SENATE—*Thursday, January 29, 1970*

The Senate met at 11 o'clock a.m., and was called to order by the President pro tempore (Mr. RUSSELL).

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

God of our fathers and our God, who has given us this good land for our heritage, forsake us not when the way is difficult and the goal is far distant. But come upon us with a new visitation of Thy spirit that we may know whose we are, whom we serve, and the destiny Thou hast ordered for us. Rekindle in all the people a new and lofty patriotism and pure religion. Set before us the goal of Thy kingdom, the law of which is love and the ruler of which is the sovereign God. Guide by Thy wisdom the Members of this body that their daily service may be rendered in Thy name and each action be according to the divine intention that Thy kingdom comes and Thy will is done on earth as it is in heaven.

Through Jesus Christ our Lord. Amen.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, the President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, January 28, 1970, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that statements in relation to the transaction of routine morning business be limited to 3 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ATTENDANCE OF A SENATOR

Hon. JACOB K. JAVITS, a Senator from the State of New York, attended the session of the Senate today.

RECOMMENDATIONS BY JOINT LEADERSHIP FOR SPEEDING UP SENATE PROCEDURES

Mr. MANSFIELD. Mr. President, the Democratic policy committee, and the Democratic caucus last week considered ways and means by which procedures of the Senate and Congress as a whole might be speeded up so that the possibility of an early adjournment, at least earlier than usual, hopefully around Labor Day, would be enhanced.

Suggestions advanced in the policy committee met with the approval of the Democratic conference. I then contacted the distinguished minority leader (Mr. SCOTT) and he said he would be glad to take up the suggestions made by the majority party with his colleagues in conference.

He did so. They agreed to go along, I believe unanimously. Then, on the basis of these recommendations the distinguished minority leader and I, the distinguished President pro tempore of the Senate (Mr. RUSSELL), the chairman of the Appropriations Committee, and its ranking Republican member, Mr. YOUNG of North Dakota, met with our counterparts in the House.

There the House Members agreed to the proposals set forth at that time.

It was thought, at the conclusion of that meeting on Monday last, that it would be possible to meet with the President the next morning to give him a copy of what we had agreed to, and to ask his advice as to what he could do to bring about a closer degree of cooperation between the departments of Government under his control and the appropriate committees in Congress.

That meeting did not take place, but after a discussion of the meeting with the distinguished minority leader, we have come to the conclusion that these recommendations should be made a matter of public record on which there is wholehearted agreement and cooperation.

Therefore, Mr. President, I ask unanimous consent to have printed in the RECORD a statement to that effect.

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

MEMORANDUM OF DEMOCRATIC POLICY COMMITTEE

On the opening day of the session, the Democratic Policy Committee discussed the problem of orderly and expeditious handling of legislation during the Second Session of the 91st Congress. It was the unanimous position of the Policy Committee that initiative should be taken by the Leadership to preclude a recurrence of an extended session this year. The Majority Leader was directed by the Committee to take the following suggestions to the Conference for discussion and approval:

(a) The Leadership should request a bipartisan meeting between the House and Senate leadership to include the Chairman and ranking minority member of the House and Senate Appropriations Committees. The purpose of this meeting would be to discuss a compatible method of expediting legislation in this session.

(b) Following that meeting, it was suggested that the joint Congressional leadership should meet with the Director of the Budget and bring to his attention the advisability of a cooperative and orderly approach to the President's recommendations between the Executive Branch and the Congress.

(c) Further, if it was then felt advisable, that the Congressional leadership should make a direct overture to the President on this matter.

At the Democratic Conference on Tuesday, January 20, the above recommendations were unanimously approved. The goals as discussed by the Conference were as follows:

(a) An early submission of the President's budget to the Congress.

(b) Immediate identification from the budget of new authorizations which must be enacted prior to appropriations action.

(c) Early submission of messages on annual authorization bills by the Executive.

(d) An agreement that Executive witnesses would be available to testify immediately after submission of those messages.

(e) Scheduling of hearings by appropriate legislative committees in both Houses, to be followed by early passage of these authorizations.

(f) Concurrently, the initiation of early hearings on appropriations bills. These could be ready for markup immediately after passage of the necessary authorizations.

(g) Adjournment sine die not later than Labor Day.

It was pointed out that there is a mutual responsibility between the Executive and each House of Congress in the passage of the Nation's legislation. The Congress cannot act until the Executive submits its proposals. In like manner the Senate cannot act on Appropriations measures until the House has completed its action. In fairness, the Senate is entitled to a reasonable period of time to act on Appropriations bills. In the past, however, there have been occasions when these measures were late in reaching the Senate. The end result has been adjournment late in the fall. As an example, the first session of Congress did not adjourn until December 23, 1969.

In an election year, all Members of Congress are interested in early adjournment. Each Member of the House is up for reelection and 36 Members of the Senate. There was a consensus that the longer we are in session, the more difficult it is for incumbents to be reelected. There was a strong feeling that there should be a "must" list of authorizing legislation identified and a strong effort to pass this legislation as early as is practicable. Some of these measures are controversial and will require extensive hearings. One example is the Farm Bill which expires this year and must be renewed.

Senate Committee Chairmen concurred in a procedure of announcing opening and closing dates of hearings as early as they can be determined. The tradition of accommodating witnesses on scheduling may have to be altered. In the same vein, there was a strong feeling that once a recommendation had been received from the Executive, that should be the measure acted upon. The practice of constant changes and add-ons throughout the session should be discouraged.

One Chairman pointed out that in consideration of the pending business of the Senate, 17 items totaling $5.5 billion were received after the basic bill had been sent to Congress. This situation does not permit an orderly and judicious legislative process.

At the same meeting, the Conference approved a policy of Saturday sessions until the Calendar is cleared of important measures; further, that recess periods be held to a minimum length during this session.

It was made clear that the Conference expected the Leadership to ensure that insofar as the Senate is concerned it is not going to be a source of delay in legislating and, if anything, that it will seek to expedite the appropriating process. Until a substantive change can be made in the fiscal process, for example, changing the fiscal year to the calendar year, something must be tried to improve the situation.

It was the consensus that by taking an initiative at the outset of this session it would be hoped that the entire appropriations process can be expedited perhaps even to the point of establishing some kind of tentative schedule from its inception at the Budget Bureau to its conclusion with the final adoption of Conference Reports in the Congress before Labor Day.

Mr. SCOTT. Mr. President, I am in accord with the statement of the distinguished majority leader. I would add one small amendment; that is, that the Republican conference, without taking any formal vote, expressed the sense of general agreement that we should expedite the business of the Congress, as suggested by the majority party.

We did recommend that instead of setting a target date, as suggested, of Labor Day, that we set as the target, the legal sine die adjournment date for Congress—July 31. It is my understanding that that was generally acceptable in the meeting with the distinguished Speaker of the House and others.

There will be other meetings. I understand that the majority leader has some thought—if I may suggest it at this time—of meeting with the chairmen of the legislative committees and the ranking members of the legislative committees in order to expedite authorizations, and in that way assist in expediting the appropriating procedure.

Indeed, I have indicated that I think it would be desirable, if the President is so minded, that at some point we meet with him to express our common desire to expedite the work of the second session of this Congress.

Perhaps it may be desirable to meet with the Director of the Bureau of the Budget in advance of that. There will perhaps be other meetings with the Vice President and others, all directed to the same common purpose, that of getting the people's business out of the way as quickly as we can in a genuinely bipartisan effort.

I thank the Senator from Montana.

CRIME LEGISLATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may be recognized for the next 5 minutes or so.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, the passage of the drug control bill on yesterday marked another step toward the completion of the Senate's fine work in the field of crime legislation.

The President mentioned in his state of the Union address 13 crime bills upon which he wishes action. He said that none of them has, as yet, reached his desk. Although he did not mention what these bills were, I requested my staff to inquire from the White House and get a listing of the administration proposals.

Of the President's 13 proposals, the Senate has already passed seven and the remaining six deal with four subjects only.

First. Obscene mail and prurient advertising.

Second. Bail reform.

Third. Criminal appeals.

Fourth. Increasing penalties for antitrust violations.

