not affected at all by this amendment.

This amendment takes away the incentive for a conglomerate, for instance, to milk its newspaper operations for the benefit of its other business operations.

Now, that is all it does. It provides that you must consider the newspaper together with the other business operations owned by the corporation that operates the newspaper, and you must consider it together with the holding company, or with all subsidiary companies in which the company owns as much as 50 percent of the stock.

Now, if the newspaper wants to avoid the disabilities of this amendment all the newspaper has to do is divest itself of the other holdings and operate solely as an independent corporation.

So let me point out that there are two situations which result in avoidance of coverage by this amendment:

If the joint operation is under the grandfather clause, it is not covered. If it is not under the grandfather clause and the newspaper is beginning to fail, but there are other holdings by the corporation, it may simply strip itself of the other holdings and operate wholly as a newspaper, and show that it is beginning to fail and come under the provisions of the bill.

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield for a question?

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

Mr. EDMONDSON. Under the theory of the gentleman, what would be the situation if the holding company were losing on its other operations and yet running a profitable newspaper; would you look at the overall position of the holding company in that case, and hold that because there was an overall losing proposition that the newspaper as a part of that corporate operation should be entitled to come into a joint operating arrangement?

Mr. ECKHARDT. No. That would not be true under the bill without the amendment, because the bill without the amendment requires that the newspaper operation be failing.

Mr. EDMONDSON. The gentleman wants to treat the holding company which owns the newspaper as the actual entity, and ascertain financial soundness only in the case that that holding company is a profitmaking company in the other enterprises, and losing on the newspaper operation; is that right?

Mr. ECKHARDT. Let me say the reason why I suggest this amendment, and the reason it applies only to those companies that will later come under this bill, is that I do not want to create an incentive for the other business operations within a holding company system to milk the newspaper.

Mr. EDMONDSON. I thank the gentleman for yielding. I think his objective is very worthwhile. I would question its application in actual operation.

The CHAIRMAN. The time of the gentleman has expired.

Mr. KASTENMEIER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this operates, of course, among other things against any chain. If one newspaper in one city, for example, makes $500,000 and a newspaper in another city owned by the same company loses $250,000—it prevents that second paper from having any advantage under an agreement in the future.

I would say actually in the gentleman's hometown one of the chain papers, the Scripps-Howard paper went under, of course, as he well knows and was not able to reach a joint operating agreement with either of the other two papers.

I think it is unnecessary in the future to penalize these newspapers which increasingly are associated with other enterprises than just a newspaper itself.

For this reason, Mr. Chairman, I must reluctantly oppose this. I think it would work a tremendous burden on future business enterprises, a part of which is a failing newspaper.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman.

Mr. BROWN of Ohio. I think the gentleman has made the concession here that it is not the competition of ideas, but it is a question of money; is it not?

Mr. KASTENMEIER. It is the ability of a newspaper in a community to survive in the future by the possible application of this law.

The record is replete, for example, how some chains, the first chain of the Scripps-Howard and others have lost papers in cities. The chain should not have to in every respect lose money but for only one of the papers under the operation of the bill itself, and I do not contemplate that the act will be often resorted to by newspapers in the future. I think this is undue discrimination.

Mr. BROWN of Ohio. Certainly, if the interest is in maintaining the competition of ideas in a community, a chain would be happy to maintain a losing newspaper until it was necessary to go into this kind of arrangement.

I submit that the problem is money.

Mr. McCULLOCH. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I join with the gentleman from Wisconsin in his view of this amendment.

I think on several occasions today there has been heard a discussion of the situation in Columbus, Ohio, and I hasten to add in view of what was said here before that the Columbus area is not in my district. There is involved there the Dispatch Publishing Co. and the Scripps-Howard Citizen.

I am convinced that with this amendment Columbus would in due course wind up with one paper. We need two papers in that great metropolitan area, which is the capital of Ohio.

This amendment I regret was not submitted to us in committee or in the subcommittee, and I think it would do violence to the general thrust of this legislation.

Mr. Chairman, I hope the amendment will be defeated.

Mr. GROSS. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, the debate this afternoon on the Failing Newspaper Preservation Act indicates one thing clearly, that the Committee on the Judiciary should give early consideration to a bill to provide for a lawyers' preservation act. What would we do without them?

Then, with the elections coming on this fall, it might give early attention to a congressional or congressmen's preservation act. Somewhere along the line, it ought to give attention to the poor old taxpayers, who get all too little consideration. There must be a taxpayers' preservation act. We do need them, and by the way I would suggest that the Committee on the Judiciary, since we are all going to be in need of their services, should certainly come forth with an undertakers' preservation act.

Mr. EDWARDS of California. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from California is recognized.

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

Mr. EDWARDS of California. I yield to the gentleman from Texas.

Mr. ECKHARDT. I should like briefly to answer the contentions by the able subcommittee chairman. Actually a chain of newspapers which now has an agreement for joint operation is not affected. So a chain of newspapers, like the Scripps-Howard papers, could continue to operate in places where they now have joint operations made legal under section 4(a) of the bill, because this amendment goes only to section (b) and not to section (a). Certainly we do not want to invite a chain to go into a new community for the purpose of failing. That is what this amendment would block. It would nevertheless permit a local newspaper which does ultimately fail in a given area to utilize the pooling provisions. Why should not the local newspaper have a little advantage over a chain that wants to enter into the practice of joint operations? The chain presumably knows what it is doing. It knows what the risks are. But the local newspaper, it

seems to me, needs the protection of both sections (a) and (b).

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I would like to know whether under this amendment a newspaper that owned a very profitable television station—would the newspaper be able to enter into an arrangement for failing newspapers and still retain profits in the television station in the same community where there is apparently some dearth of competition of ideas?

Mr. ECKHARDT. No, it would not be permitted to enter such arrangement, but it could under the bill without the amendment if its newspaper operation were failing. And this proves the need for the amendment. For example, a newspaper may turn over its most profitable advertising to the other arm of its total operations, the television station, and then utilize the joint operation provision for its newspaper, though its total activities are extremely profitable.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The question was taken; and on a division (demanded by Mr. ECKHARDT) there were—ayes 22, noes 71.

So the amendment was rejected.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The substitute committee amendment, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. STEED, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 279) to exempt from the antitrust laws certain joint newspaper operating arrangements, pursuant to House Resolution 1121, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

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

MOTION TO RECOMMIT OFFERED BY MR. MAC GREGOR

Mr. MACGREGOR. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. MACGREGOR. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MACGREGOR moves to recommit the bill H.R. 279 to the Committee on the Judiciary.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

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

The question was taken, and the Speaker announced that the ayes appeared to have it.

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

The SPEAKER. Evidently a quorum is not present.

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

The question was taken; and there were—yeas 292, nays 87, answered "present" 2, not voting 50, as follows:

[Roll No. 206]

YEAS—292

Abbitt	Downing	Kazen
Abernethy	Duncan	Kee
Adair	Dwyer	King
Adams	Edmondson	Kleppe
Addabbo	Edwards, Ala.	Kluczynski
Albert	Esch	Kuykendall
Alexander	Eshleman	Kyl
Anderson, Tenn.	Evins, Tenn.	Kyros
Andrews, Ala.	Fallon	Landrum
Annunzio	Fascell	Latta
Arends	Fish	Leggett
Ashley	Fisher	Lloyd
Ayres	Flood	Lowenstein
Beall, Md.	Flowers	Lujan
Belcher	Flynt	Lukens
Berry	Ford, Gerald R.	McCarthy
Betts	Frey	McClory
Bevill	Friedel	McCloskey
Bingham	Fulton, Pa.	McCulloch
Blackburn	Fulton, Tenn.	McDade
Blanton	Fuqua	McDonald, Mich.
Blatnik	Galifianakis	McKneally
Boggs	Gallagher	Mahon
Boland	Garmatz	Mailliard
Bolling	Gaydos	Mann
Bow	Gettys	Marsh
Brasco	Giaimo	Martin
Bray	Gibbons	Mathias
Brinkley	Gilbert	Matsunaga
Brock	Goldwater	May
Brooks	Gonzalez	Mayne
Broyhill, Va.	Goodling	Meeds
Buchanan	Gray	Melcher
Burke, Mass.	Green, Oreg.	Michel
Burleson, Tex.	Griffiths	Miller, Calif.
Burlison, Mo.	Grover	Miller, Ohio
Burton, Calif.	Gubser	Mills
Burton, Utah	Hagan	Minish
Bush	Halpern	Mink
Button	Hammer-schmidt	Minshall
Cabell	Hanley	Mize
Camp	Hanna	Mizell
Carter	Hansen, Idaho	Mollohan
Casey	Harsha	Montgomery
Cederberg	Harvey	Moorhead
Chamberlain	Hastings	Morgan
Clancy	Hays	Murphy, Ill.
Clark	Hébert	Murphy, N.Y.
Clausen, Don H.	Hechler, W. Va.	Myers
Clawson, Del	Heckler, Mass.	Natcher
Clay	Henderson	Obey
Collins	Hicks	O'Hara
Colmer	Hogan	O'Konski
Conable	Horton	Olsen
Corbett	Hosmer	O'Neal, Ga.
Daniel, Va.	Howard	O'Neill, Mass.
Daniels, N.J.	Hungate	Passman
Davis, Ga.	Hunt	Patman
de la Garza	Hutchinson	Patten
Delaney	Ichord	Pelly
Dellenback	Jarman	Perkins
Dent	Johnson, Calif.	Pettis
Derwinski	Johnson, Pa.	Philbin
Dickinson	Jonas	Pickle
Diggs	Jones, Ala.	Pike
Donohue	Jones, N.C.	Pirnie
Dorn	Jones, Tenn.	Poage
Dowdy	Karth	Poff
	Kastenmeier	Preyer, N.C.
Price, Ill.	Sebelius	Ullman
Price, Tex.	Shriver	Vander Jagt
Purcell	Sikes	Vanik
Quillen	Skubitz	Vigorito
Railsback	Slack	Waggonner
Randall	Smith, Calif.	Waldie
Reid, Ill.	Smith, Iowa	Wampler
Reid, N.Y.	Smith, N.Y.	Watkins
Reuss	Snyder	Watson
Rhodes	Springer	Watts
Riegle	Stafford	Whalen
Rivers	Staggers	Whalley
Roberts	Stanton	White
Robison	Steed	Whitehurst
Rodino	Steiger, Ariz.	Widnall
Roe	Stephens	Williams
Rooney, Pa.	Stubblefield	Wilson, Bob
Rosenthal	Stuckey	Wold
Rostenkowski	Symington	Wolff
Roudebush	Taft	Wright
Ruppe	Talcott	Wyatt
Ruth	Taylor	Wydler
St Germain	Teague, Calif.	Wylie
Sandman	Teague, Tex.	Yates
Satterfield	Thompson, Ga.	Yatron
Schadeberg	Thompson, N.J.	Young
Scherle	Tiernan	Zablocki
Schneebeli	Tunney	Zion
Schwengel	Udall	

NAYS—87

Anderson, Calif.	Edwards, Calif.	McFall
Ashbrook	Eilberg	Macdonald, Mass.
Barrett	Erlenborn	MacGregor
Bennett	Farbstein	Madden
Biester	Feighan	Mikva
Brademas	Foley	Monagan
Brotzman	Ford, William D.	Morse
Brown, Mich.	Fountain	Mosher
Brown, Ohio	Fraser	Moss
Broyhill, N.C.	Frelinghuysen	Nelsen
Burke, Fla.	Green, Pa.	Nix
Byrne, Pa.	Griffin	Pucinski
Byrnes, Wis.	Gross	Quie
Celler	Gude	Rees
Chappell	Haley	Rogers, Fla.
Chisholm	Hall	Rooney, N.Y.
Cleveland	Hamilton	Roth
Cohelan	Harrington	Rousselot
Conte	Hathaway	Roybal
Corman	Helstoski	Ryan
Cowger	Holifield	Schmitz
Crane	Hull	Scott
Culver	Jacobs	Steiger, Wis.
Cunningham	Keith	Stokes
Davis, Wis.	Koch	Thomson, Wis.
Dennis	Landgrebe	Wiggins
Dingell	Langen	Winn
Dulski	Lennon	Wyman
Eckhardt	McClure	Zwach

ANSWERED "PRESENT"—2

Evans, Colo.	Van Deerlin

NOT VOTING—50

Anderson, Ill.	Devine	Pollock
Andrews, N. Dak.	Edwards, La.	Powell
Aspinall	Findley	Pryor, Ark.
Baring	Foreman	Rarick
Bell, Calif.	Hansen, Wash.	Reifel
Biaggi	Hawkins	Rogers, Colo.
Broomfield	Kirwan	Saylor
Brown, Calif.	Long, La.	Scheuer
Caffery	Long, Md.	Shipley
Carey	McEwen	Sisk
Collier	McMillan	Stratton
Conyers	Meskill	Sullivan
Coughlin	Morton	Weicker
Cramer	Nedzi	Whitten
Daddario	Nichols	Wilson, Charles H.
Dawson	Ottinger	
Denney	Pepper	
	Podell	

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Nedzi for, with Mr. Van Deerlin against.

Mrs. Sullivan for, with Mr. Ottinger against.

Mr. Baring for, with Mr. Brown of California against.

Mr. Podell for, with Mr. Conyers against.

Mr. Long of Louisiana for, with Mr. Shipley against.

Mr. Carey for, with Mr. Dawson against.

Mr. Stratton for, with Mr. Powell against.

Mr. Caffery for, with Mr. Hawkins against.

Mr. Devine for, with Mr. Collier against.
Mr. Long of Maryland for, with Mr. Kirwan against.

Until further notice:

Mr. Rarick with Mr. Foreman.
Mr. McMillan with Mr. Cramer.
Mr. Wilson, Charles H. with Mr. Meskill.
Mr. Sisk with Mr. Anderson of Illinois.
Mr. Biaggi with Mr. McEwen.
Mrs. Hansen of Washington with Mr. Andrews of North Dakota.
Mr. Daddario with Mr. Meskill.
Mr. Aspinall with Mr. Broomfield.
Mr. Rogers of Colorado with Mr. Denney.
Mr. Pepper with Mr. Bell of California.
Mr. Nichols with Mr. Morton.
Mr. Whitten with Mr. Findley.
Mr. Edwards of Louisiana with Mr. Reifel.
Mr. Pryor of Arkansas with Mr. Pollock.
Mr. Scheuer with Mr. Coughlin.
Mr. Saylor with Mr. Welcker.

Mr. VAN DEERLIN. Mr. Speaker, I have a live pair with the gentleman from Michigan (Mr. NEDZI). If he had been present, he would have voted "yea." I voted "nay." I withdraw my vote and vote "present."

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

Messrs. TUNNEY and McCARTHY changed their votes from "nay" to "yea."

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to the provisions of House Resolution 1121, the Committee on the Judiciary is discharged from further consideration of the bill S. 1520.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. KASTENMEIER

Mr. KASTENMEIER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Motion offered by Mr. KASTENMEIER: Strike out all after the enacting clause of S. 1520 and insert in lieu thereof the provisions of H.R. 279, as passed, as follows:

Section 1. This Act may be cited as the "Newspaper Preservation Act".

DECLARATION OF POLICY

SEC. 2. In the public interest of maintaining a newspaper press editorially and reportorially independent and competitive in all parts of the United States, it is hereby declared to be the public policy of the United States to preserve the publication of newspapers in any city, community, or metropolitan area where a joint operating arrangement has been heretofore entered into because of economic distress or is hereafter effected in accordance with the provisions of this Act.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "antitrust law" means the Federal Trade Commission Act and each statute defined by section 4 thereof (15 U.S.C. 44) as "Antitrust Acts" and all amendments to such Act and such statutes and any other Acts in pari materia.

(2) The term "joint newspaper operating arrangement" means any contract, agreement, joint venture (whether or not incorporated), or other arrangement entered into by two or more newspaper owners for the publication of two or more newspaper publications, pursuant to which joint or common production facilities are established or operated and joint or unified action is taken or agreed to be taken with respect to any one or more of the following: printing; time, method, and field of publication; allocation of production facilities; distribution; advertising solicitation; circulation solicitation; business department; establishment of advertising rates; establishment of circulation rates and revenue distribution: *Provided*, That there is no merger, combination, or amalgamation of editorial or reportorial staffs, and that editorial policies be independently determined.

(3) The term "newspaper owner" means any person who owns or controls directly, or indirectly through separate or subsidiary corporations, one or more newspaper publications.

(4) The term "newspaper publication" means a publication produced on newsprint paper which is published in one or more issues weekly (including as one publication any daily newspaper and any Sunday newspaper published by the same owner in the same city, community, or metropolitan area), and in which a substantial portion of the content is devoted to the dissemination of news and editorial opinion.

(5) The term "failing newspaper" means a newspaper publication which, regardless of its ownership or affiliations, is in probable danger of financial failure.

(6) The term "person" means any individual, and any partnership, corporation, association, or other legal entity existing under or authorized by the law of the United States, any State or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any foreign country.

ANTITRUST EXEMPTION

SEC. 4. (a) It shall not be unlawful under any antitrust law for any person to perform, enforce, renew, or amend any joint newspaper operating arrangement entered into prior to the effective date of this Act, if at the time at which such arrangement was first entered into, regardless of ownership or affiliations, not more than one of the newspaper publications involved in the performance of such arrangement was likely to remain or become a financially sound publication: *Provided*, That the terms of a renewal or amendment to a joint operating arrangement must be filed with the Department of Justice and that the amendment does not add a newspaper publication or newspaper publications to such arrangement.

(b) It shall be unlawful for any person to enter into, perform, or enforce a joint operating arrangement, not already in effect, except with the prior written consent of the Attorney General of the United States. Prior to granting such approval, the Attorney General shall determine that not more than one of the newspaper publications involved in the arrangement is a publication other than a failing newspaper, and that approval of such arrangement would effectuate the policy and purpose of this Act.

(c) Nothing contained in this Act shall be construed to exempt from any antitrust law any predatory pricing, any predatory practice, or any other conduct in the otherwise lawful operations of a joint newspaper operating arrangement which would be unlawful under any antitrust law if engaged in by a single entity. Except as provided in this Act, no joint newspaper operating arrangement or any party thereto shall be exempt from any antitrust law.

PREVIOUS TRANSACTIONS

SEC. 5. (a) Notwithstanding any final judgment rendered in any action brought by the United States under which a joint operating arrangement has been held to be unlawful under any antitrust law, any party to such final judgment may reinstitute said joint newspaper operating arrangement to the extent permissible under section 4(a) hereof.

(b) The provisions of section 4 shall apply to the determination of any civil or criminal action pending in any district court of the United States on the date of enactment of this Act in which it is alleged that any such joint operating agreement is unlawful under any antitrust law.

SEPARABILITY PROVISION

SEC. 6. If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this Act, and the applicability of such provision to any other person or circumstance, shall not be affected thereby.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 279) was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material.

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

There was no objection.

LEGISLATIVE PROGRAM

(Mr. ALBERT asked and was given permission to address the House for 1 minute.)

Mr. ALBERT. Mr. Speaker, I take this time for the purpose of announcing the first and second order of business tomorrow.

Tomorrow, as the first order of business, the gentleman from Pennsylvania, the distinguished chairman of the Committee on Foreign Affairs, will seek to send to conference the bill H.R. 15628, the Foreign Military Sales Act, which will be followed, as the second order of business, by a request on the part of the gentleman from New York (Mr. DULSKI) to send the postal reorganization bill to conference.

These requests will be followed by the program previously announced.

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

Mr. ALBERT. I yield to the gentleman from Indiana.

Mr. MYERS. Mr. Speaker, is it the intention of the majority leader to continue the program as announced, after these have been taken up?

Mr. ALBERT. The only other bill likely to come up is H.R. 16968, adjustment of Government contribution for Federal employee health benefits, from the Committee on Post Office and Civil Service.

Mr. MYERS. Mr. Speaker, I thank the gentleman from Oklahoma.

FLUE-CURED TOBACCO ALLOTMENT CHANGE

(Mr. HENDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HENDERSON. Mr. Speaker, I

have today introduced a bill which will permit Flue-Cured tobacco growers to sell or lease their tobacco allotment separate and apart from the land to some other grower within the same county.