The administration includes three separate bills under the obscenity category; this matter will be considered within the next month by the Senate committee. I have my own proposal in this area and am prepared to offer that proposal—requiring the labeling of all envelopes that contain matter of a potentially offensive nature and providing the opportunity for addressees to return the labeled envelope to the sender at the sender's cost.

I am happy, as the Senate well knows, to be assured by the distinguished chairman of the Committee on Post Office and Civil Service, the Senator from Wyoming (Mr. McGEE), that this matter will be reported from the committee within a month.

The bail reform measure of the administration—one of the remaining crime bills—is a bill upon which the administration is not yet prepared to testify. The administration has not yet completed its study and thus has requested that the Senate committee withhold action.

The third of the administration's crime bills, S. 3132, dealing with criminal appeal procedure will be the subject of hearings within the next month.

Thus, of the administration's proposals and requests on crime, there are but three areas awaiting Senate action. The Senate committees are prepared to move ahead on all of these measures. The last of the administration's crime bills is S. 3036 to increase the penalties for violations of the Sherman antitrust laws. The chairman of that subcommittee has informed me that he anticipates passage of this measure early this session.

It is obvious therefore that the most significant and far reaching of the administration's 13 crime proposals have already passed the Senate.

Upon inquiring of the administration on this matter, it was learned that the administration strongly supported other measures initiated in the Congress dealing with crime. These proposals were enumerated by administration spokesmen to include the following: S. 2122, Federal immunity of witnesses; S. 1861, Corrupt Organizations Act; S. 2292, sources of evidence; S. 30, organized crime.

S. 2122, S. 1861, S. 2292 were all needed and were incorporated into S. 30 which passed the Senate last Friday. In addition, the administration has supported and wishes to be identified with the following Senate bills; S. 952, omnibus judgeship bill; S. 1624, wagering tax amendments; S. 1461, Criminal Justice Act amendments.

The Senate has already passed S. 952. Hearings are scheduled on S. 1624 and S. 1461 in the near future.

Thus, of the 20 measures in the broad areas of crime, drugs, and obscenity, almost all the major bills have passed the Senate.

Only five areas remain for action and all of these will be considered in the Senate this session. Thus, of proposals for additional laws in the battle against crime, the Senate has completed the lion's share of its work and only the tidying up of relatively minor proposals remains.

After the passage of these bills, we may then direct ourselves to the more difficult, much more difficult, tasks of identifying and addressing ourselves to eradicating the causes of criminal behavior.

I ask unanimous consent that a chart of these administration proposals be printed at this point in the RECORD.

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

Bill number and title	*Status*
(1) S. 2022—Illegal gambling control	Passed Senate (S. 30), January 23, 1970.
(2) S. 2637—Drug bill (S. 3246)	Passed Senate, January 28, 1970.
(3) S. 2657—Included in drug bill	Included in S. 3246—Passed Senate January 28, 1970.
(4) S. 2601—District of Columbia court reorganization.	Passed Senate, September 19, 1969.
(5) S. 2602—Public defender, District of Columbia.	Passed Senate, November 21, 1969.
(6) S. 2869—Criminal law revision, District of Columbia.	Passed Senate, December 5, 1969.
(7) S. 2981—Juvenile Code, revision, District of Columbia.	Passed Senate, December 22, 1969.
(8) S. 3036—Increase penalties, Sherman Antitrust Act.	Definite passage this session.
(9) Obscenity:	
(9) (a) (9) S. 2073—Obscene mail to minors	Hearings next month.
(9) (b) (10) S. 2074—Prurient advertising	Hearings next month.
(9) (c) (11) H.R. 10877—Obscene mail—Title II of postal rates bill.	
(12) S. 2600—Bail reform	Hearings continuing; administration has requested postponement until it completes its study.
(13) S. 3132—Criminal appeals	Hearings scheduled; February.

CRIME BILLS SUPPORTED BY ADMINISTRATION, ORIGINATED IN SENATE

Bill number and title	Status
(14) S. 952—Omnibus judgeship bill	Passed Senate, June 23, 1969.
(15) S. 2122—Federal immunity of witnesses.	Passed Senate, January 23, 1970.
(16) S. 2292—Sources of evidence	Passed Senate, January 23, 1970.
(17) S. 1861—Corrupt Organizations Act	Passed Senate, January 23, 1970.
(18) S. 30—Organized Crime Control Act of 1969.	Passed January 23, 1970.
(19) S. 1624—Wagering tax amendments	Hearings next month.
(20) S. 1461—Criminal Justice Act amendments.	Report in few days from subcommittee.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. HRUSKA. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from Montana yield; and if so, to whom?

Mr. HRUSKA. Mr. President, I defer to the minority leader.

Mr. SCOTT. Mr. President, I thank the distinguished Senator. I asked the distinguished majority leader to yield only to point out that I agree that the administration is anxious to have these acts acted upon expeditiously.

I think the Senate is to be praised for what it has already done as to the Bail Reform Act. If there is any information not yet available from the administration, I would hope that, too, would be expedited.

I would point out that the District of Columbia judicial reform bill has been pending for many months in the other body. I say that without any derogation. They have much work to do. But we have been waiting for some solution to a very much needed piece of legislation while the District of Columbia crime situation is rising steadily to new heights and our streets continue to be much less safe than many foreign capitals. The omnibus crime bill, which the Senate passed many months ago, is pending in the House. I believe there is an intention to hold hearings on the matter soon. I understand the committee is working on it. But as long as we have this tremendous backlog in many of our courts, we do seriously need additional judges.

I am most anxious that we have from the other body the same cooperation which the Senate extended to the administration in an effort to staff the courts which needed judicial personnel so that we could get at this backlog and use that and other tools contained in the entire package for the purpose of really attacking and massively reducing the level of crime which is serious and affects us all so greatly.

Mr. MANSFIELD. Mr. President, may I say, before yielding to the distinguished Senator from Nebraska who has done considerable outstanding work in this field, that it will take a good deal more than we have at present.

Much needs to be done in the way of prison reform, rehabilitation of the criminals, creating a better situation and restoring people to decent citizenship rather than making them hardened criminals and thus adding to the criminal population.

Mr. HRUSKA. Mr. President, I congratulate the majority leader for bringing to our attention the progress made by Congress in this very field.

By and large the record made in the Senate has been a good one, and substantial progress has been made.

Failure in this body of the Congress has not been notable. In fact it is limited to a very few bills. I might say on behalf of some of them with respect to the administration not having gotten its final views to the Senate and the House, that some of those delays are occasioned because of the very difficult constitutional limitations with which we must work.

One is a bill in which the distinguished majority leader is so greatly interested, and that has to do with obscenity and pornography in the mails.

We were about ready to report two bills to the Senate that had been introduced by the late departed senior Senator from Illinois, Everett McKinley Dirksen. This was one of the fields in which he took great personal interest.

The senior Senator from North Carolina pointed out that both of these bills, because of the entire subject matter, should be referred to the Subcommittee on Constitutional Rights for a further canvassing of the constitutional limitations and restrictions in this field—and they are many, and they restrict the field considerably—in order that when we get a measure, it will be an effective one and will stand up. And those hearings the Senator from North Carolina (Mr. ERVIN) indicates will be held very shortly.

We could, I expect, barge ahead and proceed, but that is not enough. We have to have a law that will stand up.

We know the difficulties we have encountered in that regard. We know the situation that exists with respect to the bail reform law, where a baleful eye has been cast on the constitutionality of that law.

With respect to dealing with the District of Columbia criminal situation, I want to make the observation that we have been working very hard on crime legislation. This has had true bipartisan support that has been lent to all of the bills.

I am confident that the Senator has witnessed and observed it.

As a member of the Judiciary Committee, I thank the Senator from Montana, the distinguished majority leader, for having brought this matter to our attention in the capsule form in which he has so well expressed it.

Mr. MANSFIELD. Mr. President, I thank the Senator from Nebraska. I did this for the purpose of showing what the Senate and its committees have actually done, because there seems to be an idea prevalent throughout the land that we have been sitting down on much of this legislation, whereas the Senate has been facing up to it and we have been assuming our full responsibility.

I think this record should be known and publicized and spread throughout the land.

Mr. SCOTT. Mr. President, let me make the observation that the late Bruce Barton, who was a Member of the House, once proposed that for every bill Congress enacts, it should repeal one. That is not a bad idea.

Mr. MANSFIELD. He only served one term, though, did he not?