This is a subject which has been discussed and considered in Congress for many years, but which has been bogged down in differences of opinion over how and to what extent sale or lease should be permitted.

At the present time, we permit lease but not sale, and lease is restricted to the county where the allotment is.

There are those who feel that sale should be limited to the county in which the tobacco is now situated. They point out with considerable logic that so much of the ad valorem tax base and so much of the economy of small rural counties in the Flue-Cured tobacco areas is tied directly to tobacco allotments within those counties, that to permit sales across county lines would create havoc.

Others argue that sales in adjoining counties should be permitted, but not in a wider area. It has been suggested that sales should be permitted anywhere in the States where the allotments are now located, while a few argue that unrestricted sales including sales across State lines should be permitted.

In the past, under the old acreage-allotment program, it was obvious that production could be increased by unrestricted sale by a grower in a heavy production area buying from a grower in a lighter production area, but under the present acreage-poundage allotment program, since the poundage is controlled, this is not a possibility.

The present lease program has gained wide acceptance. There are a large number of landowners who have allotments which are too small to lend themselves to an economical operating unit, and there are a number of energetic young farmers with land and equipment but limited allotments. By leasing allotments from owners who do not wish to farm their own land, and combining the lease allotments, the young farmer can and does have as many acres and pounds as he is able to handle.

The limited leasing program has definitely proved itself, but there is a strong sentiment among the growers in eastern North Carolina, at least, that they should now also be permitted to buy and sell allotments.

There are many people with small allotments who would like to get out of the tobacco business entirely, but who wish to retain their farmland. There are others who have allotments, who intend to stay in the occupation of growing tobacco, who would like to increase their permanent allotments, but who do not want or need to buy additional land.

I believe that the time has come to permit sale of Flue-Cured allotments—specifically on the limited within-county basis. The precedent of leasing within county has already been set and has worked well. My bill takes the next logical step.

It does not require a referendum, but the Secretary could seek a referendum if he chose to do so.

Finally, let me assure those who are concerned about the supposedly great evils and hazards of smoking and tobacco that this bill: first, would not cost the Federal Government anything except negligible administrative expense; second, would not increase the production of tobacco; and, third, would automatically reduce the number of persons now in the business of growing tobacco.

I am convinced that the growers want this legislation. I hope that all of my colleagues from the Flue-Cured areas will join me in cosponsoring this bill and that we can get prompt approval by the Congress.

RESOLUTION TO ESTABLISH JOINT CONGRESSIONAL COMMITTEE ON CLASSIFIED INFORMATION

(Mr. ADDABBO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ADDABBO. Mr. Speaker, I am pleased to reintroduce today for myself and on behalf of 24 of our colleagues, House Joint Resolution 1131, to establish a Joint Congressional Committee on Classified Information. This legislation is intended to provide Congress with a means to monitor and screen the amount of information which is placed in the category of classified information and thereby kept from the public.

The following Members of the House have joined me in cosponsoring this measure: Mr. BROWN of California, Mrs. CHISHOLM, Mr. DERWINSKI, Mr. WILLIAM D. FORD, Mr. FRASER, Mr. FULTON of Pennsylvania, Mr. GALLAGHER, Mr. GIBBONS, Mr. HALPERN, Mr. HARRINGTON, Mrs. MINK, Mr. NIX, Mr. PIKE, Mr. REES, Mr. RIEGLE, Mr. RODINO, Mr. ROSENTHAL, Mr. SMITH of New York, Mr. STOKES, Mr. TIERNAN, Mr. TUNNEY, Mr. WOLFF, Mr. YATES, and Mr. MEEDS.

The power to classify information is too easily and too often abused. It is the responsibility of the Congress to monitor that power and protect the public's right to have the facts. I have attended many secret briefings which should have been public and I believe this bill will provide a way to cut down the number of secret briefings and the amount of classified information. This is the only way we can end the mistrust and lack of confidence in our Government and restore credibility in the decisionmaking processes which lead to our foreign policy.

The bill would create an 18-man joint committee to include the chairman and ranking members of the Armed Services, Foreign Affairs, and Defense Appropriation Subcommittees of the House and Senate together with three members appointed by the Speaker of the House and three members appointed by the President of the Senate.

I urge my colleagues in the House to review this proposed legislation and to join our effort to limit the use of classified information to the essential facts which relate to national security and to prevent the use of the power to classify as a political tool to avoid embarrassment by withholding facts which the public should know.

HOUSING SHORTAGE

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ANDERSON of California. Mr. Speaker, we are facing a housing crisis in our Nation. Our goal for the 1970's is to construct 25 million additional housing units, at a rate of 2.5 million new units a year. Our present level of new housing starts is a little above 1 million units.

Obviously, something is wrong and unless positive action is taken, the housing shortage may be disastrous by 1980.

A prime cause of the housing shortage is the administration's "tight money" policy. The administration must revise its policy in order to lower interest rates. In 1968, a person was able to obtain a conventional mortgage at 6½-percent interest. In May 1968, the monthly payment for principal and interest on a $25,000 home with a 30-year mortgage was about $156. Today a mortgage on a $25,000 home will cost 8½ percent or more and the monthly payment will be approximately $192 a month—$36 more a month just to pay the interest. In effect, the same home bought in 1970 will cost nearly $13,000 more than the home purchased in 1968.

No one is more aware of the lack of housing construction than the building tradesman. While our national unemployment rate is hovering around 5 percent, the rate of unemployment for the building tradesman is nearly 12 percent.

The record high interest rates also result in a higher property tax. Municipal bonds, sold by local governments to pay for sewer facilities, schools, and roads, are being sold at extremely high interest rates. Consequently, the property owner must pay for these rates with his property tax.

Mr. Speaker, interest rates must be rolled back to the 1968 level. If we continue the present policy, which has sent the entire homebuilding industry into one of its deepest depressions in history, we will face a crisis in which the housing needs of our citizens will not be met.

CRIMINALS RESTRICT OUR FREEDOMS—HOOVER

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DEVINE. Mr. Speaker, in the July 1970, FBI Law Enforcement Bulletin, J. Edgar Hoover, the very able and talented director, submitted a message to all law enforcement officials, which should be digested by every Member of Congress, as well as the general public.

Congress can help if it would forget partisanship and get on with the busi-

ness of enacting some of President Nixon's crime bills designed to aid law enforcement.

The message follows:

HOOVER'S MESSAGE

There is something distressing about free people having to restrict and alter their daily pursuits and activities because of brazen criminals.

Is it right that bus passengers in many metropolitan areas must always have the exact fare because busdrivers cannot carry money to make change without being robbed? Is it right that motorists in some cities must buy gasoline in amounts for which they have exact money, or use credit cards, to keep station attendants from being held up by thugs? Is it right that downtown merchants in some areas should lose their customers, and perhaps their businesses, because citizens are afraid to venture into crime-infested streets?

Let us face it. Are we, as a free society under the rule of law, shaping our own destiny, or are we being pushed and boxed in by those who defy the law and have no respect for the rights of others?

The truth of the matter is that more and more of our Nation's total energy and effort is needed to protect people against crime. For instance, more theft-prevention devices are being installed in new automobiles. More homes are being equipped with bigger and more complex door locks. Banks are taking action to reduce the amount of cash exposed to bank robbers. In some cities, police patrol school corridors and grounds to keep troublemakers from disrupting classes and assaulting students. The list goes on and on. We are attempting, in effect, to erect a protective barrier between society and the criminal. However, history dating back to Biblical times teaches us that high walls as such do not necessarily provide sanctuary. If we are to find relief from crime, we have to shore up our legal walls to prevent lawbreakers from slipping back and forth through loopholes to prey on the public and then hide behind legal sanctions to avoid just and adequate punishment. If we are to contain the spiraling crime rate and bring a higher degree of security back to the lawabiding citizens, then we must make justice swift and certain. In spite of what some courts and legal theorists may proclaim, justice is all-inclusive; it means justice for the victims and the public as well as for the accused.

Soon, we will have to stop granting concessions to marauding criminals and stop reshaping our lives to conditions thrust upon us by excessive crime. I am fully convinced that one of the most effective moves we could make to combat crime in the 1970's would be to speed up and improve our judicial processes so that the time element between a criminal violation and its disposition in court is sharply reduced. The old truism notwithstanding, it would appear that not all criminals and their attorneys today believe that "justice delayed" is "justice denied."

Let us stop reacting aimlessly to the pressing demands of the lawless. Rather, let us start applying the legal remedies and safeguards of the law which is meant to penalize those who break it, not those who abide by it.

FREE WORLD SHIPPING TO NORTH VIETNAM

(Mr. CHAMBERLAIN asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous matter.)

Mr. CHAMBERLAIN. Mr. Speaker, the level of free world shipping to North Vietnam has continued to show a sharp decrease in 1970. The 6-month total this year lists 37 arrivals as compared to the 60 that occurred during the first half of 1969.

In addition, the number of countries involved has also dropped from six to three, with vessels under the registry of the United Kingdom, Somalia, and Malta the only ones engaged in this 1970 trade. Furthermore, fewer individual ships are taking part this year, with 19 vessels having made these 37 voyages while in the first 6 months of 1969 some 35 different vessels were responsible for the 60 arrivals.

While this is encouraging news, still the job is not finished. Of particular concern has been the reappearance of ships flying the Somali flag. Over a year ago, the State Department informed me that an agreement had been reached with the Somali Government that would remove all vessels under its registry from this traffic. As a result, during the last 6 months of 1969, no Somali vessels were reported in North Vietnamese ports. However, last October, following the assassination of President Shermarke and a coup d'etat, a new regime came into power in Somalia which reversed this policy with the result that Somali flag vessels have so far this year already made a total of 10 arrivals.

In view of this, I asked the State Department for a report particularly in light of the prohibition in the Foreign Assistance Act which denies U.S. aid to any country which permits vessels under its registry to trade with North Vietnam. The State Department has now advised me that the Somali Government has been notified of the termination of U.S. aid.

The attitude of the new Somali Government, while it is deeply regrettable, is consistent with a number of its other recent actions. On June 9, the Somali Foreign Minister, on the occasion of the establishment of diplomatic relations between North Vietnam and the Democratic Republic of Somalia, is reported as saying:

I wish to express my country's support to the just struggle of the Vietnamese people against the United States' blatant aggression.

This statement was released at the same time that a Somali Government delegation was arriving in North Korea where they were welcomed with much fanfare and strong expressions of unity between the two countries.

Since these Somali ships are rented to Communist governments to carry Communist goods to North Vietnam, the Somali Government receives relative little in the way of direct economic benefit. Even so, it should be pointed out that they do, I am advised, receive Soviet aid and particularly military supplies. The new regime has chosen to resume this trade at the expense of losing some $1.9 million in U.S. economic assistance which could be of great help to the Somali people. No one wishes to stop such assistance where it is truly needed and appreciated. However, the Somali Government has left no alternative.

The major source of concern, continues to be the presence of vessels flying the British flag in North Vietnamese ports. Of the 37 free world arrivals so far this year 26 fall into this category. The level of this traffic is also down in comparison with the first 6 months of 1969 when there were 42 British flag arrivals. Nevertheless, although we have been told many times in the past that nothing could be done because these particular vessels are reportedly owned by Chinese Communist interests in Hong Kong, I have written the Secretary of State urging that he pursue this matter with the new British Government.

Again, Mr. Speaker, overall I am encouraged by the progress that has continued this year with respect to this problem and I urge the administration to persevere in its efforts in the hope that this free world traffic can be reduced even further.

Clearly, the hazards to the lives of our troops as well as the costs involved dictate that it is much better to prevent a shipload of supplies from reaching the enemy than it is to dig them out of the jungle as we have been doing in the sanctuaries of Cambodia. It is supplies that keep the war going. Without them, the enemy is in trouble. For this reason, we should not concede a single ship to Hanoi, particularly when it is so important that we demonstrate our firm determination to prod the North Vietnamese to negotiate an end to this war.

DEPARTMENT OF STATE,
Washington, D.C., June 25, 1970.

Hon. CHARLES E. CHAMBERLAIN,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN CHAMBERLAIN: The Secretary has asked me to reply to your letter dated June 9, 1970, expressing concern about the trade with North Vietnam of Somali-flag vessels.

As you noted in your letter, ships flying the Somali flag discontinued their trade with North Vietnam during the last half of 1969. This traffic was stopped through the vigorous efforts of our Embassy in Mogadiscio and the cooperation of the previous Somali Government. The regime that came into power following the coup d'etat in October 1969 permitted the trade to resume beginning in January 1970.

During the first five months of 1970 our mission in Somalia and the Department of State repeatedly attempted to persuade the Somali Government to end the prohibited trade with North Vietnam. These efforts were unsuccessful and Section 620(n) of the Foreign Assistance Act was therefore applied to our aid program in Somalia, effective June 1, 1970. With the approval of the Secretary of State, it was additionally decided to use Section 617 of the Foreign Assistance Act in order to wind up our aid projects in an orderly manner. We are currently negotiating with the Somali Government an orderly phaseout of the various projects, most of which will be ended in the next several months. Some of the AID personnel have already departed the country and more will be leaving in the near future.

If I can be of any further assistance in this or any other matter, please do not hesitate to let me know.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

FREE WORLD-FLAG SHIP ARRIVALS IN NORTH VIETNAM

	United Kingdom	Somali Republic	Cyprus	Singapore	Japan	Malta	Total
1969:							
January	8	2	1				11
February	6		1	2	1		10
March	6	1					7
April	7			1	1		9
May	9	1	1			1	12
June	6	2	2	1			11
July	6	1					7
August	4		2				6
September	4		1	1			6
October	4		1		1		6
November	7						7
December	7						7
Total	74	7	9	5	3	1	99
1970:							
January	2	1				1	4
February	5	1					6
March	3	1					4
April	7	2					9
May	6	3					9
June	3	2					5
Total	26	10	0	0	0	1	37

DR. HARRY W. MILLER HONORED ON 91ST BIRTHDAY—REPRESENTATIVE TAFT TO SUPPORT MEDAL OF FREEDOM FOR DR. MILLER

(Mr. TAFT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. TAFT. Mr. Speaker, on Sunday, July 5, I had the distinct honor and pleasure of attending a reception in West Milton, Ohio, celebrating Dr. Harry W. Miller's 91st birthday.

Along with my friend and colleague, Congressman WILLIAM MCCULLOCH, we joined with Dr. Miller's lifelong friends in saluting a truly great American.

Dr. Miller has spent his life serving mankind. Since 1903 he has worked as a medical missionary in China. He has served as a consulting physician to two U.S. Presidents, including my grandfather, President William Howard Taft.

I wish to express my wholehearted support for the resolution currently pending in Congress, recommending that Dr. Miller be awarded the Medal of Freedom. Few so richly deserve this tribute of a country.

The following articles from the Stillwater Valley Advertiser describe many of Dr. Miller's accomplishments. I commend the articles to my colleagues:

CELEBRATED MEDICAL MISSIONARY TO VISIT HIS HOME AREA IN JULY

(By Arlean Clifton)

WEST MILTON.—A 90-year-old Ludlow Falls native, Dr. Harry W. Miller, who has served as a medical missionary in China since 1903, is on furlough in the United States and plans to visit in the West Milton area early in July.

Dr. Miller revealed data for his impending visit to this area to Mrs. Arlean Clifton, local newspaper writer, in a telephone conversation recently. Negotiating the telephone call for the Stillwater Valley Advertiser, Mrs. Clifton talked with the doctor at Andrews University in Berien Springs, Mich., where he received an honorary doctorate degree and delivered the baccalaureate sermon during the university's graduation festivities.

It was through the efforts of Mrs. Clifton last year that Dr. Miller, born in a log cabin in Ludlow Falls, received an honor in the form of a Certificate of Commendation from Ohio's Governor, James A. Rhodes. Mrs. Clifton, who had researched and authored a story on Dr. Miller's incredible 66-year career as a medical missionary, wrote to Governor Rhodes suggesting some sort of recognition be accorded the doctor by the State of Ohio.

The Governor responded with the Commendation which contained an authentic Gold Seal of Ohio and satin purple ribbon swatches. The certificate was placed in a frame made of Ohio oak and subsequently presented to Dr. Miller in an official ceremony conducted by the United States Consul General in Hong Kong, China, where the doctor has been located in connection with the construction of a new hospital.

Another distinction came to Dr. Miller last summer from the office of the President of the United States. Mrs. Clifton also wrote a letter to the president briefing him on Dr. Miller's achievements. This brought a congratulatory letter to the doctor from Robert H. Finch, Secretary of Health, Education, and Welfare.

In addition to his work as a medical missionary, which has included doing surgery under very trying circumstances in those early years in China, Dr. Miller also has earned a reputation as a researcher and nutritionist.

He holds a patent from the United States government for development of soybean milk products. In his early years as a medical missionary, Dr. Miller pushed forth relentlessly to develop a nutritional food for starving babies in the Orient. The result was a U.S. government patent for his development of Soyalac, which is now widely used for American babies beset with allergies from consumption of cow's milk.

As a missionary of the Seventh Day Adventist Church, Dr. Miller has established more than 20 hospitals in China. He holds the Blue Star of China Award which he received in 1956 from Generalissimo Chiang Kai-shek. This award compares to the United States Congressional Medal of Honor.

As a physician Dr. Miller has treated both the Generalissimo and Madam Chiang. In past years he has served two U.S. presidents, Woodrow Wilson and William Howard Taft as a consulting physician, and the wife of President Warren G. Harding. He also had as one of his patients the celebrated orator, William Jennings Bryan.

While his path has crossed with those of the "high and the mighty," Dr. Miller's main dedication is for the more unfortunate which he has been able to serve for what has now turned into 67 years on the China mission field. The doctor is known in every area of China.

A number of years ago Dr. Miller was called home from his beloved missionary work in China to operate a sanatorium in Washington, D.C. for a period of time. During this point in his career he became renowned all over the world as a goiter specialist. Many persons in the West Milton area have been the beneficiaries of Dr. Miller's goiter surgery.

Dr. Miller will observe his 91st birthday on July 2, presumably about the time he will be visiting in the West Milton area. The doctor has expressed a desire to meet Governor Rhodes on his visit to see relatives and friends in this area, and it is hoped that plans can be accomplished to fulfill that wish of this incredible man who has touched the lives of so many.

Accompanying Dr. Miller on his furlough is his wife, Mary, an accomplished musician.

Relatives of Dr. Miller in this area include a number of first cousins, Clarence Ehlers, Miss Pearl Miller and Howard Wheelock, of West Milton; Mrs. Areda Gibbs, of Laura, a former West Milton woman, Mrs. Blanche Carroll, of Troy, a former West Milton man, Paul Ehlers, of Albuquerque, N. Mex.; Mrs. Mary Shiverdecker, of Troy, a former Laura resident; and Mrs. May Furlong, of Midwest City, Okla., also formerly of Laura. A longtime friend is Mrs. Mary Netzley, of Laura, who visited the doctor when she toured the Orient in 1964.

COMMUNITY CELEBRATION PLANNED TO HONOR LUDLOW'S MISSIONARY

(By Arlean Clifton)

WEST MILTON.—State Representative Robert Netzley, of Laura, has disclosed that he will introduce a resolution to the State House of Representatives in Columbus commending Dr. Harry W. Miller, who will be 91 years old July 2, for his services to mankind. Dr. Miller has served as a medical missionary in China for 67 years, having first gone there in 1903.

Representative Netzley said he will ask that the resolution be made a matter of record in the House of Representatives, then have a copy specially prepared to present to Dr. Miller when the Doctor visits in the West Milton area on either July 5 or 6.

In addition to his work on the mission field in China, where he has established more than 20 hospitals, Dr. Miller holds a patent from the United States government for the development of soybean milk products which have been beneficial to babies throughout the world who have allergies to cow's milk. The doctor received the Blue Star of China Award in 1956 from Generalissimo Chiang Kai-shek.

Last summer he was honored by a Certificate of Commendation from Ohio's Governor James A. Rhodes. After receiving the award at a special ceremony conducted by the United States Consul General in Hong Kong, Dr. Miller wrote to Mrs. Arlean Clifton, local newspaper writer, who had briefed Governor Rhodes on Dr. Miller's achievements, and expressed a desire to meet the Governor when he came home on furlough this summer. Governor Rhodes' office late last week said the Governor would not be able to attend a birthday celebration being planned for Dr. Miller in his hometown area because the Governor will be out of the country on a trip to Japan.

However, Representative Netzley and Mrs. Clifton are in the process of contacting other dignitaries to attend the community celebration.

The Governor's office advised Mrs. Clifton that Rhodes will prepare a personal birthday message which will be presented to Dr. Miller during a ceremonial event that will follow a birthday buffet at the West Milton Inn. The buffet, which will be open to the public, will be served from 12 noon to 2 p.m. on either July 5 or 6, the definite date to be announced.

Persons wishing to attend are urged to contact the West Milton Inn by phone, mail, or in person.

The West Milton Jaycees have volunteered to construct a riser in the area behind the Inn to be used as a platform for the ceremonial presentations honoring Dr. Miller.

The Jaycees also was the first local organization to offer an honor for the doctor in the form of a special engraved plaque prepared for distinguished persons by the National Jaycees organization.

Mrs. Mary Netzley, of Laura, a longtime friend of Dr. Miller, who visited him during a tour of the Orient, is planning a reception for the doctor at her home in Laura. While the general public is being invited, Mrs. Netzley said this will provide an opportunity for Dr. Miller's relatives and close friends to chat with him in a casual manner. The reception will begin at 5:30, and it will be here that a giant birthday cake will be cut in honor of the doctor's 91st birthday.

The West Milton Lioness Club volunteered to provide a guest registration book to be used at the birthday buffet. The book will be presented to Dr. Miller, and Mrs. Duane Rousch, president of the Lioness Club, said the group also will furnish a corsage for Mrs. Miller.

Mrs. Betty Brumbaugh, speaking for the Camp Fire Girls, said that organization plans to make a scroll out of linen paper, printing a special message to Dr. Miller on it.

West Milton Mayor Ronald Minnich said the village of West Milton will present a special framed proclamation to the doctor. Mayor Gene Baker, of Ludlow Falls, where Dr. Miller was born in a log cabin nearly 91 years ago, stated that he has contacted the council to prepare some sort of an honor for Dr. Miller. Dr. Miller has told Mrs. Mary Netzley that it was a revival tent meeting in Laura at the age of 13 that he "became a Christian."

Mrs. Arlean Clifton, who is serving as general chairman for the celebration, has sent an invitation to two special friends of the doctor, Generalissimo and Madam Chiang Kai-shek. Also being invited is Raymond S. Moore, who wrote the book, "China Doctor," a biography of Dr. Miller which is available in the Milton-Union Public Library. Mr. Moore has recently had published a revised edition of the book.

Committees and their chairmen include the decoration committee, headed by Mrs. Richard Markley; hospitality committee, headed by Mrs. Duane Rousch; program committee, Mrs. Jerry Hammon. Mrs. Mary Netzley is handling invitations to the doctor's relatives.

Any organizations in the West Milton, Ludlow Falls or Laura area wishing to participate in the ceremonial program honoring Dr. Miller are urged to contact Mrs. Clifton.

TEXTILE IMPORTS FROM JAPAN

(Mr. PREYER of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PREYER of North Carolina. Mr. Speaker, the two basic elements of the economy of my State of North Carolina are textiles and tobacco. In attempting to help one of these elements, textiles, will we be hurting the other? Tobacco farmers and others in North Carolina are asking these questions:

Will the passage of the Mills bill relating to textile imports cause Japan to retaliate against our tobacco farmers by restricting its imports of tobacco? More generally, will enactment of the Mills bill lead to a trade war throughout the world?

These are good questions to which all of us who are concerned about the well-being of both tobacco and textiles must give honest answers.

I am convinced that there is no reason to fear that reasonable restraints on U.S. textile imports from Japan will mean a reduction in her American tobacco purchases. There are three reasons for this.

First. Japan's trade policy is to buy only those commodities which she needs and which are noncompetitive with her domestic manufacturers—and she buys where she can get the best terms. Japan must buy tobacco and she buys where she can obtain the best prices, quality, and trading terms. This she will continue to do. The quality of our North Carolina tobacco cannot be equaled anywhere in the world, and as long as our prices are right, the Japanese will buy.

Second. Even if Japan decided to change her hard-nosed policy of buying where the price is right, the relationship between tobacco and textile imports-exports is such that Japan would have little bargaining power to play the retaliation game. In 1969, Japan's textile exports to the United States totaled $540,000,000 while her tobacco imports from us were $49,000,000. Last year her textile imports increased $125 million over the 1966; her tobacco exports rose by $3 million. The U.S. textile industry is only asking for restrictions on the unreasonable growth of Japan's exports to us; Japan could not seriously argue that she will restrict the growth of our tobacco exports to her on the same grounds. Nor can Japan argue that increasing tobacco exports would damage domestic Japanese industries; on the contrary, it would harm Japanese industries to restrict the importation of tobacco. She would be cutting off her nose to spite her face.

Third. Under the Mills bill, there is no reason for Japan to restrict her tobacco purchases from the United States. The bill does not seek to eliminate foreign textiles from our markets. To the contrary, the bill specifically encourages the President to negotiate agreements with foreign nations governing textile imports. Only if a country refuses to enter into such an agreement would the legislative restrictions—on that country's share of our growing market—come into effect. It is in the clear self-interest of a country like Japan to enter into a negotiated settlement with the United States.

Why, then, have they not entered into such an agreement? Is it because the U.S. terms are unfair? No. The real reason, as columnist Charles Bartlett has pointed out, it that the decision against negotiating a compromise of the textile issue was forced by the arrogant old school of Japanese tycoons, against the entreaties of their own government and the warnings of a new generation of Japanese businessmen.

The trading nations, particularly the United States, are knocking on Japan's door. Japan must assume full membership in the modern world and abandon her system of total protectionism for Japan, and free trade for the rest of the world. The rest of the world has been lenient with Japan and has tolerated some 190 illegalities in Japan's trading practices. By doing so, we have, in Bartlett's words, "clearly created a surly Goliath."

The day of reckoning for Japan has come. But the wily Japanese businessmen, in the spirit of the elders who tried 117 years ago to rebuff Admiral Perry, are seeking to preserve the anachronism by risking a controversy in which the United States will be forced to strike first and take the blame for touching off a surge of protectionism. In short, Japan—the greatest obstacle to free trade in the modern world—will attempt to cast America—the freest trading nation of the world—as the villain in a threatened trade war.

It is time for Japan to take on her share of economic responsibilities. The modern industrial nations should help the underdeveloped countries by absorbing a fair share of these countries' textile production. To date, only America is doing this. It is time for Japan—a country with the second largest gross national product in the free world—to do her part instead of shifting the entire burden to the United States.

This is true in other areas as well. The select committee of Congress which recently returned from South Vietnam reported that the United States must give increased economic assistance to South Vietnam during the next few years. The report added:

> However, other industrial nations, particularly Japan, should be given every possible encouragement to share this burden. Japan has reaped substantial economic benefits through the sale of motorized vehicles, electronics and other goods to South Vietnam. It will be a prime beneficiary of the future economic growth of the country and of the successful efforts to stem the tide of Communist aggression in Southeast Asia. However, the level of economic assistance Japan has hitherto furnished to South Vietnam has been disappointing.

The report further states:

> While Communist China, either directly or through its satraps, remains a military threat to Southeast Asia, the quiet economic penetration of Japan is giving cause for some concern over the long haul. It requires no exhaustive research to become aware of Japan's role in Saigon, Bangkok, Vientiane, Djakarta, or Phnom Penh. The endless procession of wheeled vehicles, ranging from bicycles to automobiles, and a walk through the commercial centers give convincing evidence. One member expressed his concern this way, "The U.S. will spill the blood and spend the billions; Japan will move in and capitalize."

Japan would let America accept the burden of the trade while they get the benefits.

It would be sentimental folly for the United States to sacrifice its textile industry in the interest of "free world trade" while other nations pursue a policy of cynical opportunism.

American trade cannot be sacrificed to Japan's bluff. We must make clear to the world the reasonableness of the regulation of trade proposed in the Mills bill. We must not respond in kind to the Japanese—through anger and retaliation. The future of world trade, as well as the future of the textile industry, depends on the United States following a firm and steady course.

THE DEMOCRATS RESPOND TO THE PRESIDENT

(Mr. ALBERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ALBERT. Mr. Speaker, last evening the Columbia Broadcasting System, in response to many requests by Democratic leaders for access to television time to counter the numerous political speeches of the President broadcast over nationwide television, presented a 25-minute telecast by the Democratic National Committee entitled "The Democrats Respond: Part I."

In this program the distinguished national chairman of the Democratic Party, Lawrence F. O'Brien, presented for the consideration of the American people the facts concerning some of the major problems facing this great Nation today. Mr. O'Brien's presentation was well balanced and fair.

We all agree that the President should have access to the Nation's airwaves to present his views and policies to the American people. Just as important, a balanced view must be presented when the privileges accorded the White House are used to campaign against Democratic opposition and the elected membership of Congress. A fully informed electorate is a necessity to the functioning of our form of government, and Democrats have an obligation to present a balance to the narrow partisan statements of the Republican leadership.

TV is a powerful medium, and the public relations and television experts on the White House staff have demonstrated a great expertise in utilizing it, at times in partisan political matters. Certainly, the misuse for partisan political purposes, of the television privileges accorded the White House requires the presentation of the other side of these issues.

Our friends on the other side of the aisle have characterized the O'Brien presentation as a "con job." We will let the public be the judge on that. I can understand the Repubican concern that the American people should learn the truth about the initiatives and objectives of the Democratic Congress. As Chairman O'Brien pointed out, the Democratic Party and the Democrats in Congress accepted the challenge laid down by President Kennedy in his inaugural address January 20, 1961.

In order that all may have the opportunity to read and study Chairman O'Brien's remarks, I include them at this point under the unanimous-consent request:

THE DEMOCRATS RESPOND: PART I

President NIXON. In these difficult years, America has suffered from a fever of words; from inflated rhetoric that promises more than it can deliver; from angry rhetoric that fans discontents into hatreds; from bombastic rhetoric that postures instead of persuading.

We cannot learn from one another until we stop shouting at one another—until we speak quietly enough so that our words can be heard as well as our voices. (Inaugural Address, Jan. 20, 1969)

Democratic National Chairman LAWRENCE F. O'BRIEN. Like most of you, I applauded the appeal for lowered voices and national unity when Richard Nixon assumed the Presidency 18 months ago.

Good evening. I'm Larry O'Brien, national Chairman of the Democratic Party. I managed the Democratic campaign for President in 1968. And I recognized after the election that we all had to turn away from the narrow confines of partisanship and work in the active pursuits of national reconciliation.

But today the divisions within our society are far greater than they were 18 months ago.

I don't have any easy answers. But the American people are not afraid to face problems squarely, and I know you want facts.

In this spirit, then, the loyal opposition has the responsibility to ask: How, in fact, are we being governed? What progress are we making as a nation? How can we do better? How can the nation and our two-party system meet the challenge of the '70s? How can we achieve the goals the new President set forth in his Inaugural Address 18 months ago?

NIXON. In pursuing our goals of full employment, better housing, excellence in education; in rebuilding our cities and improving our rural areas; in protecting our environment and enhancing the quality of life—in all these and more, we will and must press urgently forward. (Inaugural Address, Jan. 20, 1969)

O'BRIEN. Those were the promises, no less urgent today than when the President spoke them on the Capitol steps 18 months ago. In a few areas—such as reform of the outdated welfare system and the antiquated postal system—the Nixon Administration has come forward with proposals that could make a lasting contribution to the fabric of American life.

But unfortunately, in most areas we see little or no progress; we share the concern of all Americans with the decline in our economy. Every housewife, every wage earner, every stock holder, every farmer, every small businessman—yes and many big businessmen know that our economy is lagging far behind its potential.

A reporter asked the President about this at a news conference earlier this year, one year after Mr. Nixon's Inaugural Address.

REPORTER. The question is, how, sir, do you assess the possibility that we may be in for perhaps the worst possible sort of economic conditions—inflation and recession?

NIXON. Well, Mr. Cornell, the major purpose of our economic policy since we came into office a year ago has been to stop the inflation which had been going on for 5 years without doing it so quickly that it brought on a recession.

Now, as a result, we are now in a position, the critical position, in which the decisions made in the next month or two will determine whether we win this battle.

I would simply say that "I do not expect a recession to occur." (News Conference, Jan. 30, 1970)

O'BRIEN. Regrettably, the President's expectations have not materialized, and, as so many of you are painfully aware, we have inflation and recession at the same time.

We call it Nixonomics: everything that is supposed to go up—your income, productivity, housing construction, profits, the stock market—is going down. Everything that is supposed to go down—unemployment, interest rates, the cost of living—is rising.

Every housewife is alarmed over the constant rises in food prices—hot dogs up 14 cents a pound, hamburger up 12 cents a pound, potatoes up a third—you know your grocery bill and how much it has gone up in the last year.

Do you know of a family earning less than $13,000 annually that has been able to buy a home this past year? And even those able to borrow money for a new home know that a $20,000 house costs an additional $35,000 for interest charges alone—the highest interest rates in 100 years.

In recent weeks Democrats and Republicans alike have been pleading with President Nixon to use the great power of his office to stop this recession and inflation now, before more damage is done.

The President must use his great personal influence to roll back inflationary wage and price decisions, just as President Kennedy and President Johnson did on many occasions.

Right now—tonight—Mr. Nixon could direct the lowering of interest rates on home mortgages, car loans, and the clothes you buy on credit from a department store.

A Democratic Congress gave him this power last year, but unfortunately, he has refused to use it.

I urge the President to act immediately. Please don't wait any longer for our economy to decline even further.

There is probably nothing of greater worry to the American family than the threat of unemployment. At a news conference two months ago a reporter asked the President about this problem.

REPORTER. On a domestic subject, the economy, sir. Unemployment is up, the stock market is down, things look generally discouraging. Do you have any views on that, and do you have any plans?

NIXON. Yes. Unemployment reached the point of 4.8, I noticed, this last month. In order to keep it in perspective, it should be noted that in 1961, 1962, 1963, 1964, and 1965 the average unemployment was 5.7, 5.7 is too high, 4.8, I think, is also too high. But the unemployment we presently have is the result of the cooling of the economy and our fight against inflation. (News Conference, May 8, 1970.)

O'BRIEN. As the President said, it is partly a matter of perspective that 5.7 percent unemployment rate mentioned in the early 1960s reflected a steadily declining rate of unemployment, a decline from the high of 7 percent which President Kennedy inherited from the Eisenhower-Nixon Administration of the 1950s.

The fact is that unemployment fell during the 1960s and it was down to 3.3 percent in December, 1968. It has climbed steadily since President Nixon took office. Since last December, we have experienced the fastest five-month rise in unemployment since the recession in the late 1950s. But beyond this, instead of talking statistics and percentages, let's remember that more than four million seven hundred thousand Americans are out of work tonight.

Let's look at another major concern and see what candidate Nixon promised—and what has happened since he took office.

NIXON. And if we are to restore order and respect for law in this country, there's one place we're going to begin. We're going to have a new Attorney General of the United States of America. . . .

The wave of crime is not going to be the wave of the future in the United States of America. (Nomination Acceptance Speech, August 8, 1968)

O'BRIEN. Of course every new President has the power to appoint his own Attorney General, but what has been the record of the Attorney General President Nixon appointed?

Eighteen months have passed. The crime rate in this country has not gone down. In the first three months of this year it rose 15 percent over the same period last year. And it is especially alarming that the fastest rates of increase are now in the suburbs and in rural areas of our country.

The way to stop rising crime is not to blame others, such as Congress. The way to stop the rising crime rate is to help local and state law enforcement agencies who carry the major burden.

NIXON. While it is true that State and local law enforcement agencies are the cutting edge in the effort to eliminate street crime, burglaries, murder, my proposals to you have embodied my belief that the Federal Government should play a greater role in working in partinership with these agencies.

That is why 1971 Federal spending for local law enforcement will double that budgeted for 1971. (State of the Union Message, Jan. 22, 1970)

O'BRIEN. That's how the President addressed the crime problem in his State of the Union Message last January. What action has followed those farsighted words?

The facts are that the Nixon Administration budget requires one thousand dollars from every one of you—every American—to run the government. Of that one thousand dollars, the Administration has earmarked only $2.40 to assist state and local governments in the fight against crime—cutting the Democratic program in half.

And, while I am sure the President and the Attorney General want to reduce crime, I cannot understand why they have refused to support further improvements in the Safe Streets Act advocated by a Democratic President and enacted by a Democratic Congress in 1968—our major federal anticrime program. They are improvements that would give cities with the greatest crime problems the most help.

I regret that so many of the top law enforcement experts brought to Washington by the Nixon Administration last year have now resigned, because, as they said, Attorney General Mitchell has refused to do what must be done to control the growing crime rate in America.

President Nixon's own anti-crime proposals have not been primarily directed at the national crime problem, but rather at Washington, D.C., and many people believe that some of these proposals are unconstitutional.

For the past generation both major political parties have stood together in the struggle for equal rights and opportunities for all of our citizens. In his acceptance speech, Mr. Nixon seemed to recognize the human stakes involved in the next urgent steps that must be taken in this continuing struggle.

NIXON. They want the pride and the self-respect and the dignity that can only come if they have an equal chance to own their own homes, to own their own businesses, to be managers and executives as well as workers, to have a piece of the action in the exciting ventures of private enterprise.

I pledge to you tonight that we shall have new programs which will provide the equal chance . . . (Nomination Acceptance Speech, August 8, 1968)

Now I know all the words. I know all the gimmicks and the phrases that would win the applause of black audiences and professional civil rights leaders. I am not going to use them. I am interested in deeds. I am interested in closing the performance gap. (News Conference, Jan. 30, 1970)

O'BRIEN. One of the biggest disappointments of the first 18 months of the Nixon Administration has been precisely this failure to match its words with deeds—to provide new opportunities for minority citizens, opportunities that must ultimately benefit all Americans.

Again, a number of experts brought to Washington by the Nixon Administration have resigned. They recognized this performance gap.

The failure to define clearly the policy for school desegregation has led to confusion in local school systems, and growing resentment and discouragement by families seeking equal educational opportunities for their children.

Above all, in the past 18 months we have been denied the strong moral leadership on this issue which only the White House can provide—that it *must* provide. We have lacked a President speaking forthrightly about the moral rightness of making the guarantees of the Constitution a reality for every American.

Again, Congress has had to take the lead—in overcoming the Administration's obstacles to renewing the Voting Rights Act, a law that provides *all* Americans with the most basic of democratic rights as well as extending the right to vote to 18-year-olds.

The times call for a new vision of our priorities. The President seemed to understand this when he addressed the nation last month.

NIXON. For the first time in 20 years, the Federal Government is spending more on human resource programs than on national defense.

This year we are spending $1.7 billion less on defense than we were a year ago; in the next year, we plan to spend $5.2 billion less. This is more than a redirection of resources. This is an historic reordering of our national priorities. (Address to the Nation, June 17, 1970)

O'BRIEN. The President says he favors this change in our priorities. But it was Congress, not the President, that cut five-and-a-half billion dollars from the Pentagon budget. And when Congress tried to channel less than a quarter of that money into educational and health programs—libraries, books, student loans—the President responded with a nationally televised veto message.

NIXON. Now, if I approved the increased spending contained in this bill, I would win the approval of many fine people who are demanding more spending by the Federal Government for education and health. But I would be surrendering in the battle to stop the rise in the cost of living, a battle we must fight and win for the benefit of every family in this Nation. (HEW Veto Message, Jan. 26, 1970)

O'BRIEN. In that same week when Mr. Nixon vetoed the education and health bill as inflationary, he announced a new multibillion dollar spiral in the nuclear arms race. Why wasn't this just as inflationary, if not more so?

Only a few days ago Congress overrode another Nixon veto and so restored funds to build desperately needed hospitals and mental health facilities for the nation's sick people. The President turned down this bill because he said it was inflationary. But more than two-thirds of Congress—including a majority of the members of the Republican Party—voted to allocate for hospitals some of the money cut from the budget.