Mr. SCOTT. He was repealed unfortunately too quickly. However, I did learn from the press and other sources that the President will ask Congress to discontinue outmoded programs which are no longer needed but which cost $2 billion. This suggestion might well be contained in the President's proposed budget message.

I am sure the distinguished majority leader agrees that often we enact programs for a certain purpose and that later most people have forgotten about them except the people who are holding jobs there.

I think that any programs that are no longer needed ought to be abolished. I shall support the program.

Mr. MANSFIELD. Mr. President, I will look forward with anticipation and interest to what the President proposes. I will give it most earnest consideration. But we might well consider the possibility of examining the field of foreign affairs, as well as the situation at home, and consider abolishing some programs, or at least reducing some of the outmoded foreign policies which have been in effect since the end of the Second World War, policies in which certain individuals seem to have a vested interest, policies which have outworn their usefulness, policies which cost this country billions of dollars.

So I would hope that the President would carry on a two-pronged attack, and maybe a three-pronged attack, not only in the field of domestic programs, but also in the field of foreign policy, and do something about this tremendous cost overrun—a conservative figure, I understand, is $20.9 billion—which has become rampant in the Department of Defense. There are many areas in which the question of expenditures can be attacked, and appropriations, too. I can assure my distinguished colleague, the able minority leader, that the troops on this side of the aisle will be delighted to help him on a one-, two-, or three-pronged basis, by means of which we can reduce expenditures and do away with the old programs and old policies in the field of foreign affairs.

In that respect I think the President has made a good start through the enunciation of the Nixon doctrine, which applies not only to Asia, but the whole world, and, I assume, including Western Europe.

Mr. SCOTT. If the Senator will yield I wish to add one further comment.

Mr. MANSFIELD. I yield.

Mr. SCOTT. What I said has full application to foreign affairs as well as domestic affairs, as far as I am con-

cerned. I was about to cite the Nixon doctrine on Guam.

Mr. MANSFIELD. The Nixon doctrine based on the Guam declaration.

Mr. SCOTT. I think we have, at least, sealed in the designation. That is a change in foreign policy that should save us untold billions of dollars, but, more importantly, untold numbers of Americans who might otherwise become casualties on some foreign battlefield. Therefore, that is economy in the wisest and noblest sense.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. RUSSELL. Mr. President, I desire to advert briefly to the prior discussion relative to the laws against crime that we have passed and other moves to be taken to create a more lawful atmosphere in this country. I have voted for every one of these laws redefining our criminal laws and extending their scope and purpose. I voted for the law to create these new judges.

However, I must say I do not think any of those laws will be effective until we have absolute assurance of their enforcement and more especially until there is certain and effective punishment meted out against offenders brought into the courts.

In my opinion one of the chief reasons for the great increase in crime, particularly here in the District of Columbia, has been the lack of certainty of real punishment for many of these offenders—until judicial officers are willing to improve genuine punishment upon those who are apprehended, and many of them are, it will be impossible for our Nation's Capital to enjoy the peace and security of other capital cities of the world.

Mr. MANSFIELD. I thank the distinguished President pro tempore of the Senate.

Mr. President, I yield the floor, which I have held too long.

(At this point, Mr. ALLEN assumed the chair.)

THE PENTAGON VERSUS FREE ENTERPRISE—THAT BLOATED DEFENSE BUDGET

Mr. YOUNG of Ohio. Mr. President, the United States today is the world's largest military-industrial complex. Ten percent of the American labor force is involved in either military or defense-related employment. Approximately 22,000 of our largest manufacturing corporations are prime military contractors, while more than 100,000 firms contribute some type of output of defense production. Our annual expenditures for defense purposes, so-called, far exceed the total amount spent for the welfare, education, and poverty programs.

During the past year one case after another has come to light involving excessive profits by defense contractors and cost overruns, so-called.

Furthermore, it has been proven over and over again that the unwarranted influence of the military-industrial complex has resulted in excessive costs, procurements scandals, and skyrocketing military budgets. Quite often taxpayers do not receive the weapons and productions for which excessive prices were paid with their tax dollars. With only 25 corporations receiving nearly 50 percent of prime defense contracts, with important officials in the Defense Department willing to accept serious delays, changing project deadlines, and adding charges well above original estimates, defense contractors are under very little pressure to perform efficiently. This fact and the startling lack of competition for defense contracts have cost taxpayers billions of dollars in excess of original estimates. Also, unfortunately, this results in astounding inefficiency on the part of defense contractors. It results in a small "in" group of favored corporate officials more interested in promoting new business and acquiring new contracts than in successfully completing obligations of contracts entered into previously.

Mr. President, it is obvious that defense spending has grown out of control. It is manifest that the power of the military-industrial complex to write its own ticket and dictate its own terms is one of the most serious and pervasive threats to our Republic and to our free enterprise system.

Mr. President, the distinguished senior Senator from Wisconsin (Mr. PROXMIRE), vice chairman of the Joint Economic Committee and chairman of the House-Senate Subcommittee on Economy in Government, has taken leadership in seeking to eliminate waste and duplication in defense spending and to assure that taxpayers receive fair value for their defense dollars. He deserves the gratitude of all Americans for his persistent efforts and outstanding leadership in trying to reduce the bloated defense budget.

In the Saturday Review of January 31, 1970, there appeared an outstanding article by our distinguished colleague from Wisconsin (Mr. PROXMIRE), entitled "The Pentagon Versus Free Enterprise." This should be read by all Americans concerned with the need for restructuring our national goals and priorities. I ask unanimous consent that the article by the Senator from Wisconsin (Mr. PROXMIRE) be printed in the RECORD at this point as part of my remarks.

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

THE PENTAGON VERSUS FREE ENTERPRISE

(By Senator WILLIAM PROXMIRE)

The military-industrial complex has a great and pervasive influence on the life of the United States. Everyone agrees on that. But whether its influence is unwarranted or unhealthy is, of course the question that has provoked heated national debate. The size and influence of the complex have given rise to legitimate concern, because of the military's tendency to identify national security with ever-larger arsenals, and because of its growing and heretofore unchallenged claim on the natural and human resources needed to combat the country's domestic ills. Compounding this concern is the documented evidence that the military and defense industries are guilty of inefficient and otherwise questionable business practices—particularly in the area of procurement—that not only are wasteful but stifle the principle of open competition that is basic to our free enterprise system.

Military and military-related spending now totals more than $80-billion annually and consumes a tenth of the Gross National Product. Because the defense budget has not been as thoroughly scrutinized and debated as budgets for civilian programs, and because of past experience with national security costs greatly exceeding initial estimates, the allocation of these funds is of primary importance. The defense budget should not be allowed to just "grow," but should be subject to the same control as the rest of the budget.

In the past, only one-tenth of the total staff of the Bureau of the Budget has been assigned to review the military budget. In all fairness, Robert Mayo, the present director of the bureau, has testified that in the future military expenditures will be subject to the same scrutiny as are civilian programs. This review is absolutely essential, and I hope that it will be accomplished. My own investigations and those of Congress's Joint Economic Committee reveal that approximately $10-billion could be cut without diminishing national security in the least, and the Subcommittee on Economy in Government in its report *The Military Budget and National Economic Priorities* has formally recommended that such a cut be made.

In fiscal year 1969, $42-billion was awarded in contracts for defense procurement, making it the largest single item in the military budget (about 25 per cent of the total federal budget), and most important, therefore, to those concerned with rising military costs. Procurement includes defense contracts and all purchases or rentals of supplies, equipment, and services. Procurement is often referred to as the lifeblood of defense contractors.

The most efficient and economical way to approach procurement is through competitive bidding; the Congress has repeatedly and consistently directed the Department of Defense to buy competitively. The Pentagon, however, increasingly resorts to practices that reduce competition, and relies more and more heavily on negotiated procurement. Formally advertised competitive military contract dollar awards dropped from 13.4 per cent in fiscal year 1967 to 11 per cent in fiscal year 1969. Single source procurement increased to 57.9 per cent. Last year, about 90 per cent of the Pentagon's and 98 per cent of NASA's contract awards were negotiated under "exceptions"—too often broad and vague exceptions.