National priorities? Let's consider again each American's thousand dollar share of the nation's budget: $4.50 for air and water pollution; $5.00 for urban renewal for our cities; $7.50 for elementary and secondary education; 50 cents for training the handicapped—and $375.00 for the military.

Once again, we must look to Congress for leadership.

It was Congress that more than doubled President Nixon's initial request for an increase in social security, providing a badly needed 15 percent increase. And just this week, your paychecks will be larger because a Democratic Congress voted to increase personal tax exemptions and eliminated the 5 percent surtax.

So I ask you tonight: Who is really engaged in a "historic reordering of our national priorities"—the Congress or the President?

One of our most urgent priorities for this decade is cleaning up our environment. Most of you heard the President speaking to this problem in his State of the Union Message this past January.

NIXON. The program I shall propose to Congress will be the most comprehensive and costly program in this field in America's history.

It is not a program for just one year. A year's plan in this field is no plan at all. This is a time to look ahead not a year, but 5 years or 10 years—whatever time is required to do the job.

I shall propose to this Congress a $10 billion nationwide clean waters program to put modern municipal waste treatment plants in every place in America where they are needed to make our waters clean again, and do it now. (State of the Union Message, Jan. 22, 1970)

O'BRIEN. That is what President Nixon said he would propose, and to many it seemed an impressive call for action. But the fact is that the 10 billion dollar program he promised calls for federal spending of only four billion dollars. The amount Mr. Nixon proposed for the first year of his new program to fight water pollution turned out to be *less* than Congress had already authorized.

And so, 18 months later, the pattern of the Nixon Administration's domestic program is abundantly clear—ringing calls for action, but few results, except when Congress takes the initiative and calls the shots.

But our attention to our critical domestic priorities continues to be diverted by the seemingly endless struggle in Indochina, about which the President addressed the nation on April 30.

NIXON. Tonight, American and South Vietnamese units will attack the headquarters for the entire Communist military operation in South Vietnam. This key control center has been occupied by the North Vietnamese and Vietcong for 5 years in blatant violation of Cambodia's neutrality. (Address to Nation, April 30, 1970)

O'BRIEN. I have no intention of "taking on" the President in difficult decisions about military strategy, but I do want the President to level with all of us.

I share the relief of all Americans that our troops have crossed back into South Vietnam, but I also share the confusion of most Americans who wonder what Cambodia is really all about.

The President never consulted with his Cabinet or with Congress before he expanded the Indochina war. He has never told the American people that the Communist headquarters he said would be attacked was never attacked and apparently never even located.

Instead Mr. Nixon now has given other reasons to justify his surprise move of American troops into a neutral country, among them the preservation of a new Cambodian government.

And now we have become involved, whether or not we like it, in that new government. Now—although our ground troops are out—our bombers and our artillery continue to bomb the Cambodian nation. Now the South Vietnamese army continues to sustain a full scale military operation in Cambodia.

Before our military incursion, as this map shows, Communist activity in Cambodia was primarily limited to border sanctuaries.

But now, just two months later, Communist control has expanded to half the land area of Cambodia and Communists have infiltrated over a large part of the rest of the beleaguered country.

The question must be asked: Has our action actually saved Cambodia, or put its survival in greater jeopardy?

To be a patriotic American is to question and probe the activities of those who govern us. That is our duty and our right.

The newly elected President promised to "bring us together again." But the opposite of that is occurring, polarization, unfortunately encouraged by Vice President Agnew in speech after speech across the country.

AGNEW. You can't bring 200 million people together. Let's stop talking in technicalities and look at the President's figure of speech—was a plea for national unity to bring the responsible elements of our society together. But let's never overlook the fact that there are also irresponsible elements of our society and instead of attempting to dignify and condone what they're doing, let's polarize—let's get rid of these undesirable people by recognizing that they cannot participate in our legitimate processes of gov-

ernment unless they play the rules. (Washington Window, UPI Interview, November 16, 1969)

O'BRIEN. The words and thoughts of Vice President Agnew leave me saddened and disheartened. While I realize there are many who support Mr. Agnew, I deeply believe his road can only lead to further division and mistrust among our people.

In attacking the loyalty of millions who sincerely question the course of the present Administration, the Vice President is himself questioning and jeopardizing the very democratic tradition that has made us strong.

Is *this* the way we are to be brought together again? Is *this* the lowered voice President Nixon urged upon all of us eighteen months ago?

This is a time for healing, not for wounding, for trust and understanding, not for hatred and suspicion.

For 14 years, I was a friend and close associate of a man who could express these feelings far better than I. One bright, wintry day the world seemed full of promise as he reached out to us and summoned forth the best we Americans had to offer.

KENNEDY. All of this will not be finished in the first one hundred days. Nor will it be finished in the first one thousand days, nor in the life of this Administration, nor even perhaps in our lifetime on this planet. But let us begin . . . (Kennedy Inaugural Address, Jan. 20, 1961)

O'BRIEN. The Democratic Party, and the Democrats in Congress accepted that challenge a decade ago—and we rededicate ourselves today.

WAR OF THE WORLDS

(Mr. MOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOSS. Mr. Speaker, the senior Senator from California, Mr. MURPHY, has come up with a most unique view of how the United States should conduct its international relations. It is simply this—and I quote him:

> There can be no such thing as a politically-established sanctuary from which an enemy can attack American forces and into which he can retreat without fear of pursuit.

The Senator looked back into history for justification of this remarkable view. He cited the American punishment of the Barbary Coast pirates and even General Pershing's raids into Mexico against Pancho Villa. He compares these events with America's most recent excursions into Cambodia. In fact, he calls them a quote—striking parallel—unquote.

I gather from his remarks, which were delivered on the Senate floor June 29, that he wholeheartedly endorses such a policy and recommends that our country diligently pursue and punish militarily all those who aid the North Vietnamese Communists. That, of course, is the next step.

There is only one fly in this ointment. America would be at war with half of the world if the Senator's views were adopted. After all, much of North Vietnam's help comes from Red China and Russia. So it would be only logical to attack the sources of this aid. Many other countries have traded with or aided North Vietnam. The Library of Congress informs me that this list includes at least 26 countries.

Among them are: Albania, Cuba, Czechoslovakia, East Germany, Hungary, North Korea, Poland, Rumania, Yugoslavia, Austria, Belgium, Denmark, Luxembourg, France, West Germany, Italy, Sweden, Switzerland, United Kingdom, United Arab Republic, Japan, The Netherlands, Algeria, Norway, and I am sure there are also a number of others.

So it is clear we would take up arms and invade or bomb literally hundreds of cities and many countries, including some of our best allies under the Senator's policy proposal. I do not think we have enough napalm to do that, despite the billions of dollars we spend on the military.

I will say, however, it gives the military-industrial complex another argument to press for higher appropriations. They can now give up that old chestnut of enemy submarines being sighted off the coast of Newfoundland or South America every time the military budget comes up.

I would like to suggest most respectfully to the talented senior Senator from California that he turn his ingenious creativity to solving some of America's most pressing domestic problems. To help him in this effort, I will be most happy to identify some of these problems for him. They include inflation, air and water pollution, poverty, hunger, civil rights, medical care, drug abuse, consumer protection, the decay of our cities and—I might add—the decay of our moral responsibility to the world to make it a better and more peaceful place for all human beings.

VIETNAM INVESTIGATION

(Mr. WOLD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLD. Mr. Speaker, I want to take this opportunity to praise the 12-member factfinding committee this body sent to Vietnam.

Whatever the differences in their findings. I am certain the information they came back with will be beneficial toward guiding this body and the Government of the United States in its future Southeast Asian policy.

I am greatly concerned about Southeast Asia and its impact on the domestic well-being of this Nation. I am equally concerned about the effect of this Government's policies on our relations with the remainder of the world. In these two areas, I believe President Nixon has provided very able leadership. He is committed to removing U.S. military forces from Vietnam in the shortest possible time under honorable and tolerable conditions.

Nonetheless, certain revelations of the factfinding group have come as a brutal shock to me. I refer to the tentative findings of two members of the group about the prison on Conson Island and, specifically, to the tiger cages there.

The morality of the situation is evil enough, but at a more human level, I would like to know why the United States has allowed the South Vietnamese Government to jeopardize the fate of the 1,508 Americans missing or held prisoner of war by the Communists. I think the American people deserve all the answers. They certainly deserve more than the terrible ironic headlines of this morning's Washington Post: "U.S. Denies Responsibility for 'Tiger Cages' at Conson."

American prisoners of war in North Vietnam are being endangered by what may be going on in South Vietnam. Rather than denials or evasions of responsibility, we need to know what is going on in South Vietnam. These claims of ignorance and nonaction will only be used as excuses by the North Vietnamese to continue mistreating and holding American prisoners of war. Neither the American people nor the loved ones of our missing men should tolerate such a situation.

I do not say the analogy is perfect, but I remember all too clearly the misuse to which the excuse of "ignorance" has been put. Both the highest and lowest German officials—after World War II—denied any knowledge of what was happening all over Europe. The situation in South Vietnam is not of the scale of Europe. Nor is the intent of the South Vietnamese Government the same as was that of the Nazis. Nonetheless, ignorance is no excuse.

The following questions should be answered by the appropriate officials:

First. How long has the situation at Conson existed?

Second. How long has the United States known about it?

Third. How long has the United States been trying to straighten it out?

Fourth. What has been the degree of political influence used to straighten it out?

Fifth. What has been the degree of moral persuasion used on the South Vietnamese Government?

Sixth. What other means of influence have been used?

Seventh. Who are the officials who know about the situation?

Eighth. How strenuously did they try to inform higher authorities of the situation?

Ninth. Are there similar situations elsewhere?

Tenth. Was any attempt made to link the effect of Conson with the treatment that would be accorded U.S. prisoners held by the Communists?

I believe the Departments of State and Defense have an obligation and duty to fully answer these questions for the appropriate House and Senate committees. Anyone else with information relating to these developments should be free to tell what they know. I would hope this body and the appropriate committees would welcome all such information.

The reports of Conson have brought out another shocking situation that needs to be investigated. From my reading of the reports, it is clear that the reporters have long been kept out of the area. We need to know if the United States has protested their exclusion.

We need to know if there are other

areas in South Vietnam—where thousands of Americans have died and billions of our dollars spent—where the U.S. press is not permitted.

I am aware of the sensitivity about stepping on toes of our allies. But, I believe these questions are deserving of an answer. After all, the South Vietnamese press is allowed to freely wander about the United States and, as we all know, the South Vietnamese Government is not spending a dime of its own money in the United States.

There are other sources of information to learn what is happening. Private groups such as the Red Cross, the International Voluntary Service Organization, the World Council of Churches, and others are vast storehouses of knowledge. They all, along with the members of the press, should be queried about these cages and about other items which have been suppressed that will affect our prisoners being held by the North Vietnamese.

Mr. Speaker, it is apparent that the committee's trip to South Vietnam has sparked a controversy. I am sure, however, that each member is well prepared to answer for his own experiences.

My concern is the American prisoners in North Vietnam and how Conson affects them. We should be asking the question: What can we learn from this experience that will help us get our men out of North Vietnam prisons?

There will be some who wonder about the validity of these questions. There will be some who say: Why are you trying to stir up trouble?

The answer is simple. The lives and fate of our American men being held by the North Vietnamese overrides all other considerations.

I call on all Members of this body, whether or not they support our effort in Vietnam, to join in protest at any violation of the rules of the Geneva Convention on Treatment of Prisoners of War. This is a double-edged sword which must apply to American prisoners in North Vietnam as well as to the enemy in Conson.

THE MIDDLE EAST: TIME RUNNING OUT

The SPEAKER pro tempore (Mr. PHILBIN). Under a previous order of the House, the gentleman from Illinois (Mr. PUCINSKI) is recognized for 30 minutes.

Mr. PUCINSKI. Mr. Speaker, there should be no doubt in anyone's mind that Russia intends to press ahead in the Middle East to stake out her strategic claims and to consolidate her position with ruthless determination. She will continue to back and encourage the Arabs in every way, as and when it serves her interests, just as she has been feeding and stoking the fires of conflict in Vietnam.

As the Intelligence Digest, published in England, pointed out, Egypt is now the principal springboard of the expansion and consolidation of Moscow's influence and, Moscow hopes, eventual domination. As in the case of totally subjugated Czechoslovakia, for instance, there now seems to be no way of escape from the clutches of dependency in sight for Russia's Middle East clients.

No matter how extraordinarily difficult and unpleasant though it may be to look the danger-fraught realities straight in the face, it would be merely postponing the moment of truth to cling to the hope that the diplomatic possibilities of solving the problem of Russian penetration in the Middle East have not yet been exhausted.

It is wishful thinking to expect that Russia, after having gained so much already, will withdraw voluntarily in a spirit of compromise and good will.

Indeed, the statesmen of the West are unlikely to be so naive as to have much confidence in this. They can see the writing on the wall clearly enough, but evidently still hope against hope that it is not really true.

When Khrushchev tried, through the Cuban venture, to redraw the strategic map of the world, the United States nipped the attempt in the bud with an ultimatum to the Kremlin which undoubtedly carried the risk of a third world war.

This was a calculated risk, which had to be taken, and was taken, in order to avert certain catastrophe.

Today, President Nixon, who has been faced by a near-hysterical mood of neo-isolationism at home at a time when as critical a situation is in the making, has had so far to confine himself to exhorting the Russian leaders "to cooperate, please."

All the indications are that the Russian leaders are growing increasingly confident that the American administration is in no position to take a strong stand and that it would be prevented from any active involvement of a serious kind in the Middle East by the neo-isolationists and noninterventionists.

In fact, the impression is beginning to spread around in the Arab world that the Russian involvement is gathering momentum and will not stop short of direct physical confrontation with Israel.

When, weighed down by the might of force and numbers, Israel succumbs, so the popular Arab belief has it, then the United States, confronted by an accomplished fact, will, in the final count, have no alternative to accepting it.

The Soviets are counting on the fact that American disillusion with Vietnam will force our Nation into a posture of such strong isolation that we will refrain from any intervention even where our most vital national interest is involved.

The late Senator Robert Kennedy had predicted this wave of isolationism in America. He was right. The Americans are so exhausted emotionally from the Vietnam conflict that President Nixon has had to state emphatically we shall not send any U.S. troops to the Middle East. And properly so because the Israeli want no American intervention. But the Arabs mistakingly interpreted this as American disinterest. The Arabs still think Israel will fall.

It may be difficult, rationally, to imagine such an outcome. But the very fact that it is visualized goes to show a trend of thought which, if allowed to develop unhindered and unchecked, may lead the Arab States, in their belief of the West's allegedly progressive degeneration and impotence, into fatal miscalculations.

There is a far greater menace in this kind of miscalculation than there would be in a firm stand declared in unequivocal terms. But for any such declaration of intent, time may already be running out.

If the United States does not take a firm stand by providing Israel with Phantom jets and other hardware, we will be ushering in world war III.

We delude ourselves into believing that our NATO and CENTO allies can be counted upon. The French are busy wooing the Arab countries, whose oil they covet; the Italian Government rises and falls regularly; the West German Government is foolishly making concessions to the Russians when they should be receiving them; the British Government is financially and militarily too weak to be of much help. Indeed, much of Western Europe is now living in a complete fools' paradise.

Turkey has been making more and more concessions to the Russians and many of Turkey's radical elements has given her a hue of anti-Americanism.

The Greek Government has always been one of our strongest friends. Yet we and our European allies have been so busy lecturing to the Greeks about democracy that they have been forced to look elsewhere for trade.

In Iraq, moves are underway to revive to full strength the once formidable and best organized Communist Party in the Middle East. Moscow is bringing influence to bear by way of suggestions and promises of extended economic and military aid and by agitation and incitement, direct and indirect.

The Libyan Government has been constantly infiltrated with Egyptians, and there is a good possibility that Wheelus Air Force Base will be taken over by the Russians.

Indeed, if this were to happen, Israel would be completely surrounded by her enemies, calling to mind Mao Tse-tung's classical statement of how to encircle one's enemy.

It is ironic indeed that at a time when we can be dealing from strength, Russia is dealing from weakness. She is daily confronted with the looming spectacle of a Red Chinese dragon on her eastern front and the seething unrest of her satellites on her western front.

As yet, we seem to be pursuing the same discredited policies in the Middle East as we have in Vietnam. We have been pursuing a policy of gradual escalation, thus giving the Russians an opportunity to stay one step ahead of us. While we ask for cooperation, the Russians have been busy placing SAM sites in Egypt, making Israel's position totally untenable.

We seem to be making the same mistakes we made in Cuba. We seem to be letting the Russians extend a Brezhnev doctrine to the Middle East. We have let a Trojan horse come into the Middle East by standing still while the Russians have sent in Soviet Moslems under Nas-

ser's call for all Moslems to come to his aid. The fact that they are Soviet Moslems does not alter overall Russian policy of complete hegemony in the Middle East.

Mr. Speaker, the die has been cast. We cannot let the Russians and their clients dictate politically or militarily the course of events in the Middle East. To do so would be to permit the whole course of Western civilization to change and to invite a third world war.

To allow the Russians and their clients to continue a war of attrition unabated against Israel without an appropriate response would mean that our position in Western Europe and, indeed, throughout the world, would become untenable, and we would lose access to vital raw materials in the Middle East and Africa, so necessary to the survival of the free world.

We must not vacillate while the Russians dictate; we must not be negative while the Russians are positive. In the words of the famous military strategist, von Clausewitz, in order to have peace we must be prepared for war. If we fail to meet the Russians with a positive response, we will forfeit our position as leader of the free world.

Mr. Speaker, I call upon our President to invite the Arab leaders to the United States to discuss the serious implications of the Russian maneuvers in the Middle East and to use his good offices to get the Arabs and the Israelis to the negotiating table.

I call upon our President to give Israel the jets and military hardware she needs to defend herself against an encroaching Russian bear and her clients. We must defend democratic Israel. She stands as a bulwark of freedom against Soviet imperialism. We must not listen to the defeatists, the isolationists, the noninterventionists in our midst. We must do what is right and that is to help Israel defend herself. To do otherwise is to invite disaster.

Mr. Speaker, it has been said in the classics that hell is reserved for those who, when they should have done something, stood by and did nothing.

Let us not have that epithet written about this great Nation of ours and those whose freedom and liberty we have sworn to uphold and defend. Let history record that we did the right thing at the right time and that this was, indeed, our finest hour.

For indeed, time is running out.

EARTH RESOURCES AND POPULATION—PROBLEMS AND DIRECTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BUSH) is recognized for 5 minutes.

Mr. BUSH. Mr. Speaker, the House Republican Task Force on Earth Resources and Population, of which I am chairman, has conducted a full year of study and inquiry into the interrelated problems of population growth, depleting natural resources, and environmental degradation. I have here a report of our study with recommendations for solving some of these problems and I include this report following my remarks.

Mr. Speaker, each member of the task force and many of their staff personnel have contributed greatly to this study. Their participation and contributions have made this task force activity very productive and worthwhile.

Personally, I view this entire complexity—man's environment—the interrelationship between population growth and natural resources, as the most critical problem facing the world in the remainder of this century.

No one can honestly say how many people this earth of ours, with its finite resources, can accommodate. But, it seems to me a fair judgment to say that the present rates of population growth and demand for resources have proved too rapid for our technology to improve on the quality of life that we in America expect for all our citizens.

The problems of economic development in the less developed countries of the world exemplifies the tragedies of unchecked population growth. Many of these countries have already begun national programs to reduce their population growth rates. The United Nations is pursuing programs to assist these countries. Just last week the Government of India received $20 million from AID to assist their family planning programs.

We, in America, have our own population problems and the time for facing up to these problems is now. Our cities are decaying, too many Americans lack proper food and nutrition, our transportation facilities are failing to meet the demands of urbanization, and as we crank up our technology to solve these problems we unwittingly despoil our air, water, land, and oceans. Since World War II, we have had a fantastic technological growth and what technological marvels we have witnessed in the past 25 years we will probably experience in the next five years. Yet, in this same time period, we will experience our highest number of births ever, and a continual decline in death rates. We will be devouring our natural resources at an unprecedented rate and as a result what headway we make in abating our pollution problems will seem grossly inadequate. We must get off this frustrating treadmill if we are to look to the future with hope and optimism. We simply cannot solve today's problems with yesterday's programs.