The Defense Department, of course, defends negotiated procurement as being comparable to competitive bidding, but only competitive procurement can really give the desired emphasis to dollar cost. Negotiation on nonprice elements cannot completely or successfully substitute for price competition. Experts who have appeared before the Subcommittee on Economy in Government have indicated that procurement costs in the absence of competition can be from 25 per cent to 50 per cent higher than they would have been had competition been present.

Negotiated arrangements can also lend themselves to repeated dealings with certain favored and trusted suppliers. If desired, there are practically effortless ways to get around the regulations requiring competitive bidding. As a part of these regulations, the 1962 Truth-in-Negotiations Act was designed to protect the taxpayer in the absence of true competition, but if a procurement officer determines that competition is adequate or that a standard catalogue price is in effect, the act does not apply. It is also possible to waive the requirements (again under the Truth-in-Negotiations Act) for a contractor to supply cost data. Defense firms, fully aware of the existence of these loopholes, may refuse to supply the cost data even at the risk of a loss of a sale. This amounts to a gamble that the government

needs their product enough to waive the requirements eventually and proceed with the purchase.

When a firm has actually won a contract to do the research on a major weapons system, it occupies a favored position and is more likely to be chosen to do the work on actual production of the system. In the jargon of defense spending, this is known as being "locked into" a contract. The knowledge gained during the research phase undoubtedly provides a competitive advantage in subsequent negotiations—an advantage that usually means the production contract.

Another way for the firm to improve its position over the life of the contract is commonly referred to as "buy in, get well later." Once a contractor has won the contract, if his costs increase or he cannot meet the agreed delivery date, the government will "get him well" by meeting the higher price or accepting later delivery.

Gordon W. Rule, a civilian procurement officer with responsibility for the F–111, the attack plane whose production has been cut back drastically because of mechanical problems and soaring costs, has told the subcommittee, "No matter how poor the quality, how late the product, and how high the cost, they [the defense contractors] know nothing will happen to them." Thus, the contractors attach the greatest importance to submitting low estimates in order to win the contract even if they suspect at the time that costs will have to be raised later.

Prices and costs can be easily increased during production through the numerous change orders issued (which can potentially number in the thousands on a major system). Referred to as "contract nourishment," these change orders can be initiated by either the government or the supplier, and are not adequately controlled or audited—a point I will elaborate on in my discussion of defense firm accounting practices.

The Subcommittee on Economy in Government has again recommended (in its report of last May) that the Defense Department make greater use of competitive bidding in order to eliminate these problems. If necessary, further legislation should be enacted to make the submission of cost and pricing data mandatory under the Truth-in-Negotiations Act for all contracts awarded other than through formally advertised price competition procedures, and in all sole-source procurements whether or not formally advertised.

Under the conditions just outlined, it does not take much imagination to see how defense suppliers might come to occupy a secure position. Indeed, some companies do almost all of their business with the Department of Defense. In fiscal year 1968, the 100 largest defense contractors were awarded 67.4 per cent of total defense contracts, the highest percentage since 1965. The largest firms hold "entrenched" positions: eighty-four of the firms on the list of 100 largest firms in 1968 had also been on the list in 1967; eighteen of those on the list of the largest twenty-five were on this list in both 1967 and 1968. The five firms doing over $1-billion worth of business with the government in 1967 maintained this volume in the subsequent year.

In spite of their key positions with respect to defense procurement, some of these large firms, such as Lockheed, Boeing, General Dynamics, North American Rockwell, and Litton Industries, refused to appear when invited to testify at recent hearings of the Subcommittee on Economy in Government. To say the least, it appears curious that they would not want to present their views, unless of course they have nothing to add.

In addition to repeated dealings with these same firms, the involvement or relationship between the Pentagon and its suppliers is reinforced by the common practice of interchanging personnel. Many retired officers leave their procurement responsibilities to take positions with the very firms with which they have been negotiating. At present, more than 2,100 retired officers of the rank of colonel or higher are holding jobs with firms doing defense work. The ten companies employing the largest number of them had 1,065 on their payrolls, an average of 106, three times the average number employed in 1959.

The Subcommittee on Economy in Government, recognizing this conflict-of-interest potential, recommended that the Government Accounting Office compile a defense-industrial personnel exchange directory—a kind of catalogue of the officials who have moved from the Pentagon to defense industries or vice versa. My amendment to the military authorization act calls for yearly Pentagon disclosure of the names of all retired military procurement officers, all those of the rank of major or higher, and all former civilian personnel who occupied high positions (GS–13 or above) in the Department of Defense who go to work for the big contractors. It also calls for annual disclosures of the names of former defense contractor employees who now occupy high positions in the Department of Defense.

What this lack of competitive procedure and poor business practices means to the government and taxpayers is higher bills to pay for inefficiencies and waste. The higher costs simply do not buy more security. The extensive and pervasive economic inefficiency and waste in military procurement have been well documented by the investigations of the Subcommittee on Economy in Government, by other committees of the House and Senate, and by the General Accounting Office.

Assistant Secretary of the Air Force Robert H. Charles testified that "the procurement of our major weapons systems has in the past been characterized by enormous cost overruns—several hundred per cent—and by technical performance that did not come up to promise." He attributed a substantial portion of the waste to cost reimbursement type contracts, and to the absence of price competition.

Richard A. Stubbing, a defense analyst at the Bureau of the Budget, in a study of the performance of complex weapons systems, concluded: "The low overall performance of electronics in major weapons systems developed and produced in the last decade should give pause to even the most outspoken advocates of military-hardware programs."

It has been repeatedly pointed out that the greatest cost overruns occur in negotiated contracts. Even in the absence of overruns, however, evidence has been presented that prices are being negotiated at too high a level from the beginning. Further, a retired Air Force officer, Col. A. W. Buesking, a former director of management systems control in the Office of the Assistant Secretary of Defense, summarized a study he had conducted by saying that control systems essential to prevent excessive costs did not exist.

The cost overruns on the C–5A cargo plane (recently grounded with a wing crack) are the most shocking example of the defense industry's inefficiency and mismanagement. The total cost overrun in the C–5A program has been revealed to be as much as $2-billion. The program originally called for 120 C–5A planes to cost the government $3.4-billion, but because of cost overruns, mainly experienced in the performance of the Lockheed C–5A contract, actual costs will total $5.3-billion. Last November the Air Force finally conceded that the cost increases made at least part of the program too expensive to continue, and it announced it would buy only eighty-one of the planes.

Still another example is a more than $200-million overrun on the Mark II Avionics program—the radars, computers, and inertial equipment for the F–111. The original contract price was $143-million, and former Secretary Charles has revealed that the actual costs may go as high as $360-million. On the Mark XVII program, the reentry system for the Minuteman, the original contract price was $36.4-million, but the actual costs had reached $70.2-million at the time the contract was ended.

In December 1969, the General Accounting Office reported that the costs of fifty-seven major weapons systems had increased by $21-billion. However, this figure is seriously understated, in my judgment, because of the inadequacies of the Pentagon's cost-information system. GAO found that the Pentagon still does not maintain a central inventory of the major weapons systems that would show their costs and other information.

The cost to the government and taxpayers is further increased, because the government encourages inefficiency. Let me elaborate on this incredible statement. The Department of Defense supplies both fixed and working capital to many contractors. DOD often owns the plant in which the contractor will work. Too frequently the amount of property owned by the government exceeds that of the defense company. Further, a disproportionate amount of this government equipment is held by the larger contractors.

In fiscal year 1968, the amount of industrial plant equipment costing over $1,000 that was used by the defense suppliers totaled $2.7-billion—a $100-million increase over the $2.6-billion of 1967.

The Pentagon supplies working capital by making "progress payments" that can reimburse contractors for as much as 100 per cent of incurred costs. Incurred cost reimbursement payments might be a better name, however, since progress payments have no correlation to the amount of work actually completed. Under these circumstances money advanced as progress payments really amounts to a kind of no-interest government loan that inflates contractors' profits. Given this "free" working capital, a contractor is in a position to bid low for other government work or to finance commercial work. It is possible for a contractor to incur costs equal to 75 per cent of the original contract price while completing only 50 per cent or less of the job. Not only is the Department of Defense providing a negative incentive for a firm to use its own working capital, but at the same time it is developing a financial stake in the contractor.

In the C–5A case, Lockheed received progress payments of $152 billion on reported incurred costs of $1.57 billion, as of May 30, 1969. In addition, the contract is being performed in a government-owned plant. The plant and the government-owned machinery employed at the plant have an original acquisition cost of $113.8-million.

Yet another instance of these most unusual business practices is the government's policy with regard to patent rights. It permits contractors to obtain exclusive patent rights, free of charge, on inventions produced in the performance of their contracts. Admiral Rickover and Murray Weidenbaum (now Assistant Secretary of the Treasury) both contend that this practice further reduces competition because it gives the "ins" a competitive advantage over the "outs." Legislative action should be taken to establish uniform guidelines for all federal agencies on the use of patents obtained for inventions made under government contract.

Admiral Rickover also testified that $2-billion of excessive costs results from the absence of uniform accounting standards alone. It is difficult to accurately determine costs and profits. "In one case," reported Admiral Rickover, "the Navy allowed a shipbuilder

to charge salaries and other pay directly on government contracts, while similar costs on commercial contracts were charged as overhead and allocated to both government and commercial work. The government was thus paying directly for work done on commercial contracts. The Navy had accepted these costing methods because, it said, the contractor's system conformed to generally accepted accounting principles. In this particular case the GAO eventually found that the government had been overcharged by more than $5-million."

To quote Admiral Rickover further on the problems of accounting standards, "Thus, contractors can use change orders as a basis for repricing these contracts. They have almost unlimited freedom in pricing change orders, because their accounting system will never show the cost of the work. The government can never really evaluate the amounts claimed, or check up to see if it paid too much."

The Subcommittee on Economy in Government has recommended that the Department of Defense require contractors to maintain books and records on firm-fixed-price contracts showing the costs of manufacturing all components in accordance with uniform accounting standards.

Not only should there be tighter control on cost records, but something must be done in the area of profits. The Department of Defense cannot accurately state what profits are in defense procurements. First, it defines profits as a percentage of costs, and does not report profits as a return on investment. Second, the Department of Defense does not obtain complete information about profits on firm-fixed-price contracts. Third, without uniform accounting standards, it is difficult, if not impossible, to discover the costs and profits in defense production unless months are spent to reconstruct contractors' books.

Many witnesses have told the subcommittee that profits in defense are higher than nondefense profits. Murray Weidenbaum found in his study "that between 1962 and 1965 a sample of large defense contractors earned 17.5 per cent net profit (measured as a return on investment), while companies of similar size doing business in the commercial market earned 10.6 per cent."

Profits should also be considered both as a percentage of costs and as a return on investment. Since the Department of Defense supplies fixed and working capital in many cases, defense contractors would show an enormously high return on investment if it were computed.

Another recommendation of the subcommittee is that the GAO study the feasibility of incorporating into its review of contractors the should-cost method of estimating costs on the basis of industrial engineering and financial management principles. In this way, cost estimates could be freed from being based on original estimates that may be inflated.

Finally, we can point to a relation between defense spending and inflation. Both the Korean war period and the Vietnam era have been accompanied by price increases; this suggests that defense expenditures have made significant contributions to inflationary pressures. The consequent reduced value of savings and fixed income assets during periods of inflation and the 10 per cent income tax surcharge are certainly taxpayer burdens as much as the high cost of the defense budget.

High interest rates may eventually stop the inflation, but they hurt the homeowner, the aged, the consumer, and the small businessman in the process. A more intelligent way to curb the price spiral would be to cut defense costs.

The record is clear. Our priorities as a nation need to be restructured, and the place to start is with the bloated defense budget. Only when Congress is again in control of the entire budget can we make progress on the domestic front.

EXECUTIVE COMMUNICATIONS, ETC.

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

REPORT ON PROPERTY ACQUISITIONS OF EMERGENCY SUPPLIES AND EQUIPMENT, OFFICE OF CIVIL DEFENSE

A letter from the Director of Civil Defense, Department of the Army, reporting, pursuant to law, on property acquisitions of emergency supplies and equipment for the quarter ending December 31, 1969, covering items acquired pursuant to the authority transferred to the Secretary of Defense by Executive Order 10952, effective August 1, 1961; to the Committee on Armed Services.

REPORT OF SUMMARY DESCRIPTION OF ANTIDUMPING ACTIONS TAKEN BY OTHER COUNTRIES AGAINST THE U.S. EXPORTS AND THEIR RELATIONHIPS TO PROVISIONS OF THE INTERNATIONAL ANTIDUMPING CODE

A letter from the Special Representative, Office of the Special Representative for Trade Negotiations, Executive Office of the President, transmitting, pursuant to law, a supplementary report setting forth all available information regarding antidumping actions taken by other countries against U.S. exports during the period prescribed by section 201 (b) (with an accompanying report); to the Committee on Finance.

REPORT ON POSITIONS IN GRADES GS–16, GS–17 AND GS–18, DEPARTMENT OF JUSTICE

A letter from the Assistant Attorney General for Administration, U.S. Department of Justice, transmitting, pursuant to law, a report to Congress on positions in grades GS–16, GS–17, and GS–18, January 1, 1969, through December 31, 1969 (with an accompanying report); to the Committee on Post Office and Civil Service.

REPORT OF COMMITTEES

The following report of a committee was submitted:

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

S. 3207. A bill relating to the liabilities of Federal National Mortgage Association to the United States (Rept. No. 91–644).

AMENDMENT OF THE NATIONAL SCHOOL LUNCH ACT AND THE CHILD NUTRITION ACT OF 1966—REPORT OF A COMMITTEE—INDIVIDUAL VIEWS—(REPT. NO. 91–641)

Mr. TALMADGE. Mr. President, from the Committee on Agriculture and Forestry, I report favorably, with an amendment, the bill S. 2548, to amend the National School Lunch Act and the Child Nutrition Act of 1966 to strengthen and improve the food service programs provided for children under such acts, and I submit a report thereon. I ask unanimous consent that the report be printed, together with the individual views of the Senator from South Dakota (Mr. McGOVERN).

The PRESIDING OFFICER. The report will be received, and the bill will be placed on the calendar; and, without objection, the report will be printed as requested by the Senator from Georgia.

SENATE RESOLUTION 329—RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON BANKING AND CURRENCY FOR INQUIRIES AND INVESTIGATIONS (REPT. NO. 91–642)

Mr. SPARKMAN, from the Committee on Banking and Currency, reported the following original resolution (S. Res. 329), and submitted a report thereon, which was referred to the Committee on Rules and Administration:

S. RES. 329

Resolved, That the Committee on Banking and Currency, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction specified by rule XXV of the Standing Rules of the Senate, to examine, investigate, and make a complete study of any and all matters pertaining to—

(1) banking and currency generally;

(2) financial aid to commerce and industry;

(3) deposit insurance;

(4) the Federal Reserve System, including monetary and credit policies;

(5) economic stabilization, production, and mobilization;

(6) valuation and revaluation of the dollar;

(7) prices of commodities, rents, and services;

(8) securities and exchange regulations;

(9) credit problems of small business; and

(10) international finance through agencies within the legislative jurisdiction of the committee.

SEC. 2. For the purposes of this resolution the committee, from February 1, 1970, to January 31, 1971, inclusive is authorized (1) to make such expenditures as it deems advisable; (2) to employ, upon a temporary basis, technical, clerical and other assistants and consultants: *Provided*, That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,700 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. Expenses of the committee, under this resolution, which shall not exceed $150,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 330—RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON BANKING AND CURRENCY FOR A STUDY OF FEDERAL HOUSING AND URBAN DEVELOPMENT PROGRAMS (REPT. NO. 91–643)

Mr. SPARKMAN, from the Committee on Banking and Currency, reported the following original resolution (S. 330), and submitted a report thereon, which was referred to the Committee on Rules and Administration:

S. RES. 330

Resolved, That the Committee on Banking and Currency, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction specified by rule XXV of the Standing Rules of the Senate, to examine, investigate, and make a complete study of any and all matters pertaining to public and private housing and urban affairs, including urban mass transportation.

SEC. 2. For the purposes of this resolution, the committee, from February 1, 1970, to January 31, 1971, inclusive, is authorized (1) to make such expenditures as it deems advisable; (2) to employ, upon a temporary basis, technical, clerical, and other assistants and consultants: *Provided,* That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,700 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. The committee shall report its findings, together with its recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1971.