I beileve the recommendations in this report are significant steps in the right direction. We need these national policies on energy, nonfuel minerals, oceanography, and population. We need all four policies. It is extremely difficult to tackle any of these problems in isolation of each other.

President Nixon is to be commended on the latest proposed reorganization of his administration creating the Environmental Protection Agency and the Oceanographic and Atmospheric Agency. Our report certainly supports the need for this type of action. We need a systems management approach to all these interrelated nonentities. We need to synthesize all the component parts of administration in tackling this complexity.

We cannot blame population growth for all the ills in our society which is becoming a popular position of many demographers and ecologists. We do need more public awareness that a national goal to stabilize our population is desirable, that a two-child family is a worthwhile consideration for all American parents offering benefits to both the family and the society as a whole. We need full public recognition that family planning is not merely birth control but basic health care for the benefit of both parent and child. The poor are by no means alone in their lack of knowledge when it comes to understanding the basic facts of human procreation. By the end of this decade, family planning and birth control should be as important to every parent as the family budget.

With positive programs to alleviate the problems of population density, housing, transportation, health care services, and pollution in conjunction with planned utilization of our natural resources while stabilizing our population, a quality life for every citizen will be possible. But, no government alone can bring this about. Many of our current values and traditions need fresh examination. It will require substantial sacrifice and cooperation between government, industry, and each individual citizen. It is a sacrifice we cannot afford to neglect.

The task force report referred to follows:

EARTH RESOURCES AND POPULATION—PROBLEMS AND DIRECTIONS

(Report and recommendations of the Republican Task Force on Earth Resources and Population, House Republican Research Committee)

HOUSE REPUBLICAN RESEARCH COMMITTEE

Robert Taft, Jr., Ohio, Chairman.

TASK FORCE ON EARTH RESOURCES AND POPULATION

George Bush, Texas, Chairman; Tim Lee Carter, Kentucky; Louis Frey, Jr., Florida; James G. Fulton, Pennsylvania; Charles S. Gubser, California; Frank Horton, New York; Hastings Keith, Massachusetts; Donald E. Lukens, Ohio; Paul N. McCloskey, California; Charles A. Mosher, Ohio; Jerry L. Pettis, California; Howard W. Pollack, Alaska; Ogden R. Reid, New York; Guy Vander Jagt, Michigan; John Wold, Wyoming.

TESTIMONY

The Task Force heard testimony from the following persons:

6/5/69: Dr. Philander P. Claxton—Special Assistant to the Secretary of State for Population Matters. Dr. John Kepple—Director of Population Activities, United Nations Development Programs.

6/11/69: Dr. J. L. McHugh—Director, International Decade of Ocean Exploration, Dr. William Pecora—Director, U.S. Geological Survey, Dr. Donald Dunlap—Assistant and Science Adviser to the Secretary of Interior, Dr. S. Fred Singer—Deputy Assistant Secretary for Science Programs, Department of Interior.

6/12/69: Dr. Gary London—Director of Health Services, Office of Economic Opportunity.

6/17/69: Dr. R. T. Ravenholt—Director, Population Service, Agency for International Development.

6/19/69: Dr. Martin Forman—Director, Nutrition and Child Feeding Service, Agency for International Development, Mr. George Parman—Director, Food from the Sea Service, Agency for International Development.

6/24/69: Dr. James Cavanaugh—Deputy Assistant Secretary for Health and Scientific Affairs, HEW, Dr. Carl Shultz—Director, Office of Population and Family Planning, HEW.

6/26/69: Dr. Thomas O. Paine—Administrator, National Aeronautics and Space Administration, Dr. John Naugle—Associate Administrator for Space Applications, NASA.

7/8/69: Dr. Arthur A. Cambell—Deputy Director, Center for Population Research, NIH, Dr. Norman A. Himar—Chief, Program Liaison Branch, Center for Population Research, NIH.

7/10/69: Dr. Lee A. DuBridge—Science Advisor to the President, Dr. John Buckley—Technical Assistant, Office of Science Technology, Dr. Donald R. King—Technical Assistant, OST, Dr. Eric B. Ward—Executive Secretary, Federal Council on Science and Technology.

7/15/69: General William H. Draper, Jr.—National Chairman, Population Crisis Committee. Col. Frank Borman—NASA.

7/17/69: Mr. J. Steele Culbertson—Director, National Fishmeal and Oil Association.

7/24/69: Dr. William Moran—President, Population Reference Bureau.

E/29/69: Mr. Oscar Harkavy—Program Officer in Charge, Population Activities, Ford Foundation.

7/31/69: Dr. William McElroy—Director, National Science Foundation. Dr. Louis Levin—Executive Associate Director, NSF.

8/5/69: Dr. William Shockley—Professor, Stanford University. Dr. Arthur Jensen—Professor, University of California at Berkeley.

8/7/69: Earth Resources Survey Program Review Committee: Dr. John Naugle, NASA, Chairman, Mr. Leonard Jaffee, NASA, Dr. William Pecora, Interior, Dr. T. C. Byerly, Agriculture, Dr. Robert M. White, Commerce, Dr. William MacDonald, Navy, Mr. Robert Porter, NASA.

8/12/69: Dr. Paul R. Ehrlich—Professor, Stanford University.

9/9/69: Dr. Howard Tanner—Director of Natural Resources, College of Agriculture and Natural Resources, Michigan State University.

9/23/69: Dr. Bruce W. Halstead—Director, World Life Research Institute.

10/9/69: Dr. Roger O. Egeberg—Assistant Secretary for Health and Scientific Affairs, HEW.

10/28/69: Dr. George A. Doumani—Geologist, Science Policy Research, Legislative Reference Service, Library of Congress.

11/6/69: Dr. Daniel P. Moynihan—Counselor to the President.

11/13/69: Hon. Donald Rumsfeld—Director, Office of Economic Opportunity.

11/20/69: Dr. Jean Mayer—Director, White House Conference on Food, Nutrition, and Health.

11/25/69: Hon. Shirley Chisholm—Member of Congress.

2/4/70: Dr. Harold L. James—Chief Geologist, U.S. Geological Survey, accompanied by Mr. Thor Kiilsgaard, Mr. David Davidson, Mr. Harild Kirkemo, and Mr. V. E. McKelvey.

2/19/70: Hon. Hollis Dole—Assistant Secretary for Mineral Research, Department of Interior, Mr. Gene Morrell—Deputy Assistant to the Secretary, and Mr. Jack Rigg, Special Assistant to the Assistant Secretary.

3/4/70: Mr. W. W. McClanahan—Executive Vice-President, National Coal Policy Conference, Mr. Claude D. Curlin—Information Director, Mr. B. L. Thompson—Staff Economist, and Mr. W. A. Raleigh—Congressional and Government Relations.

3/11/70: Dr. Orris Herfindahl—Mineral Economist, Resources For The Future.

3/18/70: Dr. Raymond Ewell—Vice President for Research, University of New York at Buffalo, and Dr. Jack Lippes—Medical Director of Planned Parenthood Center, Buffalo New York.

3/24/70: Mr. Allan Overton—Executive Vice President, American Mining Congress.

4/7/70: Hon. Russell E. Train—Chairman of the President's Council on Environmental Quality.

4/15/70: Mr. David S. Freeman—Director of the Energy Policy Staff of the Office of Science and Technology.

4/21/70: Mr. Skip Spensley—Director of Environmental, Inc., Washington, D.C.

5/12/70: Mrs. Jeannie Rosoff—Manager, Washington Office, Planned Parenthood-World Population.

INTRODUCTION

The interrelated problems of the current world population growth rate—hunger, environmental degradation, and depletion of earth resources—are properly matters of increased public concern. This House Republican Task Force on Earth Resources and Population report is directed toward providing improved understanding and more effective policies for dealing with these critical problems. This report is the result of extensive hearings and study conducted over the past year.

The initial concern of the Task Force was the Federal Government's role in providing family planning services to the estimated 5.3 million women who wanted these services as part of maternal and child health care services, but who could not afford these services or did not know where to find them. As a result of this concern, the Task Force issued a report on "Federal Government Family Planning Programs Domestic and International" on December 22, 1969.

As important as it is to achieve President Nixon's goal of providing family planning services to these estimated 5.3 million women, the Task Force recognizes population growth problems as being of far greater magnitude and complexity than could ever be solved through total availability of family planning services. Because our domestic population is expected to leap from its present 204 million people to over 300 million by the end of this century while the world population is expected to double from 3.5 billion to 7 billion in this same time period, we face a formidable problem in providing the goods and services necessary for sustenance, while still protecting our environment.

In the first volume of *The Story of Civilization*, Will Durant discusses certain conditions which, if they disappear, may destroy a civilization. He claims that "the failure of natural resources, either of fuels or of raw materials," is one of the ways in which a civilization may die.

One of the basic facts we must realize about our earth is that it is composed of finite resources—resources that provide the means by which we are able to support our civilization and our very lives. Through hard work and ingenuity, America has become the most affluent nation in the worrld. Yet, much of our affluence and many of our conveniences are now being taken for granted. For example: we turn on a switch and expect light; we set our thermostats and expect the proper heat to warm our homes; we turn a dial and expect the necessary means to cook our food. Every one of these conveniences depends upon the use of resources from the storehouse of our earth. These are only some of the more obvious examples of our dependence upon earth and mineral resources.

Americans' reliance on these earth resources is unquestionable. But will we have them in sufficient supply to accommodate ourselves and our offspring if our population continues to increase at the present rate and our present rate of consumption continues? With only six percent of the world's population, the United States consumes almost one-third of the world's minerals. In fact, we have consumed more of these resources in the past 10 years than was consumed in all previous history.[1]

SECTION I—EARTH RESOURCES

Energy

Among the most important of the earth's resources is the supply of energy producing materials. The production of electricity, the power to drive our cars, and the ability to heat our homes all result from the energy produced from fuel minerals. Our society's demand for electric power increased nine percent each year over the past two years. This would mean a doubling of our present demand within the short span of less than nine years. At this same level of expansion, the demands would increase by 800 percent before the end of this century. The problem is becoming more intense because of the difficulty of extracting the necessary fuel minerals for running the generators of our nation's power plants.

Power Blackouts—The Effect on Environmental Considerations

Millions of Americans face the real possibility of power blackouts this summer. Perhaps as many will face a shortage in energy for heating demands this winter. Homes and office buildings will be asked to turn off air conditioners on the hottest days this summer. In some areas appliances may have to go unused for periods of time because of the lack of power to run them.

The Task Force is concerned that as a result of these inconveniences, many citizens will close their eyes to necessary environmental considerations and demand more power at any cost to the environment. For probably the first time Americans will be faced with decisions that affect the environment and their personal comforts and conveniences. We will confront a situation where power demands will require the more efficient and expedient methods of mineral fuel extraction, while we will likewise face the equally important requirements of providing adequate environmental safeguards.

Current Domestic Resource Capabilities

The time span necessary to exhaust the majority of fossil fuels at our present rate of consumption is only a matter of centuries. The time required for the formation of new fossil fuels by geological processes is about 600 million years. If the population continues to grow at the present rate, with a corresponding increase in energy demand, we may be faced with a serious shortage of fossil fuels. For example, coal has been mined for about 800 years, but one-half of the coal produced during that period has been mined during the last 31 years. Half of the world's production of petroleum has occurred since 1956. Given this situation, we must either decrease our energy demand, or find a new major source of energy production, if we are to avoid the complete exhaustion of our energy fuels. Nuclear energy may eventually dominate electric power generation and help to obviate this problem, but at present the process is very costly.

Natural gas

A study done for the Federal Power Commission, Bureau of Natural Gas, states that, "On the basis of current trends, only a few years remain before demand will outrun supply." The United States gas industry and its customers will be increasingly dependent upon supplementary sources in the years beyond 1973. These supplementary sources could include: synthetic gas from coal, liquefied natural gas imported by ocean tanker, and imports from Canada.

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[1] Report 91-390, Senate Committee on Interior and Insular Affairs. (Sept. 1969).

Coal

Coal reserves are estimated at anywhere from 800 billion to more than one trillion tons, and the technology is available to produce it. We have a thousand-year supply of coal in sight. However, the air pollution control program, which is becoming nationwide in scope, may preclude the burning of coal in the amount required.

Air pollution control officials are concerned with two pollutants from the burning of coal: sulfur oxides and particulate matter. The emission of particulates can be controlled by the installation of electrostatic precipitators, and dust collectors. However, about two-thirds of the coal produced east of the Mississippi River cannot meet the present sulfur oxide emission standards, and there is no prospect that commercial sulfur removal techniques for coal will generally be available over the next few years. Low sulfur coal that would meet these standards is in extremely short supply.

Petroleum

Petroleum fuels are the nation's and the world's leading source of industrial energy. However, much of our supply comes from foreign sources. The gap between domestic supply and demand is widening rapidly, and it appears unlikely that we will be able to restore our position of self-sufficiency in petroleum energy.

The long range development of oil shales may be a way to supplement our crude oil supply. Approximately 78 percent of the world's known oil shale reserves are located in the United States with the bulk of these reserves contained in the Green River formation of Colorado, Utah, and Wyoming. The oil contained in this formation, with a content of at least 15 gallons per ton, may total as much as 1.8 trillion barrels. This is potential equivalent of enough oil to meet U.S. requirements for hundreds of years.

The promotion of the research on shale oil production has not been adequate. The present lack of interest is probably due to both economic and technological factors. Oil shales have their hydrocarbon content in a solid form, and they include objectionable nitrogen and other impurities that create problems in refining. Technology is apparently not far enough advanced to make it economically competitive with existing sources of petroleum.

Nuclear power

Nuclear energy is the only remaining energy source of sufficient magnitude and practicability of exploitation to meet the world's future energy needs. Of the possible sources of nuclear energy, that from the fusion reaction has not yet been harnessed and probably won't be in this century. Power from the fission reaction of uranium-235 is an accomplished fact, with more than 100 reactors presently operating or under construction. Although there is an enormous amount of energy released from the fissioning of uranium-235, it is an expensive and rare chemical element, and represents only $\frac{1}{141}$ of natural uranium. There is an optimistic prediction for nuclear energy, however, if we consider the fact that it is possible to convert both non-fissionable uranium-238, comprising almost all of natural thorium, into fissionable plutonium isotopes. In order to achieve this process, it will be necessary for us to develop "breeder" reactors, which actually generate more usable fuel than they consume.

The fuel for a "breeder" reactor (uranium-238 and thorium-232) is cheaper and more abundant than uranium-235. In fact, the intrinsic cost of fuel for a "breeder" reactor is only $\frac{1}{500}$th the cost of the fuel in the current burner reactors. However, uranium-235 is valuable as an initial fuel for "breeder" reactors, and is being consumed by our present generation of burner reactors. Consequently, it is essential that we replace the present burner reactors with "breeder" reactors, to conserve uranium-235 and assure the nation of an inexhaustible supply of nuclear fuel. A report by the National Academy of Sciences claims that if this is not done, the inexpensive sources of uranium-235 would probably be exhausted within a fraction of a century.

Nonfuel minerals

The availability of earth and mineral resources is indispensable to the growth and sustenance of our culture. The Bureau of Mines has said that our mineral production is slightly less than 3 percent of our gross national product. However, it has direct impact on 40 percent of the GNP, and an indirect impact on 75 percent of the GNP. Without an adequate supply of these mineral resources, we would find ourselves confronted with insuperable problems that could very well spell the end of the good life.

Current Supplies Fall Short of Future Demands

Our mineral consumption rate has substantially outgained our population growth rate for years. In the past century, our population grew more than 400 percent, but our mineral consumption increased more than 4000 percent.

Some predictions suggest that by 1980 consumption of mineral resources by the United States will rise 50 percent. Bureau of Mines projections for the period 1965–2000 show that iron consumption will increase over 200 percent in the United States and more than 250 percent worldwide. Zinc consumption will increase nearly 375 percent both in the United States and worldwide. Copper will increase more than 200 percent in the United States and nearly 375 percent worldwide. Despite the fact that our consumption rate will increase, we can see that the consumption rate of the world will increase even faster due to the economic and technological development of foreign countries. It is difficult to determine how and if we can meet these increased demands. Currently established reserves fall short of projected requirements, and it is difficult to estimate the possibility of new discoveries.

Today, per capita demand for minerals in the United States amounts to about $150 per person per year. By the year 2000 the Bureau of Mines believes that our per capita mineral demand will be approximately $420. The United States is producing annually about $25 billion worth of primary minerals and consuming approximately $32 billion worth. By the end of this century, when our population is expected to be 300 million, production is expected to increase to about $66 billion annually, and consumption to approximately $135 billion. In other words, the present annual deficit of $7 billion will increase to $69 billion by the year 2000.

Our current production deficit is about 22 percent of consumption requirements. It was only 9 percent in 1950, and if present trends continue it will rise to more than 50 percent in the next 50 years.

United States Is Dependent on Foreign Sources

Minerals are scattered across the earth in unpredictable patterns, and no single nation can depend entirely on its own resources. All nations are interdependent upon one another for an adequate supply of resources, but the United States is in a particularly dependent position. The United States is an enormous consumer of minerals and fuels. For example, the world-wide per capita consumption of iron and copper is about one-sixth that of the United States, and for lead it is one-eighth. Despite the fact that we are the world's largest producer of copper, we are also the world's largest importer of this mineral. Fifty years ago, we were the world's largest exporter of copper. A study by Resources for the Future, Inc., has concluded that over the next three decades the United States will be largely dependent on imports for such vital metals as manganese, chromium, nickel, and tungsten. It also suggests that the total world demand will begin to outstrip the known mining potential of copper, lead, and zinc in all parts of the globe. Except for coal and molybdenum, the United States is partially or wholly dependent on imports for even its normal needs of most of the metals and minerals that are the foundation of our economy. Today, imports supply over 75 percent of our needs for 20 different raw materials.

Labor Dwindles While Research and Development Lag

Exploration for minerals is a complex business, and most of the easy discoveries have been made. It is now a very difficult and costly procedure that entails a great deal of chance. We must also keep in mind that as much as 8 to 10 years may elapse between the time the decision is made to open a new mine and the time the development work is completed and commercial production gets under way.

It is an undeniable fact that we must use available ore to the greatest possible advantage. We are going to be required to turn to the lower grade ore deposits and deposits at very great depths to satisfy our mineral requirements. Such endeavors will require research, both basic and applied. However, a study conducted by the National Academy of Sciences, the National Academy of Engineering, and the National Research Council says, "Despite the key role of mineral products, mineral technology in the United States is in a declining state, and serious trouble lies ahead for the country unless corrective actions are taken promptly."

There is a great need in the United States for increased mineral exploration and development. Yet, fewer students have applied for admission to the mineral schools, and we have seen the decline of mining schools in the United States from 26 to 17 in five years. There is also a startling lack of students throughout the United States studying such mineral engineering subjects as geological engineering, geophysical engineering, metallurgical engineering, mining engineering and petroleum engineering. Last year American universities graduated a total of only 110 mining engineers, and many of these were foreign students who returned to their own countries. In 1967 there were 19 graduate programs in mining with a median participation of eight graduate students, and half of these were foreign nationals. The public attitude toward mining has also contributed to the manpower problem. It has become more difficult to recruit labor to man mines, particularly the underground mines in remote areas. Furthermore, it is estimated that the average coal miner is over 50 years of age, and the 250,000 of them will retire in the next 2 years.

Recycling of solid waste

An undetermined amount of resources are being dumped on America's landscape and into our air and water in increasing volume each year in the form of solid wastes. It is estimated that every year each person in the United States discards 200 pounds of paper, 135 bottles and jars, and 250 metal cans plus myriads of other packaging materials. In addition to this there are about seven million automobiles junked each year, 110 million tons of industrial waste, 550 million tons of agriculture residues, 1.5 billion tons of animal manures, and one billion tons of mineral wastes.

In the past, solid waste has been viewed as material to be disposed. Even as recently as 1965, the Federal government's effort to assist with solid waste problemswas titled the Solid Waste Disposal Act of 1965. Recently, how-

ever, there has been an increasing awareness that solid waste could be processed through recycling and reuse technology, to render beneficial resources—fertilizers, minerals, food, and new combinations of industrial materials as substitutes for present depleting resources.

In order to move forward with new initiatives in solving the problems of solid wastes, President Nixon ordered a re-direction of research that would make products more easily disposable, and develop the technology needed to reuse and recycle a far greater proportion of waste materials. The President's leadership in this activity led to the overwhelming support in the House of Representatives of the Resource Recovery Act of 1970 which will: expand and intensify the development of new techniques for solid waste disposal; stimulate the construction by the several States and municipalities of pilot projects utilizing new and improved waste disposal technologies; and provide for conducting studies to determine economical means of and appropriate incentives for recovering useful materials and energy from solid wastes and a way to reduce the amounts of such waste which should be disposed.

The oceans—Untapped resources

Any consideration of our earth resources requires that attention be given to developments in the field of oceanography. Too little is known about marine resources and their possible benefits available to mankind. The Task Force believes oceans may hold an important key to the future. The raw material value of commercial products extracted from the ocean by U.S. firms exceeds $2 billion a year and such production is growing at the rate of 12 percent annually. However, this is only a small portion of the fishing, mineral and water supply potential.

Development of fish protein concentrate offers potential for providing domestic and world protein, but questions remain concerning toxicity of fish. Research on lean fish utilization has progressed to pilot plant stage. Fatty fish, however, are in greater abundance. Research is progressing to develop technology for their commercial utilization. The sea and fresh water offer greater potential for economic fish production. There is particular promise for aquaculture for species where market demand is high, such as for shrimp, catfish, salmon, lobsters and oysters. The major deterrent here lies in the lack of proper water quality environments for such development. This is another example of the need to approach our resource problems in a total systems concept of development and management.

Food and nutrition—A world crisis

There is general agreement that our ability to produce enough food for the growing American population is not in danger, yet too many Americans lack proper nutrition. The total supply for the world population is already insufficient. At the present rate of world population growth, the per person ration is likely to continue to decline. The present methods of increasing productivity per acre with the use of heavy fertilization and pesticides cause pollution of the soil and the water table as well as tributaries, rivers, lakes and our oceans. This aspect of agriculture will have to be changed or controlled if we are to avoid further pollution of our water supply and marine life.

Tomorrow, in just one day, the amount of food will be about the same as today, but there will be 200,000 more mouths to feed. At least one-half the people in the world today are hungry. Their food for the day is likely to consist of a single potato or a bowl of rice. The average South American had 7 percent less to eat in 1966 than he did in 1960. Eighty percent of pre-school children in rural India alone suffer from malnutrition dwarfism. Approximately 61 million metric tons of plant nutrients (fertilizers) would be required, in addition to the roughly 6 million metric tons now being applied in the developing nations, if their food production is to be increased 100 percent above present levels. The use of pesticides or some substitute will have to increase six-fold if the insects and diseases are to be controlled in developing countries.

For human consumption, protein concentrates from soybean and corn are very promising and are being developed into marketable products. Development of single cell protein from petroleum is beginning to show progress. More knowledge is needed on the subject of poisonous fish and marine biochemistry before placing too much confidence in fish protein concentrate. Sub-sea farming as mentioned previously is economically promising.

The role of satellites

Earth Resource Satellites (ERS) can make a valuable contribution by enabling us to understand the earth as a total system. An ERS equipped with multispectral sensors photograph every area within its scope every 90 minutes. This constant system of surveillance will enable agricultural experts to identify crops which are endangered by disease or starvation. ERS has also proven valuable in teaching us more about our own geology and minerology, as well as about pollution problems and weather analysis. ERS sensors in airplanes have helped solve fishing problems by discovering the migration of the fish to warmer waters.

Communication satellites will be used in international cooperative educational programs. The United States and India have an official understanding between the National Aeronautics and Space Administration and the Indian Space Agency to conduct an instructional television experiment in 1974. In this agreement NASA will provide an eighty watt transmitter on Applications Technology Satellite -F and position this satellite within view of India providing experiment time of up to 6 hours per day for a period of approximately one year. India has accepted the responsibility for procuring and installing about 5,000 widely distributed village receiving systems for all TV programming material.

In this memorandum of understanding, India lists under primary specific objectives number one "contribute to family planning objectives." This activity must be considered the most promising international population program of the 70's. Successful results in receiving could lead to similar international agreements with other developing countries.

Recommendations and conclusions

The Task Force recommends that this nation establish national policies on energy, non-fuel minerals, and oceanography.

Within the purview of *a national energy policy* should be: exploration, extraction, delivery systems, environmental quality standards, storage, conversion of resources to energy, and pricing. In the areas of extraction, delivery, and conversion, much is required in increasing both research and development of new technology and a supply of trained manpower. Eighty-five cents out of every federal research dollar in this field goes toward nuclear research. This seems disproportionate considering the immediate demands and the potential supply of other forms of energy.

In lieu of federal subsidies, both suppliers and manufacturers of energy minerals and energy itself must be given the incentive for increasing their R&D effort.

A new attitude and policy toward utilities is needed so that the value of a utility company to its community is viewed not solely on its ability to provide adequate service, but also its ability to provide a safe environment through pollution control, better land use planning, increased research and development, and to set pricing policies that discourage nonessential demands on energy supplies.

Environmental considerations are as important as providing the needed supplies. A systems approach—synthesizing the interrelated activities of the various agencies and departments involved with energy problems—to the entire dilemma is needed which necessitates reorganization of government agencies at federal and state levels. Any reorganization should be in support of a national energy policy.

A national non-fuel minerals policy should encompass:

1. Full utilization of low-grade and less accessible deposits, more efficient use of the scarce minerals, and supplement mineral resources with minerals from the ocean.

2. Exploration for, and production of our needed minerals should be left to private enterprise.

3. Access provided to prospective lands for the orderly development of mineral resources, when environmental considerations do not dictate otherwise.

4. Closely coordinated research programs between industry and government.

5. Government implemental long-range programs to precede environmental improvement programs of private industry and others.

6. Mining to yield an after-tax rate of return that will be sufficient to attract the necessary investment. Thus, the tax burden must not be so heavy as to make the after-tax yield unattractive to new capital.

7. Coordination of the special foreign investment and trade aspects of our mineral supply situation.

8. Encouraging a variety of alternate sources to reduce the risk of having supplies cut off by the hostile acts of other nations.

9. Designing automobiles, refrigerators, ranges and other metallic consumer products, manufacturers should provide greater durability, retard obsolescence, and anticipate the need for recycling.

A National Policy on Oceanography

The Task Force believes that research and development in the field of oceanography should rank equal in importance with space research and development. If R&D in oceanography and space are to be ranked as equal, there is justification for the establishment of a new Federal agency at the level of NASA. However, there are other alternatives available to the Federal government in stimulating an increase in this needed oceanographic R&D that should be considered. An expansion of the Sea Grant program under the National Science Foundation could perhaps achieve the necessary level of R&D or another type of goverment-industry-university combine might accomplish the objectives. Currently, the National Science Foundation is considering a National Oceanographic Laboratory System (NOLS) that would link the major academic oceanographic institutions of the United States together.

The need for increased amounts of food, minerals, and pharmaceuticals will become more critical as a result of the world's population growth in the remainder of this century. Irrespective of Organizational structure, the United States must possess the best in marine resources technology and develop an aggressive leadership role toward international cooperation in marine research and technology.

SECTION II—POPULATION

It is almost self-evident that the greater the human population, the greater the demands for natural resources and the greater the danger to ecological balance. The paramount question deals with an optimum human population. How many people is too many people in relation to available re-

sources? No one seems to honestly know but many believe that our current environmental problems indicate that the optimum level has been surpassed. A fair analysis would seem to be that our population and consumption rates have grown more rapidly than our ability to develop and supply the resources being consumed while protecting our environment. Population growth multiplies not only the demand for natural resources—minerals, food, and water—but also for necessities such as housing, transportation, and medicine. It takes productive people to convert resources into available supplies. Though fertility rates are down throughout the world since World War II, advances in medicine and nutrition have decreased death rates by a larger degree than birth rates have decreased. As a result of reduced death rates, there are more people in their non-productive years than ever before. More children and more elderly people unable to participate in the world's work force increase the burden on the productive age group.

It took all of history, until about 1830, for the world's population to reach 1 billion.

In 1930, 100 years later, world population reached 2 billion.

In 1960, 30 years later, world population reached 3 billion.

By 1975, it is anticipated that the world population will be 4 billion. (Current world population is 3.5 billion.)

The current rate of population growth is 2% per year or 70 million per year. If this rate of growth continues, we will reach a world population of 7 billion by the turn of the century.

The most frightening aspect of this growth rate is that if it continues, we will have 14 billion people or four times our present population by 2015. The National Academy of Sciences has said: "Either the birth rate must come down or the death rate must go back up."

Rates of growth are significantly higher in the less-developed countries:

Latin America—3% per year

Africa—2.3% per year with a high death rate

India—2.5% per year

Pakistan—2.7% per year

The United States has a growth rate of 1% per year. At the present rate, our population will increase from its present 205 million to about 300 million by the year 2000.

Congestion and density

Many of our nation's social problems can be attribued to population density and the congestion of our urban areas.

Projections of the Urban Land Institute place 60 percent of our population in the year 2000 in just four huge megalopolis areas—one, from Boston to Washington, D.C., another from Utica, N.Y. to Milwaukee, Wisconsin, a third from San Francisco to the Mexican border, and the fourth from Jacksonville to Miami, across to Tampa and St. Petersburg. Most of the remaining 40 percent of the population is expected to live in urban areas as well. Metropolitan areas over 150,000 grew faster than the national average of 9.8 percent.

This trend toward density creates immense stress on the public services necessary to accommodate the population. Police, fire, sanitation, transportation—all these and many others including education, health, and housing have been unable to keep pace with the demands created by this congestion.

Sociologists believe that this density of population has been a prime cause for increased automobile traffic deaths, drug addiction, broken marriages, alcoholism, crime, homosexuality, suicides, venereal disease and heart attacks as a result of the social stresses that man encounters in his struggle to exist in such a congested environment.

In both his Population Message of July, 1969 and his State of the Union Message of January, 1970, President Nixon stressed the need for America to begin developing a national growth policy.

In his State of the Union address, the President said:

"The violent and decayed central cities of great metropolitan complexes are the most conspicuous area of failure in American life.

"I propose that before these problems become insoluble, the nation develop a national growth policy. Our purpose will be to find those means by which Federal, State and local government can influence the course of urban settlement and growth so as to affect the quality of American life.

"In the future, decisions as to where to build highways, locate airports, acquire land or sell land should be made with a clear objective of aiding a balanced growth.

"In particular, the Federal government must be in a position to assist in the building of new cities and the rebuilding of old ones.

"At the same time, we will carry our concern with the quality of life in America to the farm as well as the suburb, to the village as well as the city. What rural America most needs is a new kind of assistance. It needs to be dealt with, not as a separate nation, but as part of an overall growth policy for all America. We must create a new rural environment that will not only stem the migration to urban centers but reverse it. If we seize our growth as a challenge, we can make the 1970's an historic period when by conscious choice we transformed our land into what we want it to become."

Family planning and birth control

The role of family planning services as part of an overall medical health care system was covered in the Task Force report on *Federal Family Planning Programs—Domestic and International* which was released on December 22, 1969. In that report we stressed that an estimated 5.3 million American women do not have access to information or techniques available to the rest of society about how to limit their fertility. It was further noted that this inaccessibility of knowledge undermines the morals of our society and is not in keeping with the basic principles of a democratic system.

Family planning is more than simply birth control. It includes many aspects of maternal and child health care which must be made available to all our citizens. Birth control must be kept within the total context of family planning and should be considered always as an available option for any individual. The belief that family planning constitutes population control must be rejected. Over 97 percent of married American couples utilize maternal and child health care services and an estimated 90 percent[2] practice birth control in some form and still the United States experiences a population growth rate of 1 percent, a doubling every 70 years. Family planning constitutes the knowledge base for regulating births and reducing infant mortality. Population control is to limit births not to regulate births. It is necessary to understand the difference.

The practice of birth control is an accepted norm for American married couples. There is, however, concern among many demographers over the widespread desire on the part of Americans to produce three and four children and the belief that such family sizes constitute the practice of birth control. Without fail-safe contraceptive devices, available to both men and women, that are medically safe and easily administered, it is not realistic to believe that an honest free choice decision is available to those who prefer to limit their families to two children.

Population Control is not a function for federal, state or local governments. However, family planning services, within the context of maternal and child health care services, must be made more accessible to the poor and providing these services is a proper function of all governments at sensible levels of cost. As part of family planning services, birth control information as well as devices and techniques to regulate fertility should be available to all those who want them and cannot afford them through private sources. The major problem in providing these specific birth control services has been the availability of trained personnel. Medical doctors and nurses are hard pressed for services in more specialized areas of medicine. Also, providing family services to the poor has not been considered an appealing avocation of the medical profession. Ideally, our entire health care system should be overhauled to create less reliance on specialized medicine and overburdened hospitals and more dependence on para-medical professionals in providing health care services and more reliance on providing proper nutrition for all Americans.

The legality of abortions and of sterilizations does not come under the jurisdiction of the Federal government, but they are properly within the purview of State governments where medical laws are widely divergent. The most disturbing aspect of the abortion issue that was brought before the Task Force, is the disparity between the availability of professional abortion services to those women who can afford the $500 to $700 to obtain a therapeutic abortion and the estimated one million illegitimate abortions performed by the unlicensed practitioners for those women who cannot afford professional service.

It is apparent that many women who desire abortions take extreme measures, and subject themselves to dangerous methods in order to obtain an abortion. It therefore seems that the main objective of abortion law revision should be to eradicate the increasing number of unlicensed and unqualified practitioners who jeopardize the health and safety of these women and to establish a system that eliminates discrimination resulting from present pricing structures.

Recommendations and conclusions

The Task Force is committed to the development of a national population policy. We believe education, family planning services, contraceptive research and development, as well as transportation, and community planning and development should be important components of such a policy.

Before we can begin to remedy a problem, we must first realize that we have one. Despite the increased interest regarding this problem, there is still a vast number of Americans who are unfamiliar with even the most essential understanding of this potentially dangerous population growth rate. The Task Force feels that one of the most important functions of the Federal government is to supply the public with the latest and most accurate data. This should be done in a non-judgmental fashion that will enable the citizens to be well informed, and to influence their own remedial action.

It is expected that the Council on Environmental Quality and the recently established President's Commission on Population Growth and the American Future will provide the public with this necessary information and insure continuing data regarding the latest developments.

Death tolls have been reduced in every country to negligible rates from epidemics and disease such as malaria, measles, smallpox, cholera, polio, and tuberculosis; major advances have been made against heart dis-

[2] Charles F. Westoff, and Norman B. Ryder, *Recent Trends in Attitudes Toward Fertility Control* and *In the Practice of Contraception in the U.S.* University of Michigan November 1967, page 10,2/*Ibid.*

sease and cancer, artificial organs can now prolong life. Since we accept these intrusions into nature's control of population as morally justified, are we not unwise to consider birth control with equal moral justification? If we continue to support government activities to reduce disease and improve health in order to prolong life under the auspices of what is good for society, then should we not consider birth control as a government activity for similar reasons?

In the Task Force report on "Federal Government Family Planning Program" it was recommended that the Congress increase appropriations for contraceptive research in the amount of $380,000,000 over the next five years. In conjunction with this research, the Task Force now feels research in the methodologies of predetermining sex before insemination must be considered and pursued. For birth limitation and regulation to be an honest free choice goal of Americans to undertake, predetermination of the sex of children and fail-safe contraception must be available to everyone. The Task Force believes that much more knowledge is needed by the public in general about fertility control, contraception techniques, and sex determination, as well as the social and material consequences resulting from increased population, in order that the broadest number of options are available to everyone in making personal decisions that affect the use of natural resources, family size and ultimately our environment.

There must exist a great sensitivity to these problems which cannot be provided by the federal government. The government can provide leadership and direction, but should never be put into a position of having to enact controls of population as a result of public ignorance and indifference.

POPULATION DATA AND PROJECTIONS, 1969–2000

Countries listed in order of calculated population in 2000

[Population figures in millions]

	Population, mid-1969	Calculated population 1980	Calculated population 2000	Annual rate of growth as of 1969 (percent)
1. China	740	924	1,372	2.0
2. India	537	704	1,152	2.5
3. Pakistan	132	188	360	3.3
4. U.S.S.R.	241	269	328	1.0
5. United States	203	227	276	1.0
6. Indonesia	115	150	241	2.4
7. Brazil	91	123	213	2.8
8. Japan	102	115	144	1.1
9. Mexico	49	71	138	3.4
10. Nigeria	54	71	115	2.5
11. Philippines	37	54	108	3.5
12. Korea (North plus South)	45	60	102	2.7
13. Vietnam (North plus South)	39	54	95	2.9
14. Thailand	35	49	89	3.1
15. Germany (East plus West)	74	77	81	.3
16. United Arab Republic (Egypt)	33	45	79	2.9
17. Turkey	34	45	74	2.5
18. Iran	28	39	72	3.1
19. France	50	56	68	1.0
20. United Kingdom	56	59	67	.6
21. Italy	53	57	66	.7
22. Colombia	21	31	60	3.4
23. Burma	27	34	53	2.2
24. Ethiopia	24	30	45	2.0
25. Spain	33	36	42	.8
26. Poland	33	36	42	0.8
27. South Africa	20	25	41	2.4
28. Argentina	24	28	38	1.5
29. Sudan	15	21	38	3.0
30. Morocco	15	21	38	3.0
31. Romania	20	24	35	1.8
32. Congo (Kinshasa)	17	22	35	2.3
33. Peru	13	18	34	3.1
34. Afghanistan	17	21	33	2.3
35. Algeria	13	18	32	2.9
36. Tanzania	13	18	31	2.9
37. Taiwan	14	18	31	2.6
38. Yugoslavia	20	23	29	1.1
39. Venezuela	10	15	28	3.3
40. Malaysia	11	15	28	3.1
41. Kenya	11	15	27	3.0
42. Ceylon	12	16	26	2.4
Rest of Asia	66	87	142	2.5
Rest of Africa	128	165	260	2.3
Rest of Latin America	68	90	151	2.6
Rest of Europe	117	126	145	.7
Canada	21	26	39	2.0
Oceania	19	23	35	1.8
World	3,550	4,439	6,778	2.0

Note: Data supplied by Dr. Raymond Ewell, vice president for research, State University of New York at Buffalo.

DATA II.—TIME REQUIRED TO DOUBLE A POPULATION

Annual rate of population growth	Number of years to double population
4.0	17.3
3.5	20.1
3.0	23.1
2.5	27.6
2.0	34.6
1.5	46.2
1.0	69.3

Note: To maintain the same standard of living for its people a country must double its output of goods and services (GNP) in the same time period that population doubles. To improve standards of living, it must more than double its GNP in the same time period.

DATA III

Income of husband and education of woman	Average number of children ever born per woman 35 to 39 years old in 1960: White	Negro and other races	Difference
Total married women living with husband	2.7	3.3	0.6
Income of husband:			
None	2.9	3.5	.6
$1 to $1,999 or less	3.1	4.2	1.1
$2,000 to $2,999	2.9	3.4	.5
$3,000 to $3,999	2.8	3.1	.3
$4,000 to $4,999	2.6	2.8	.2
$5,000 to $6,999	2.6	2.8	.2
$7,000 to $9,999	2.6	2.8	.2
$10,000 to $14,999	2.6	2.4	.2
$15,000 and over	2.7	2.7	0
Total women ever married	2.6	3.1	.5

Income of husband and education of woman	Average number of children ever born per woman 35 to 39 years old in 1960: White	Negro and other races	Difference
Years of school completed:			
No school years completed	4.1	4.1	0
Elementary:			
1 to 4 years	3.8	4.0	.2
5 to 7 years	3.3	3.8	.5
8 years	2.9	3.3	.4
High school:			
1 to 3 years	2.7	3.1	.4
4 years	2.5	2.5	0
College:			
1 to 3 years	2.5	2.2	−.3
4 years	2.4	1.9	−.5
5 or more	2.1	1.5	−.6

Note: These data are from the 1960 census, because differences for corresponding groups from the January 1969 CPS are not statistically significant, even though they tend to show a pattern very similar to that for 1960. (See 1960 report 3A of vol. 2, Women by Number of Children Ever Born, table 37 on income of husband, and table 25 on education of woman.)