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

SENATE RESOLUTION 331—RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON ARMED SERVICES FOR INQUIRIES AND INVESTIGATIONS

Mr. STENNIS, from the Committee on Armed Services, reported the following original resolution (S. Res. 331), which was referred to the Committee on Rules and Administration:

S. RES. 331

Resolved, That the Committee on Armed Services, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction specified by rule XXV of the Standing Rules of the Senate, to examine, investigate, and make a complete study of any and all matters pertaining to—

(1) common defense generally;

(2) the Department of Defense, the Department of the Army, the Department of the Navy, and the Department of the Air Force generally;

(3) soldiers' and sailors' homes;

(4) pay, promotion, retirement, and other benefits and privileges of members of the Armed Forces;

(5) selective service;

(6) size and composition of the Army, Navy, and Air Force;

(7) forts, arsenals, military reservations, and navy yards;

(8) ammunition depots;

(9) maintenance and operation of the Panama Canal, including the administration, sanitation, and government of the Canal Zone;

(10) conservation, development, and use of naval petroleum and oil shale reserves;

(11) strategic and critical materials necessary for the common defense; and

(12) aeronautical and space activities peculiar to or primarily associated with the development of weapons systems or military operations.

SEC. 2. For the purpose of this resolution, the committee, from February 1, 1970, to January 31, 1971, inclusive, is authorized to (1) make such expenditures as it deems advisable; (2) employ, upon a temporary basis, technical, clerical, and other assistants and consultants: *Provided,* That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,700 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. The expenses of the committee under this resolution, which shall not exceed $300,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 332—RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE AERONAUTICAL AND SPACE SCIENCES COMMITTEE FOR INQUIRIES AND INVESTIGATIONS

Mr. ANDERSON, from the Committee on Aeronautical and Space Sciences, reported the following original resolution (S. Res. 332), which was referred to the Committee on Rules and Administration:

S. RES. 332

Resolved, That the Committee on Aeronautical and Space Sciences, or any duly authorized subcommittee thereof, is authorized under sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction specified by rule XXV of the Standing Rules of the Senate, to examine, investigate, and make a complete study of any and all matters pertaining to the aeronautical and space activities of departments and agencies of the United States, including such activities peculiar to or primarily associated with the development of weapons systems or military operations.

SEC. 2. (a) For the purposes of this resolution the committee is authorized, from February 1, 1970, through January 31, 1971, inclusive, (1) make such expenditures as it deems advisable, (2) employ upon a temporary basis and fix the compensation of technical, clerical, and other assistants and consultants, and (3) with the prior consent of the head of the department or agency of the Government concerned and the Committee on Rules and Administration, utilize the reimbursable services, information, facilities, and personnel of any department or agency of the Government.

(b) The minority is authorized to select one person for appointment as an assistant or consultant, and the person so selected shall be appointed. No assistant or consultant may receive compensation at an annual gross rate which exceeds by more than $2,700 the annual gross rate of compensation of any person so selected by the minority.

SEC. 3. The committee shall report its findings, together with its recommendations for such legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than January 31, 1971.

SEC. 4. Expenses of the committee under this resolution, which shall not exceed $40,600, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

BILLS INTRODUCED

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

By Mr. JACKSON:

S. 3354. A bill to amend the Water Resources Planning Act (79 Stat. 244) to include provision for a national land use policy by broadening the authority of the Water Resources Council and river basin commissions and by providing financial assistance for statewide land use planning; to the Committee on Interior and Insular Affairs.

(The remarks of Mr. JACKSON when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. YARBOROUGH (for himself, Mr. JACKSON, Mr. ANDERSON, Mr. BURDICK, Mr. CRANSTON, Mr. EAGLETON, Mr. HART, Mr. HUGHES, Mr. KENNEDY, Mr. MCCARTHY, Mr. MAGNUSON, Mr. METCALF, Mr. MONDALE, Mr. MONTOYA, Mr. NELSON, Mr. PELL, Mr. RANDOLPH, Mr. WILLIAMS of New Jersey, and Mr. YOUNG of Ohio):

S. 3355. A bill to amend title IX of the Public Health Service Act so as to extend and improve the existing program relating to education, research, training, and demonstrations in the field of heart disease, cancer, stroke, and other major diseases and conditions, and for other purposes; to the Committee on Labor and Public Welfare.

(The remarks of Mr. YARBOROUGH when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. MONDALE (for himself, Mr. BURDICK, Mr. HUGHES, Mr. MANSFIELD, Mr. MCCARTHY, Mr. MCGEE, Mr. MCGOVERN, Mr. METCALF, Mr. NELSON, Mr. PROXMIRE, Mr. YARBOROUGH, and Mr. SYMINGTON):

S. 3356. A bill to require the Secretary of Agriculture to make advance payments to producers under the feed grain program; to the Committee on Agriculture and Forestry.

(The remarks of Mr. MONDALE when he introduced the bill appear in the RECORD under the appropriate heading.)

S. 3354—INTRODUCTION OF THE NATIONAL LAND USE POLICY OF 1970

Mr. JACKSON. Mr. President, I introduce, for appropriate reference, the National Land Use Policy Act of 1970.

The National Environmental Policy Act of 1969 which the Congress enacted in December and which the President signed into law on January 1 goes far toward providing a congressional declaration of national goals and policies to guide Federal actions which have an impact on the quality of man's environment. That act makes a concern for environmental values and amenities a part of the charter of every agency of the Federal Government. It provides a model for State government. It enhances coordination and better planning by establishing new decisionmaking procedures and by creating an overview agency—a Council on Environmental Quality in the Office of the President.

A national land-use policy is, in my judgment, the next logical step in our national effort to provide a quality life in a quality environment for present and future generations of Americans. Intelligent land-use planning and management provides the single most important institutional device for preserving and enhancing the environment, for ecologically sound development, and for main-

taining conditions capable of supporting a quality life and providing the material means necessary to improve the national standard of living.

To be effective in giving direction to the shape of future events, a national land-use policy must recognize the potential and the limits of Federal control. It must encourage State government to assume a position of leadership in developing plans and implementing land-use management powers over matters which are of multicounty, regional, State, and National concern.

The measure I introduce today, the National Land Use Policy Act of 1970, proposes a specific plan of Federal and State action for meeting the challenge of the land, the competing demands which are made upon it, and the needs and aspirations of present and future generations.

Meeting the challenge of the land promises to be a difficult task. It will not be resolved by one act in one legislative session. It will require experimentation and the refinement of many programs over a long period of time. It will cost money. It will require hard decisions about what is to be conserved and what is to be lost in the tides of social and technological change which sweep this country. And most important, it will require a national effort based upon a high level of State and Federal cooperation.

The National Land Use Policy Act of 1970 as introduced today does not purport to be a final product or to provide final answers to all of the relevant questions which may be raised. It does, however, provide a starting point for review and for analysis. It furnishes a working draft which Federal, State, and local officials, planners, and representatives of industry, business, and public interest groups may comment upon.

This measure recognizes the direct responsibility which the Federal Government has with respect to the development and administration of national land use policies governing the public lands and federally acquired lands. It also recognizes that at the present time neither the Nation nor the respective States have established a consistent policy with respect to the management of the Nation's land resource base or with respect to the many grant-in-aid programs designed to assist and, often, influence various aspects of land-use planning and management activities at the State, regional, and local levels.

I am hopeful that hearings on this measure will bring to bear the recommendations of the Nation's best experts on national land-use policies. Fortunately, the excellent studies and the final recommendations of the Public Land Law Review Commission will also soon be available to provide data and guidance. I am also hopeful that hearings and additional staff studies will result in useful legislative recommendations for consolidating and avoiding inconsistent requirements between existing Federal grant-in-aid programs in the area of State and local land-use planning and management.

At the Federal level we are already beginning to see and to reap the results of our past failure to have developed a consistent national land-use policy. Increasingly we are finding instances where Federal funds which have been expended to preserve a part of our natural heritage or to create new recreational opportunities are coming into serious and, often, totally unnecessary conflicts with other federally funded programs such as highway and airport construction, communications, national defense facilities, and water resource development.