RECORD VOTES IN THE COMMITTEE OF THE WHOLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HALPERN) is recognized for 5 minutes.

Mr. HALPERN. Mr. Speaker, the U.S. House of Representatives has been much criticized in recent months by scholars, journalists, and Members of this body. A recent survey by pollster Louis Harris showed that 54 percent of the American people view Congress negatively, the lowest rating in the last 5 years. When a majority of the American people feel dissatisfied or alienated from the Congress, then it is high time for this institution to act to remedy that condition. A positive step by this body would be passage of the Legislative Reorganization Act of 1970, soon to be acted upon by the full House, and adoption by the House of H.R. 1074 or H.R. 1075, bills that would require keeping a public record of teller votes in the Committee of the Whole.

In my judgment the House as presently organized is, in some respects, archaic. Not only are we ill equipped to cope with modern-day problems, but the rules and procedures which guide our conduct are outdated and, even worse, some are undemocratic. I speak specifically of the lack of record votes in the Committee of the Whole. This practice serves both to debilitate the democratic process and to cause confusion, suspicion, and mistrust among our constituents.

The practice of nonrecord voting in the Committee of the Whole developed in England centuries ago to protect Members of Parliament from the King's wrath. But in 1832 Parliament reformed the system to provide for record votes.

The American House of Representatives, however, has yet to reform itself in this regard and is decades behind our English counterparts. By contrast, in the other body of the Congress there is almost always a rollcall on any major measure.

The Committee of the Whole is simply another committee of the House, though much larger, with some Member other than the Speaker presiding. There are, however, significant differences between the Committee's procedures and that of the House, particularly: a quorum of 100 Members rather than 218; amendments defeated in the Committee may not, for all practical purposes, be voted upon again; and, finally, rollcall votes are not allowed in the Committee. The consequence of these rules is that a handful of men in the Committee can defeat an ABM, health, poverty, education, or some other amendment without anyone knowing, except in unsatisfactory ways, who voted for what policy. That old but important idea that Representatives should be held accountable for their actions is subverted by this practice of the House.

When the framers of the U.S. Constitution drafted that document they intended the House to be closest to the people. As the well-known historian Joseph Story pointed out, it was the opinion of the framers that the House "should guard their, the peoples', opinions, make known their wants, redress their grievance, and introduce a pervading popular influence throughout all the operations of the Government." The implementation of these responsibilities is hampered by the lack of record votes in the Committee of the Whole, a procedure that prevents our citizens from knowing all they have a right to know.

One of the duties of a legislator is to represent the interests of the people who elected him. In many cases, however, the represented are not sure where their Representative stands on a question of public policy. This confusion arises because the House is a complex institution with intricate parliamentary rules, numerous committees and subcommittees, and dispersed leadership. A legislator may, for whatever reason, feel obligated to vote one way in committee, another in the Committee of the Whole, or vote still a third way on a rollcall vote. Only rollcall votes on the floor of the House are a matter of public record. Requiring votes in the Committee of the Whole, would be a step toward further democratization of House procedures by making visible and public an aspect of the legislative process that citizens need and expect to know about.

Why is it important to our constituents that record votes be taken in the Committee of the Whole? The answer is simple. Every American citizen is affected by the decisions of Congress in areas such as housing, education, health, poverty, or tax policy. When issues so vital to the Nation are discussed and voted upon, every citizen should have the right to know who supported and who opposed what bills at every stage of the legislative process. This is denied them because current House rules prohibit record votes in the Committee of the Whole. Yet amendments may be adopted or rejected in this Committee that can change the character and direction of national policy. Should our constituents and colleagues not be privy to this vital information? This question can only be answered with a strong affirmative.

Secrecy has no place in a legislative body that serves the people. It is obvious that procedures do affect policies, and when a procedure can serve to thwart the public will or deny it the information it needs in order to make judgments about its elected Representatives, then it is time for a change. The positive change I advocate is the requirement of record votes in the Committee of the Whole. I would add, Mr. Speaker, that there has always been a question in my mind as to the constitutionality of denying a record vote in the Committee of the Whole if one-fifth of the House is in favor of such a vote. The reason for this suspicion is obvious: the Constitution guarantees a yea-and-nay vote if one-fifth of the House desires it.

TRIBUTE TO BILL TILSON, OF MOBILE, ALA.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. EDWARDS) is recognized for 5 minutes.

Mr. EDWARDS of Alabama. Mr. Speaker, there comes a time in the lives of many persons who have unselfishly dedicated themselves to serving humanity when suddenly out of a clear sky they are accorded public recognition much to the surprise of no one but themselves. Such a man is Bill Tilson, of Mobile, Ala., who I am privileged to have living in my congressional district, and whose name has gained familiarity nationwide as the individual most responsible for helping avert what might have been a terrible toll in lives during Hurricane Camille last summer.

As head of Mobile's Weather Bureau office, Tilson, who has been with the Weather Bureau for 40 years, along with his capable staff, took the initiative in warning civil defense directors and other public safety officials during the early morning hours of August 17, 1969, of the pending force and danger of this killer storm. The mass exodus from the Alabama and Mississippi coastal areas brought on by Tilson's repeated warnings against Camille is credited with saving countless lives.

On Friday, July 10, Tilson and his staff will be duly honored for their outstanding service by being presented the Environmental Science Services Administration's new Unit Citation for Special Achievement at a special ESSA awards dinner in Silver Spring, Md. This high award is but one more tribute for the exemplary work performed by Bill Tilson and his staff during the Camille disaster. Beyond a doubt, this award symbolizes the highest ideals of humanitarian service to this country. It is well deserved by those who serve in the Mobile Weather Bureau.

TAKE PRIDE IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in doing so renew our faith and confidence in ourselves as individuals and as a nation. The United States has the greatest accessibility to television broadcasting in the world. There are over 600 TV stations in the United States compared to 130 in the Soviet Union.

THE PROBLEM OF MISDEMEANOR COLLATERAL INVOLVED IN DEMONSTRATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. BLANTON) is recognized for 15 minutes.

Mr. BLANTON. Mr. Speaker, on June 25, I released the results of a special survey conducted at my request by Mayor Walter Washington's office concerning the problem of misdemeanor collateral involved in demonstrations here in Washington, D.C.—CONGRESSIONAL RECORD, June 26, 1970, pages 21745 to 21746.

One of the most important aspects of that survey was the fact that more than 80 percent of persons arrested during demonstrations for a wide variety of offenses forfeited collateral as low as $5 to $25. It is no wonder violent acts occur with frequency in these demonstrations, for there seems to be little deterrent in the way of possible punishment.

I was somewhat amazed to read in the Washington Evening Star, Tuesday, of the announcement by Chief Judge Harold H. Greene of the court of general sessions, announcing the rescinding of a May order increasing the collateral on misdemeanors arising out of demonstrations.

I was pleased that Judge Greene asked his fellow judges to make a complete study of the question of collateral in such offenses, to determine whether the current flexible method is effective. I would submit, however, that his decision to lower the collateral from $50 to $10 is a step in the wrong direction, and appears to me to be especially ill timed in light of the fact that the most recent protest demonstrations, occuring over the Fourth of July weekend, again produced substantial private and public property damage, and injuries to 24 Metropolitan Police officers and 17 Park Policemen.

I think we should ask the police officer who had his jaw broken by one of the "flower children" involved in the most recent demonstration, whether he believes the ridiculously low collateral is a deterrent. Surely the youth who pushed a brick in the face of that officer did not fear much punishment for his act.

Of the 63 arrests over the Fourth of July weekend, 21 were allowed free by paying collateral of $50, and another 19 were released after paying $10 collateral.

Again, let me remind my colleagues what collateral is. Collateral is a fee to be paid by the arrested individual in lieu of

his arrest. By paying it, that closes the case if he forfeits. It is in essence a small fine. It is not bond, since forfeiture of bond does not close the books on the case.

During the Fourth of July disturbances, 15 youngsters were arrested for throwing missiles at police, and none paid over $25 in collateral.

Mr. Speaker, my statement of June 26 was meant to be a notice to the local judges that Congress was aware of the problem of collateral. Judge Greene has responded by lowering the collateral, instead of keeping it at least at a more reasonable level. It is clear to me that Congress, with its special obligation to the people of this city, needs now to step in and take away this discretionary power of the judges to set arbitrarily low collateral fees for what in some jurisdictions must surely be ranked as more serious than a fine the equivalent to a parking ticket. If the Metropolitan Police are to maintain order, and if the local merchants are to have any safety for their property, and if the local citizens and tourists are to have any feeling of safety for their person, then we in Congress must act, for apparently the judges are not going to act effectively.

I am preparing legislation which will correct this matter, and I will be speaking on this matter again in the near future.

SUPPLEMENTAL VIEWS ON SOUTHEAST ASIA INVESTIGATION

(Mr. ANDERSON of Tennessee asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

LOGISTIC SANCTUARIES

Mr. ANDERSON of Tennessee. Mr. Speaker, the comments relative to logistic sanctuaries are submitted at the risk of belaboring a very obvious point.

Two-thirds of the war materials and very important food imports sustaining the North Vietnamese war effort arrive by sea through the port of Haiphong. While our own intelligence was slow to ascertain the fact, it is now apparent that most of the materials in the Cambodian sanctuaries arrived not via the Ho Chi Minh Trail but by sea through Sihanoukville. As impressive as were the quantities of supplies taken by U.S. and ARVN forces in Cambodia, the entire quantity, nonetheless, could be replaced by one shipload. Fortunately, the South Vietnamese Navy is now trying to seal off the Cambodian coast. This is one of the most important steps taken in the war to date.

War supplies and food are shipped to North Vietnam by the Soviet Union, Red China, and other nations. By far the more important source is the Soviet Union and the satellite nations, to whom the North Vietnamese have their strongest ideological and other ties. The Vietnamese do not trust mainland China.

While it is very apparent that North Vietnam wants South Vietnam for its own purposes, the ability of the north to sustain the war is very much dependent on the logistics train arriving by sea from the Soviet Union, and others. The ports requisite to the functioning of this train, mainly Haiphong at this point, comprise a logistics sanctuary of infinitely greater magnitude than the entire network of Cambodian supply caches.

Thus it is perhaps not an oversimplification to view the war as one in which the Soviets and Red Chinese are exploiting the incredibly adept North Vietnamese jungle fighters as willing puppets to perpetuate the tying down of U.S. forces and all that involves—tens of thousands of lives lost—a large part of our national resources spent—a rising domestic dissent—and a military establishment whose weapons are being worn out at a time when they should be modernized and replaced for the even more dangerous confrontations which may lie ahead. As is altogether obvious, the Soviets are modernizing and extending their weapons at a furious pace—particularly their sea power.

It is difficult for this Member to rationalize the situation where more than 300 American servicemen die to take a shipload of enemy arms and supplies hidden in Cambodia while scores of replacement shiploads are permitted to proceed unimpeded and unchallenged into Haiphong. We are willing to commit American boys to the ultimate risk of death in the jungle, without shouldering in a national sense a portion of that risk—the risk involved in demanding that the huge sea logistic train to the north be stopped. If it comes to it, naval authorities agree that Haiphong Harbor could be easily closed, probably without loss of life, by mining, sinking a hulk across the entrance, or by other means. More than likely, this could be accomplished by South Vietnamese forces.

If South Vietnam were willing and successful in taking that step, the rate of Vietnamization of the war, and therefore the U.S. troop withdrawal timetable, could proceed at least twice as fast as currently planned.

The preferable course of action, however, would be the achievement of new U.S. conference table initiatives vis-a-vis the Soviet Union. Virtually the entire world would applaud a bilateral agreement which would lead to an early negotiated peace and the substitution of economic aid for military aid to Vietnam on the part of both the United States and the Soviet Union, in order to rebuild that war torn nation, south and north. The Soviet Union has a moral responsibility to take a part in the Paris peace talks for this purpose.

SOUTH VIETNAMESE VIEWPOINT OF U.S. ASSISTANCE

As pointed out in the section on communications in the basic report, the United States and the Government of South Vietnam have not been very effective in explaining the U.S. presence to the Vietnamese people outside of the Government and the armed forces. One gains the impression that while some Vietnamese citizens are genuinely appreciative of U.S. assistance, the majority are not. In some respects this attitude pervades the highest echelons of Government. This member was surprised to hear President Thieu express the rationale that the French had been there, now the Americans—the Americans would probably not be the last—there might be three or four other nations in the future. One could not help but gain the impression that our assistance is viewed as a somewhat necessary expedient, but of only passing significance.

Closely related to the casual attitude toward U.S. assistance, is a lack of sensitivity within the Thieu government regarding domestic U.S. concern over the war and the phasing out of U.S. forces. This lack of sensitivity unfortunately seems to be shared by some in civilian components of the U.S. ambassadorial country team. It is with a deep sense of personal regret to so report, but this member feels a moral obligation to suggest that we have arrived at a juncture where the necessary leverage upon the Thieu government for rapid Vietnamization and urgently required economic and other reforms can only be applied through new U.S. ambassadorial leadership in Saigon. Ambassador Bunker is a superb American who has rendered vast service to his country. The foregoing comments should not be interpreted as derogatory in any respect. It is merely an effort to appraise a difficult, confusing, and rapidly changing situation realistically. Any other person, no matter how able, would equally have been forced into a position of diminishing alternatives in dealing with the government of a nation seeking self-determination under such difficult circumstances.

CON SON NATIONAL PRISON

By virtue of U.S. aid involvement in the South Vietnamese national prison system, this Member was one of two who visited Con Son National Prison. While there, partially due to advance intelligence, but mainly through happenstance, we gained admittance to a prison compound known as the "tiger cage" area. The treatment of South Vietnamese civilian prisoners in this area can only be described as inhumane and shocking. Throughout the prison severe problems of malnutrition, vitamin deficiencies, tuberculosis and other deficiencies of deep concern exist. A detailed report of conditions is contained in the supplementary views of Congressman HAWKINS.

While one may legitimately argue as to the basic wisdom of our involvement in that nation's prison system, we are, nonetheless, involved. What we must do now is to insist on immediate prison reforms in the name of humaneness, and immediate reforms to the South Vietnamese legal processes in the name of justice. Setting aside for a moment the humane factors, any system where a citizen can be jailed and held 2 years without trial by little more than an administrative action of the part of a Provincial council is bound to involve some innocent people and to be counterproductive to self-determination of government and to viable anti-Communist democratic progress.

Because we are already involved and because of this Nation's dedication to justice and humane treatment of all, we cannot stop at the mere insistence of reform—we must provide suitable advisers

and suitable material resources to carry out those reforms if we are to continue to support the existing Saigon government.

TAX EXEMPTION ON THE FIRST $500 OF INTEREST RECEIVED FROM SAVINGS ACCOUNT DEPOSITS IN LENDING INSTITUTIONS

(Mr. TAFT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. TAFT. Mr. Speaker, the greatest roadblock to meeting the housing needs of the 1970's presently is in the availability of mortgage money for homes. The President has made clear the high priority which the administration attaches to various programs to assist in the production of needed housing. The 1971 budget contemplates outlays of $3,781,000 for community development and housing but the housing needs are so great that this deals with only a small percentage of the mortgage problem. Although the administration realizes the housing industry faces a crisis, more assistance must be given to thrift institutions which specialize in home mortgages. Savings and Loans have been providing about 45 percent of all the home loan money in the United States. Unless enough funds are saved in savings and loan associations and other financial institutions which similarly engage in the financing of homes, our housing crisis is going to be with us for a long time. Anything short of providing increased deposits to these institutions would only serve a short-term emergency purpose.

Today, I am introducing a measure aimed at shoring up the housing market by excluding from gross income the first $500 of interest received from savings account deposits in lending institutions. Such a tax incentive would provide an immediate spur for investment in these institutions by indirectly raising the effective yield to the small and middle saver to a very attractive level. Of course in fairness it should be pointed out that exempting the first $500 of earnings paid to savers might mean a revenue loss to the U.S. Treasury initially of approximately $1 billion annually. However, I am sure that this figure would be more than offset by increased taxes stimulated from the added employment in the building trades, and it would certainly reduce the need for additional Federal appropriations to subsidize housing under the many Federal programs which are currently under consideration. A tax exemption for savers would encourage people to save more and this would tend to break the inflationary trend in the economy and would certainly be the best means of solving the crisis the housing industry faces in the 1970's.

The bill follows:

H.R. 18362

A bill to exclude from gross income the first $500 of interest received from savings account deposits in lending institutions

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part III of subchapter B of chapter I of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 123 as section 124 and by inserting after section 122 the following new section:

"SEC. 123 Dividends From Savings Account Deposits In Lending Institutions.

"(a) GENERAL RULE.—Gross income does not include amounts received by, or credited to the account of, a taxpayer as dividends or interest on savings deposits or withdrawable savings accounts in lending institutions as this term is defined by section 581 of part I of subchapter H of chapter 1 and by section 591 of part II of subchapter H of chapter 1.

"(b) LIMITATION.—The exclusion allowed to each taxpayer under this section shall in the aggregate not exceed $500 for any taxable year, and shall be allowed only once for taxpayers filing a joint return."

SEC. 2. The amendments made by this Act shall apply only with respect to taxable years ending after the date of enactment of this Act.

FARM LABOR HOUSING LEGISLATION

(Mr. TUNNEY asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. TUNNEY. Mr. Speaker, farmworkers are among the lowest paid of any working group in the country. They also live in some of the worst housing. Migrant farmworkers, especially, are relegated to some of the most unsanitary living conditions and shelters known anywhere. That we as a people, and a government, should allow this to happen—yes, even condone it—is criminal.

Some efforts to solve the problem have been attempted, but they are only scratching the surface. In my own State, the California Office of Economic Opportunity, with financial assistance from the U.S. Office of Economic Opportunity, have constructed over 2,000 temporary structures which are used by migrants during the harvest seasons. But they only provide minimum shelter, and California is the only State in which they have been built. The only other Federal Government agency attempting to solve the problem is the Farmers Home Administration.

Since 1962, that agency has been authorized to make loans at 5-percent interest to owners of farms, associations of farmers, States or their political subdivisions, and to public and private nonprofit organizations.

Since 1965, that agency has been authorized to provide grants of up to two-thirds of the total development costs of a project to States and their political subdivisions and public and private nonprofit organizations. These funds are earmarked to provide needed housing for our farmworker population.

Since 1962, over $60 million has been made available for loans and over $16 million has been appropriated for grants. The tragic realities of the program are, however, that of these funds only about $16 million has been made in loans and $12 million has been made in grants. Thus, the program as a whole is operating at less than 40 percent of its authority.

A little over 4,000 units have been repaired or constructed for families of farmworkers and other units have been repaired or constructed which will house over 4,000 individual workers. The need for more and better housing is, of course, many times greater than this. Why, then, has the program not done better?

The grant program was originated so that organizations could provide housing at a rent that farm workers could afford. Congress authorized that grants could be made for up to two-thirds of the development cost of the project. In the first appropriations act, however, the committee strongly voiced its opposition to grants which would exceed 50 percent. To date, of the 16 organizations that have received grants, only five have been in excess of 50 percent. With large loans to repay, because of this restriction on grants, many organizations probably find it economically impossible to enter the farm labor housing field. In areas where farm labor is not needed yeararound, a grant of two-thirds of the total development cost may not be sufficient to enable the organization to charge reasonable rents for income to pay back the loans required for the balance of the costs.

Another problem which will tend to retard the program even more, is a decision by the Farmers Home Administration to exclude all organizations except public bodies from receiving grants. This seems to be directly contrary to intent of the original legislation.

In many areas where farm labor housing is needed, public housing authorities—the only public bodies who have thus far received grants—do not exist or are not sensitive to farm workers' needs. To date, several broad based organizations have received grants, but administrative regulations required them to have a majority of their directors live within the geographic area of the site of the project and the farms on which the laborers work.

The most fatal flaw of the program is that the ultimate beneficiaries of the program, the farmworkers themselves, are ineligible as a group to receive the funds. Prior to passage of the legislation, the Farmers Home Administration recommended that groups of farmworkers be the only private organization eligible to receive grants, but on the other hand recommended that farmworkers not be eligible for loans since they already were covered under the regular homeownership program, as individuals.

These are but a few of the roadblocks, either built into the legislation or subsequently placed there by the administration, that prevent it from solving the problems that Congress intended. There are undoubtedly many more, not the least of which is the exhaustive application requirements that must be met prior to receiving these funds.

If our Nation's farmworkers are to benefit from this program to the extent Congress intended, then perhaps it is time that Congress reexamined it. If mistakes have been made, then there is still time to correct them. But time is running out, for the condition of the housing in

which the farmworkers live, is growing worse, not better.

Today I am introducing legislation to revamp and expand the farm labor housing program.

First, this legislation would authorize nonprofit organizations of farmworkers to be eligible to receive loans and grants for constructing or repairing low-rent housing and would revoke a Farmers Home Administration decision that only public bodies would be eligible for grants.

Second, it would authorize grants for up to 90 percent of the total cost of a farm labor housing project.

Third, it would recommend that chartered nonprofit organizations be allowed to build farm labor housing anywhere within the State of its incorporation where a need can be established.

Fourth, the bill recommends that, whenever possible, farm labor housing be constructed for year-round living.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. PEPPER, for the balance of the week, on account of official business.

Mr. DENNEY (at the request of Mr. GERALD R. FORD), for July 8 and 9, on account of official business as a member of the House Committee on Crime.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted:

Mr. PUCINSKI, for 30 minutes, today, to revise and extend his remarks and include extraneous material.

(The following Members (at the request of Mr. FISH) to revise and extend their remarks and to include extraneous material:)

Mr. BUSH, for 5 minutes, today.

Mr. HALPERN, for 5 minutes, today.

Mr. EDWARDS of Alabama, for 5 minutes, today.

Mr. MILLER of Ohio, for 5 minutes, today.

Mr. SCHADEBERG, for 15 minutes, Thursday, July 9.

Mr. TAFT, for 15 minutes, Thursday, July 9.

(The following Members (at the request of Mr. JONES of Tennessee) to address the House and to revise and extend their remarks and include extraneous matter:)

Mr. BLANTON, for 15 minutes, today.

Mr. GONZALEZ, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. EVINS of Tennessee (at the request of Mr. MATSUNAGA), to revise and extend his remarks following those of Mr. MATSUNAGA during general debate today.

(The following Members (at the request of Mr. FISH) and to include extraneous material:)

Mr. DERWINSKI in two instances.

Mr. DUNCAN in two instances.

Mr. BRAY in two instances.

Mr. SHRIVER.

Mr. WYMAN.

Mr. STEIGER of Arizona.

Mr. ZWACH in two instances.

Mr. SCHWENGEL.

Mr. WHITEHURST.

Mr. HASTINGS.

Mr. NELSEN.

Mr. BOB WILSON in three instances.

Mr. MINSHALL in two instances.

Mr. AYRES.

Mr. MAILLIARD in two instances.

Mr. MIZE.

Mr. MCCLOSKEY in two instances.

Mrs. REID of Illinois in two instances.

(The following Members (at the request of Mr. JONES of Tennessee) and to include extraneous matter:)

Mr. WRIGHT.

Mr. STUCKEY.

Mr. MINISH in five instances.

Mr. DINGELL in two instances.

Mr. PICKLE in five instances.

Mr. HATHAWAY in two instances.

Mr. BROWN of California in three instances.

Mr. CELLER.

Mr. FRASER in five instances.

Mr. SLACK in two instances.

Mr. RARICK in two instances.

Mr. O'HARA in six instances.

Mr. CAREY in two instances.

Mr. PATTEN in two instances.

Mr. WALDIE in three instances.

Mr. PUCINSKI in six instances.

Mrs. GRIFFITHS.

Mr. KLUCZYNSKI in two instances.

Mr. FOUNTAIN in two instances.

Mr. WILLIAM D. FORD.

Mr. HELSTOSKI in three instances.

Mr. GONZALEZ in two instances.

Mr. LEGGETT in three insances.

Mr. EDMONDSON in three instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 3838. An act to prevent the unauthorized manufacture and use of the character "Johnny Horizon", and for other purposes; to the Committee on the Judiciary.

ENROLLED BILL AND A JOINT RESOLUTION SIGNED

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 5106. An act for the relief of Rogelio Tabhan; and

H.J. Res. 1284. Joint resolution authorizing the President's Commission on Campus Unrest to compel the attendance and testimony of witness and the production of evidence, and for other purposes.

ADJOURNMENT

Mr. JONES of Tennessee. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 46 minutes p.m.), the House adjourned until tomorrow, Thursday, July 9, 1970, at 12 o'clock noon.

OATH OF OFFICE

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members and Delegates of the House of Representatives, the text of which is carried in section 1757 of title XIX of the Revised Statutes of the United States and being as follows:

"I A B, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 91st Congress, pursuant to Public Law 412 of the 80th Congress entitled "An act to amend section 30 of the Revised Statutes of the United States" (U.S.C., title 2, sec. 25), approved February 18, 1948; JOHN H. ROUSSELOT, 24th District, California, JOHN G. SCHMITZ, 35th District, California.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BARING: Committee on Interior and Insular Affairs. H.R. 9164. A bill to require the conveyance of all right, title, and interest of the United States in and to certain real property in the State of Georgia in order to remove a limitation on the use of such property; with an amendment (Rept. No. 91–1281). Referred to the Committee of the Whole House on the State of the Union.

Mr. BARING: Committee on Interior and Insular Affairs. H.R. 10837. A bill to provide for the conveyance to Pima and Maricopa Counties, Ariz., and to the city of Albuquerque, N. Mex., of certain lands for recreational purposes under the provisions of the Recreation and Public Purposes Act of 1926; with an amendment (Rept. No. 91–1282). Referred to the Committee of the Whole House on the State of the Union.

Mr. BARING: Committee on Interior and Insular Affairs. S. 417. An act to authorize the Secretary of the Interior to convey certain lands in New Mexico to the Cuba Independent Schools and to the village of Cuba (Rept. No. 91–1283). Referred to the Committee of the Whole House on the State of the Union.

Mr. BARING: Committee on Interior and Insular Affairs. S. 3279. An act to extend the boundaries of the Toiyabe National Forest in Nevada, and for other purposes; with an amendment (Rept. No. 91–1284). Referred to the Committee of the Whole House on the State of the Union.

Mr. O'NEILL of Massachusetts: Committee on Rules. House Resolution 1129. Resolution for consideration of H.R. 11913, a bill to amend the Public Health Service Act to provide authorization for grants for communicable disease control (Rept. No. 91–1286). Referred to the House Calendar.

Mr. MADDEN: Committee on Rules. House Resolution 1130. Resolution for considera-

tion of H.R. 13100, a bill to amend the Public Health Service Act to extend for 3 years the programs of assistance for training in the allied health professions, and for other purposes (Rept. No. 91–1287). Referred to the House Calendar.

Mr. DELANEY: Committee on Rules. House Resolution 1131. Resolution for consideration of H.R. 14237, a bill to amend the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 to assist the States in developing a plan for the provision of comprehensive services to persons affected by mental retardation and other developmental disabilities originating in childhood, to assist the States in the provision of such services in accordance with such plan, to assist in the construction of facilities to provide the services needed to carry out such plan, and for other purposes (Rept. No. 91–1288). Referred to the House Calendar.

Mr. ANDERSON of Tennessee: Committee on Rules. House Resolution 1132. Resolution for consideration of H.R. 17133, a bill to extend the provisions of title XIII of the Federal Aviation Act of 1958, as amended, relating to war risk insurance (Rept. No. 91–1289). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DENNIS: Committee on the Judiciary. H.R. 13383. A bill for the relief of Mrs. Marcella Coslovich Fabretto (Rept. No. 91–1285). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of California:

H.R. 18351. A bill to provide a program of national health insurance, and for other purposes; to the Committee on Ways and Means.

By Mr. BINGHAM:

H.R. 18352. A bill to amend title II of the Social Security Act to increase the maximum amount of the lump-sum death payment thereunder; to the Committee on Ways and Means.

By Mr. FLOOD:

H.R. 18353. A bill to authorize the Secretary of the Interior to establish the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HENDERSON:

H.R. 18354. A bill to amend the Agricultural Adjustment Act of 1938 to authorize the sale of tobacco acreage allotments under certain conditions; to the Committee on Agriculture.

By Mr. MARSH:

H.R. 18355. A bill to amend an act to regulate within the District of Columbia the sale of milk, cream, and ice cream, and for other purposes; to the Committee on the District of Columbia.

By Mr. MURPHY of New York:

H.R. 18356. A bill to amend the National Environmental Policy Act of 1969, to provide for a National Environmental Data Bank; to the Committee on Merchant Marine and Fisheries.

By Mr. OTTINGER:

H.R. 18357. A bill to protect the civilian employees of the executive branch of the U.S. Government in the enjoyment of their constitutional rights and to prevent unwarranted governmental invasions of their privacy; to the Committee on Post Office and Civil Service.

By Mr. POLLOCK:

H.R. 18358. A bill to provide partial reimbursement for losses incurred by commercial fishermen as a result of restrictions imposed on domestic commercial fishing by a State or the Federal Government; to the Committee on Merchant Marine and Fisheries.

By Mr. RIVERS:

H.R. 18359. A bill to authorize the showing in the United States of documentary films depicting the careers of General of the Armies John J. Pershing, General of the Army H. H. Arnold, General of the Army Omar N. Bradley, General of the Army Dwight D. Eisenhower, General of the Army Douglas MacArthur, General of the Army George C. Marshall, Gen. Lyman L. Lemnitzer, Gen. George S. Patton, Jr., Gen. Joseph Stillwell, Gen. Mark W. Clark, and Gen. James A. Van Fleet; to the Committee on Armed Services.

H.R. 18360. A bill to amend title 39 of the District of Columbia Code to provide for the pay, allowances, and benefits of the District of Columbia National Guard performing militia duty in the District of Columbia, and for other purposes; to the Committee on Armed Services.

By Mr. SIKES (for himself and Mr. CEDERBERG):

H.R. 18361. A bill to authorize the Secretary of Housing and Urban Development to encourage and approve action by public housing agencies and owners of rental housing who participate in special assistance programs of the Department of Housing and Urban Development to accord special treatment to military personnel serving on active duty with the Armed Forces to assure that Government action in the form of periodic reassignment does not deprive them of the benefits of such programs; to the Committee on Banking and Currency.

By Mr. TAFT:

H.R. 18362. A bill to exclude from gross income the first $500 of interest received from savings account deposits in lending institutions; to the Committee on Ways and Means.

By Mr. TAYLOR:

H.R. 18363. A bill to provide for orderly trade in textile articles, articles of leather footwear, and minkskins; to the Committee on Ways and Means.

By Mr. ULLMAN:

H.R. 18364. A bill to amend the Federal Credit Union Act to assist in meeting the savings and credit needs of low-income persons; to the Committee on Banking and Currency.

By Mr. BRINKLEY:

H.R. 18365. A bill to amend title 10 of the United States Code to permit actions against the United States for damage to the good name and reputation of members of the Armed Forces charged with committing certain crimes against civilians in combat zones if such members are cleared of such charges, and for other purposes; to the Committee on the Judiciary.

By Mr. DIGGS (for himself and Mr. ADAMS):

H.R. 18366. A bill to authorize the government of the District of Columbia to fix certain fees; to the Committee on the District of Columbia.

H.R. 18367. A bill to revise and modernize procedures relating to the licensing by the District of Columbia of persons engaged in certain occupations, professions, businesses, trades, and callings, and for other purposes; to the Committee on the District of Columbia.

By Mr. DIGGS (for himself, Mr. ADAMS and Mr. FRASER):

H.R. 18368. A bill to supplement the Motor Vehicle Safety Responsibility Act of the District of Columbia in order to provide for the indemnification of persons sustaining certain losses as a result of the operation of motor vehicles by financially irresponsible persons, and for other purposes; to the Committee on the District of Columbia.

H.R. 18369. A bill to amend the zoning law of the District of Columbia; to the Committee on the District of Columbia.

H.R. 18370. A bill to authorize the District of Columbia Council to fix the rates charged by the District of Columbia for water and water services and for sanitary sewer services; to the Committee on the District of Columbia.

H.R. 18371. A bill to provide for improvements in the administration of the government of the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

H.R. 18372. A bill relating to the rental of space for the accommodation of District of Columbia agencies and activities, and for other purposes; to the Committee on the District of Columbia.

H.R. 18373. A bill to provide improvements in the administration of health services in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

H.R. 18374. A bill to amend the District of Columbia Income and Franchise Tax Act of 1947 so as to provide that income subject to tax for District income tax purposes shall conform as closely as possible to income subject to Federal income tax, and for other purposes; to the Committee on the District of Columbia.

H.R. 18375. A bill to amend the District of Columbia Code to increase the jurisdictional amount for the administration of small estates, to increase the family allowance, to provide simplified procedures for the settlement of estates, and to eliminate provisions which discriminate against women in administering estates; to the Committee on the District of Columbia.

H.R. 18376. A bill relating to education in the District of Columbia; to the Committee on the District of Columbia.

H.R. 18377. A bill to provide for the removal of snow and ice from the paved sidewalks of the District of Columbia; to the Committee on the District of Columbia.

H.R. 18378. A bill to provide additional revenue for the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

H.R. 18379. A bill to increase the motor fuel tax in the District of Columbia; to the Committee on the District of Columbia.

H.R. 18380. A bill to authorize the District of Columbia to issue obligations to finance District capital programs, to provide Federal funds for District of Columbia institutions of higher education, and for other purposes; to the Committee on the District of Columbia.

H.R. 18381. A bill to amend the District of Columbia Street Readjustment Act, and eliminate guarantee clauses in pavement construction contracts for streets in the District of Columbia; to the Committee on the District of Columbia.

H.R. 18382. A bill to establish a revolving fund for the development of housing for low- and moderate-income persons and families in the District of Columbia, to provide for the disposition of unclaimed property in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. HOSMER:

H.R. 18383. A bill to designate the fourth Friday in September of every year as American Indian Day; to the Committee on the Judiciary.

By Mr. MOSS:

H.R. 18384. A bill to protect consumers against unreasonable risk of injury from hazardous products and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. REUSS (for himself, Mr. DINGELL, Mr. GUDE, Mr. MCCLOSKEY, Mr. MOORHEAD, Mr. MOSS, Mr. SAYLOR, Mr. VANDER JAGT, and Mr. WRIGHT):

H.R. 18385. A bill to amend the Federal Property and Administrative Services Act of 1949 to provide for the sale as surplus property of certain interests of the United States relating to navigable water, and for other purposes; to the Committee on Government Operations.

By Mr. TUNNEY:

H.R. 18386. A bill to amend title V of the Housing Act of 1949; to the Committee on Banking and Currency.

By Mr. VANIK:

H.R. 18387. A bill to amend the Internal Revenue Code of 1954 to require court orders before individual income tax returns are opened to inspection by officers and employees of the Federal Government other than those directly charged with the administration of the tax laws; to the Committee on Ways and Means.

By Mr. ADDABBO (for himself, Mr. BROWN of California, Mrs. CHISHOLM, Mr. DERWINSKI, Mr. WILLIAM D. FORD, Mr. FRASER, Mr. FULTON of Pennsylvania, Mr. GALLAGHER, Mr. GIBBONS, Mr. HALPERN, Mr. HARRINGTON, Mrs. MINK, Mr. NIX, Mr. PIKE, Mr. REES, Mr. RIEGLE, Mr. RODINO, Mr. ROSENTHAL, Mr. SMITH of New York, Mr. STOKES, Mr. TIERNAN, Mr. TUNNEY, Mr. WOLFF, Mr. YATES, and Mr. MEEDS):

H.J. Res. 1296. Joint resolution creating a Joint Committee on Classified Information; to the Committee on Rules.

By Mr. BUSH (for himself, Mr. FISHER, Mr. DERWINSKI, Mr. SCHNEEBELI, Mr. COLLINS, Mr. GAYDOS, Mr. THOMPSON of Georgia, Mr. WILLIAMS, Mr. BLACKBURN, Mr. GOLDWATER, Mr. ROBERTS, and Mr. HALL):

H.J. Res. 1297. Joint resolution in opposition to vesting title to the seabed in the United Nations or an international regime; to the Committee on Foreign Affairs.

By Mr. DUNCAN:

H.J. Res. 1298. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. HOLIFIELD:

H.J. Res. 1299. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. MINSHALL:

H.J. Res. 1300. Joint resolution to provide that the period of September 7 to September 13, 1970, be designated as "American Square Dance Week"; to the Committee on the Judiciary.

By Mr. BINGHAM:

H. Con. Res. 672. Concurrent resolution terminating the policies contained in House Concurrent Resolution 108 of the 83d Congress; to the Committee on Interior and Insular Affairs.

By Mr. HOWARD:

H. Con. Res. 673. Concurrent resolution expressing the sense of the Congress with respect to an international conference on the creation of an International Environmental Agency; to the Committee on Foreign Affairs.

By Mr. POLLOCK:

H. Con. Res. 674. Concurrent resolution to request the President to call a Conference on the International Conservation of Anadromous Fish; to the Committee on Foreign Affairs.

By Mr. ROONEY of New York:

H. Con. Res. 675. Concurrent resolution expressing the sense of the Congress with respect to the conquest of cancer as a national crusade; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. O'NEILL of Massachusetts:

H.R. 18388. A bill for the relief of Theodore Panagiotakopoulos; to the Committee on the Judiciary.

H.R. 18389. A bill for the relief of Antoine Elias Srour; to the Committee on the Judiciary.

By Mr. WATSON:

H.R. 18390. A bill for the relief of 1st Sgt. Albert F. Thompson, U.S. Army (Retired); to the Committee on the Judiciary.

SENATE—*Wednesday, July 8, 1970*

The Senate met at 10 a.m., and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

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

Eternal Father, in this reverent morning moment, may this place be to us not only a chamber for work but a holy of holies for the heart and a sanctuary for the soul. Aware of the magnitude of the enterprise committed to us here and sensitive to the vastness of the issues, make us more aware of the sufficiency of Thy grace and wisdom and love.

Give us now, O Lord, the clean hands, the pure hearts, and the holy incentives which qualify us to serve the Republic. Link us to great minds and spirits of the past and to the unfulfilled vision of youth in the present. Make our work as sacred as our prayer. Guide us through this day in glad service and with inner peace.

In the name of the Lord of Life. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore of the Senate (Mr. RUSSELL).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 8, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, July 7, 1970, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LIMITATION ON STATEMENTS DURING ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent to limit statements to 3 minutes in relation to routine morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF SENATOR TALMADGE TOMORROW

Mr. MANSFIELD. Mr. President, the joint leadership is unable to determine at this moment the time of meeting for the Senate tomorrow. We will arrive at a joint decision later, but I ask unanimous consent now that following the disposition of the Journal on tomorrow, the distinguished Senator from Georgia (Mr. TALMADGE) be recognized for not to exceed 30 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PROGRAM

Mr. SCOTT. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. I am delighted to yield to the Republican leader.

Mr. SCOTT. Would the Senator kindly summarize the order of business today and tomorrow, so that it may appear in the RECORD.

Mr. MANSFIELD. Yes; if I could ask the distinguished chairman of the committee in charge of the bill which will become the pending business, how long he anticipates it will take to dispose of the Agriculture appropriation bill today.

Mr. HOLLAND. So far as the handlers of the legislation are concerned, it will not take very long.

As the distinguished leaders know, we cannot tell what amendments may be offered, nor what suggestions may be made by other Senators, but I do not anticipate any long fight. The bill was unanimously reported by the Appropriations Committee.

Mr. SCOTT. In the past, there have been amendments offered by the distinguished senior Senator from Delaware and I suppose they may be again, but I