I am not too concerned that there is occasional conflict between these different Federal programs. The wide range of goals and objectives which the National Government seeks to achieve will, of necessity, involve some competition and conflict over priorities, over funding, and over the use of a specific land resources. Our political system was designed to resolve conflicts of this nature. I am confident that it is capable of doing so in an intelligent manner.

I am, however, very concerned that many of these conflicts which have centered around incompatible uses of the same land resource have been totally unanticipated and unintended. These conflicts have simply been the result of poor planning procedures. They have not placed at issue important questions of national priorities, goals, and objectives. These conflicts have resulted from a lack of coordination; a failure to relate national programs to local aspirations; and an institutional inability to factor in the full range of national and local values as a part of the planning process for specific Federal projects.

It is my view that the need for a more orderly, systematic program of National, State, and local land use planning is clear. The need may be seen in the extensive hearing records the Senate Interior Committee compiled earlier this year on the proposed 800-mile trans-Alaska oil pipeline system and on the Everglades National Park superjet airport and water shortage controversy.

The Nation's land-use planning and management problems may also be seen in the committee's hearing records on virtually every one of the four new national parks; the eight new national recreation areas; the nine new national seashore and lakeshores; and the almost 100 new wilderness areas, national monuments, and historic sites that have been enacted into law since 1960.

Each time a major decision is made concerning the utilization of scarce and valuable lands, competition among uses must be recognized, conflicts resolved, and priorities established. It is time that we faced these issues nationwide. It is time that we establish some basic goals and requirements to improve present planning and, therefore, the world of future generations.

The dramatic land-use conflicts we have faced in recent years—the Grand Canyon Dam controversy, the Everglades situation, the proposed trans-Alaska pipeline, the confrontation between highway builders and parks, the issue of reservoirs versus wild and scenic rivers, open beaches versus private and commercial development, industry versus scenic preservation, and commerce versus wilderness—should not have become public cause celebres.

Individual cases should not have occupied so much of the limited available time of the Congress, of the President, and of Cabinet officers. Questions of National and State land-use policy can be, and should be resolved by prior planning based upon national goals, values, and aspirations. They should not be resolved on an expedient, after the fact, case-by-case basis which requires undoing prior decisions and which result in a waste of money and manpower.

Let me cite one example. In 1934, the Congress established the Everglades National Park. This represented a national land-use decision that the Everglades should be preserved for all time for the enjoyment of all future generations. In 1948, the State of Florida and the Corps of Engineers, pursuant to a congressional authorization, initiated construction of a flood control project. Today this flood control project imposes artificial controls upon the historic flow of water to the park and, to a major extent, threatens the park's very life and existence. In 1968, the Dade County Port Authority, with Department of Transportation funding and assistance, initiated construction of a super jet airport within 6 miles of the park. This jet airport also threatens the life of the park and all of the values for which it was preserved in 1934 by the Congress. If the jet airport were to be constructed as planned it would create a serious noise problem, it would cause grave water pollution problems, and, finally, it would encourage and greatly accelerate residential, commercial, and industrial developments which are in direct conflict and totally incompatible with maintenance of the park as a great national recreation and scientific asset.

There were no villains in this conflict and controversy. There were different groups of public officials, representing different constituencies, seeking to attain and maximize different public goals which had been institutionalized and given legitimacy in a series of authorization and appropriation acts of Federal, State, and local government.

The Congress and the Park Service sought to preserve the Everglades. The Corps of Engineers sought to enhance flood control, to conserve and to make available for municipal, commercial, and recreational uses the water which the wildlife and the ecology the Everglades had for years depended upon. The Dade County Port Authority sought to relieve pressure on the existing Miami International Airport and to develop a transportation facility which would be adequate for local needs for the foreseeable future. The Department of Transportation sought to and did fund a transportation demonstration project involving rapid transit systems and a new concept in airport design—away from the cities, but convenient and accessible. The position of the State of Florida, like that of many States today in the face of Federal programs which bypass State government and treat directly with agencies of local government, was, at best, ambivalent.

The Everglades jet airport controversy is a classic study in the deficiencies of present land use policy at the State and National levels. The extensive hearings by the Senate Interior Committee on this situation revealed the following:

Three Departments of the Federal Government pursuing programs which are in direct conflict.

Three counties of the State of Florida seeking to conduct planning and made decisions which are of statewide and national significance.

A State whose greatest industry is tourism, but which has not exercised the land use planning and management powers to protect one of its greatest tourist attractions.

Important conflicts and breakdowns in communication between State and local government and between the Federal Government and agencies of State government.

One of the most important lessons to be gained from the Everglades controversy, and one of the reasons it is a classic case, is that millions of dollars were authorized by different Committees of the Congress, and spent by different agencies of the Federal Government, and by State and local agencies in the pursuit of separate goals and objectives, totally without any recognition that success, that attainment of the goals sought at the same point in time and place by these different groups would involve serious and, in many cases, irreconcilable land-use conflicts.

In this case a satisfactory resolution has apparently been achieved if the recently announced intentions of Federal, State, and local government are affectuated. But the victory is a minor one when it is considered against the magnitude, the depth, and the pervasiveness of the Nation's pending and future land use problems.

Look at these other examples of State and national land use planning problems:

Transportation and utility systems which are planned and constructed on a single purpose basis without considering other public values.

The inability of private enterprise to get decisions from State and local government within a reasonable time for the siting and location of heavy industrial activities such as refineries, thermal powerplants, utilities, and factories.

Damage caused to commonly owned assets—estuaries, beaches, and public parks, forest and recreation areas—by unregulated and incompatible developments on the boundaries of these areas.

These are only a few of the problems we presently face. It is clear that these problems will become more serious in the future. Look at these growth projections:

Our population will grow by 100 million people in the next 30 years.

Our gross national product, barring a recession, will double in the next 10 years, going from $942 billion to $1.8 trillion.

Both of these factors, population and economic growth, will bring unprecedented pressures to bear on our Nation's finite land resource base. If a consistent, future oriented national land-use policy is not established, conflicts will multiply, unbalanced development will take place, and irreversible decisions will have been made without proper consideration of alternatives.

Here are some of the problems I see at the Federal level.

At the present time a whole host of agencies are deeply involved in land-use planning. For example, the Bureau of Outdoor Recreation, in conjunction with State government, is currently preparing a nationwide recreation plan. Other agencies of the Federal Government are preparing highway plans, airport plans, water resource plans, and navigation plans. The Department of Housing and Urban Development is deeply involved in urban planning. The Department of Commerce is involved in regional planning. Other departments are actively engaged in various aspects of land-use planning related to their areas of program responsibility.

Most of these plans are necessary and desirable. The problem is this however: To date, no one in the Federal Government has ever put these plans together to see if they are consistent, to see if they make sense, and to see if they are compatible with local goals and aspirations.

As a result, there are needless and costly conflicts between agencies and departments of the Federal Government, between State and Federal Government, and between State and local government.

One of the basic problems at the Federal level is that many agencies and departments of the Federal Government are pursuing separate, single-purpose missions—highway building, dam construction, urban redevelopment, and others—without adequate land-use information, without coordination, without considering alternatives, and without proper environmental and land-use guidelines.

At the State level a different, and in my view, a more difficult set of land-use problems are faced. Under our system of government the States have the basic constitutional authority for land-use management. Federal powers in this area are very circumscribed and, in a real sense, limited to federally owned lands.

Historically the States have delegated their land-use management authority to units of local government—to counties, to cities, to port authorities and to other special purpose units of government. My State, the State of Washington alone, has more than 1,600 local governmental entities of which nearly 1,400 have property taxing powers. All of these, and many private groups as well, directly and indirectly, influence land-use decisions.

This broad delegation of power to local government is in keeping with the sound philosophy of control by the people at the local level. But, it has also created some very important problems.

For example, the proposed superjet airport which, if constructed, would have threatened the existency of the Everglades National Park as planned, financed, and scheduled for construction by a unit of local government, the Dade County Port Authority. This raises the following question: Should decisions such as this which clearly involve the life or death of a great national park owned by all of the 200 million people of this country be left to the decision of the commissioners of a local port authority?

In virtually every community and certainly in every major city, every State, and every region of the country, similar, if less dramatic, land-use conflicts are being faced daily. The continued growth of the Nation in terms of population; expanding urban areas; proliferating transportation systems a dynamic economy; the growing number of governmental entities; and the increased size, scale, and impact of private actions, have created a situation in which many, if not most, land-use management decisions are not being rationally made. Instead, land-use planning and management decisions are being made at all levels of government on the basis of expediency, tradition, archaic legal principles, short-term economic considerations, and other factors which are often unrelated to what the real concerns of National, State and local land-use management should be.

Many small cities or counties all across the Nation do not have land use management plans. They have not inventoried their land resources or taken action to protect them. When major industries move into these areas, they locate where it is cheapest and most convenient. And often, this means they locate in areas which, with the benefit of planning and foresight, should have been reserved for other uses such as recreation, parks, or low-density housing.

Industrial development is not, of course, the only problem. A similar situation exists with respect to residential land development, the location of utility and transportation corridors, commercial development, and the siting of public facilities such as thermal power plants.

Most local instances of poor land-use management and planning do not present critical national, regional, or statewide problems. But sometimes, as in the Everglades, they do. It then becomes a problem of broad public concern when a lack of planning or poor planning causes irreparable damage to assets of statewide, regional, or national importance.

The Nation's ocean beaches, for example, are such an asset. The American public has a valid interest in how they are developed and managed. The management of areas adjoining and on the periphery of our national parks, forests, and recreation areas greatly affects the value of large national investments in unique natural assets. Should such areas be developed according to the unilateral decisions of private developers or the lack of decisions of State and local jurisdictions? Or should these decisions be shared with the State?

By the same token, there are many land use decisions made by the Federal Government which require greater participation by State and local government. Often the Federal Government is seeking the use of a local community's most valuable asset: its land and environment. We must guarantee not only that the use

of this asset is necessary, but that it is made in accord with the highest and best standards of land use and environmental management.

Mr. President, the National Land Use Policy Act of 1970 is designed to deal with many of the problems to which I have referred.

As introduced today, this measure has three major aspects. First, it would establish a grant-in-aid program to assist State and local government in hiring and training the personnel, and developing the competence necessary to improve land-use planning and management at the State level.

Second, action forcing provisions are included which are designed to encourage every State through an agency to be designated by the State's Governor, to inventory their land resources and develop a statewide environmental, recreational, and industrial land-use plan within 3 years. The States would be encouraged to assume appropriate land-use management powers over those assets and land resources which are of regional, statewide, or national significance. These might include undeveloped ocean beaches; portions of major river systems and lakes; buffer zones around existing State and National parks and recreation areas; areas involving multicounty and interstate environmental problems such as air, water, and noise pollution; transportation and utility corridors; and areas which are compatible for heavy industries such as refineries, major metal processing plants, and thermal powerplants. The legislation would not affect areas located within incorporated cities which have exercised land-use planning and management authority.

Development and implementation of a statewide land-use plan may require the creation of a new governmental agency in some States, and a restructuring of existing institutions in other States. The legislation sets forth certain minimal standards on environmental, recreational, and industrial land-use planning which the statewide land-use plan will have to meet to qualify for continued grant-in-aid eligibility.

Within 4 years of the date of enactment of the act, the statewide land-use planning agency must have the authority to implement the statewide environmental, recreational, and industrial land-use plan. This would include the authority to acquire land; to control the types of development which may take place in areas subject to the plan; to conduct hearings allowing for full public participation; and to make changes in the statewide plan when required by changed conditions.

The legislation provides that if a State should fail to adopt an acceptable land-use plan within 4 years, the State's entitlement to certain additional Federal assistance programs, which shall be designated by the President, may be reduced at the rate of 20 percent per year until the State has complied with the act. Programs to be designated by the President would be those which tend to create land-use problems unless they are properly planned. These might include Federal highway construction trust funds and other public work programs.

Third, the act will assign to the Land and Water Resources Planning Council—formerly the Water Resources Council—the responsibility of administering the grant-in-aid program, working with State and local government, and reviewing State land-use plans.

In addition, the Council would have important responsibilities for coordinating Federal land-use planning, for improving Federal-State relations in this area, and for maintaining a data and information center on all Federal and federally assisted activities which have land-use planning and management ramifications.

Because the Water Resources Council already administers similar programs concerning the water and related land resources of the Nation, the National Land Use Policy Act of 1970 has been drafted as an amendment to the Water Resources Planning Act of 1965. The experience, the established communications network, the river basin commission system, and staff organization of the Council will provide an excellent base for the development of this broader function.

Mr. President, the hour is late and much has already been lost, but I believe we still have time to meet the challenge of the land. We still have a choice about the shape of America's future. We have a land worthy and capable of preservation and proper development.

Mr. President, I ask unanimous consent that the text of the National Land Use Policy Act of 1970 be printed in the RECORD.

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

The bill (S. 3354), to amend the Water Resources Planning Act (79 Stat. 244) to include provision for a national land-use policy by broadening the authority of the Water Resources Council and river basin commissions and by providing financial assistance for statewide land-use planning, introduced by Mr. JACKSON, was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered printed in the RECORD, as follows:

S. 3354

A bill to amend the Water Resources Planning Act (79 Stat. 244) to include provision for a national land use policy by broadcasting the authority of the Water Resources Council and river basin commissions and by providing financial assistance for statewide land use planning

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Water Resources Planning Act (79 Stat. 244), as amended (82 Stat. 935), is further amended by adding a new title IV to read as follows:

"TITLE IV—A NATIONAL LAND USE POLICY

"FINDINGS AND DECLARATION OF POLICY

"SEC. 401. (a) The Congress hereby finds that there is a national interest in a more efficient and comprehensive system of national and statewide land use planning and decisionmaking and that the rapid and continued growth of the Nation's population, expanding urban development, proliferating transportation systems, large scale industrial and economic growth, conflicts in emerging patterns of land use, the fragmentation of governmental entities exercising land-use planning powers, and the increased size, scale, and impact of private actions, have created a situation in which land-use management decisions of national, regional, and statewide concern are being made on the basis of expediency, tradition, short term economic considerations, and other factors which are often unrelated to the real concerns of a sound national land-use policy.

"(b) The Congress further finds that all across the Nation a failure to conduct competent, ecologically sound land use planning has required public and private enterprise to delay, litigate, and cancel proposed public utility and industrial and commercial developments because of unresolved land use questions, thereby causing an unnecessary waste of human and economic resources and a threat to public services and often resulting in decisions to locate utilities and industrial and commercial activities in the area of least public and political resistance, but without regard to relevant ecological and environmental land use considerations.

"(c) The Congress further finds that many Federal agencies are deeply involved in national, regional, and State land-use planning and management activities which because of the lack of a consistent policy often result in needless, undesirable, and costly conflicts between agencies of Federal, State and local government; that existing Federal land-use planning programs have a significant effect upon the location of population, economic growth, and on the character of industrial, urban, and rural development; that the purposes of such programs are frequently in conflict, thereby subsidizing undesirable and costly patterns of land-use development; and that a concerted effort is necesary to interrelate and coordinate existing and future Federal, State, and private decisionmaking within a system of planned development and established priorities that is in accordance with a national land-use policy.

"(d) The Congress further finds that while the primary responsibility and constitutional authority for land use planning and management of non-Federal lands rests with State and local government under our system of government, it is increasingly evident that the manner in which this responsibility is exercised has a tremendous influence upon the utility, the value, and the future of the public domain lands, the national parks, forests, seashores, lakeshores, recreation and wilderness areas and other Federal lands; that the interest of the public in State and local decisions affecting these areas extends to the citizens of all States; and that the failure to plan and, in some cases, poor land-use planning at the State and local level pose serious problems of broad national, regional, and public concern and often result in irreparable damage to commonly owned assets of great national importance such as estuaries, ocean beaches, and other areas in public ownership.

"(e) The Congress further finds that the land use decisions of the Federal government often have a tremendous impact upon the ecology, the environment and the patterns of development in local communities; that the substance and the nature of a national land use policy ought to be formulated upon an expression of the needs and interests of State, regional, and local government as well as those of the Federal Government, private groups and individuals; and that Federal land use decisions require greater participation by State and local government to insure that they are in accord with the highest and best standards of land-use management and the desires and aspirations of State and local government.

"(f) In order to promote the general welfare and to provide full and wise application of the resources of the Federal government in strengthening the environmental, recreational, economic and social well-being of the people of the United States, the Congress

declares that it is a continuing responsibility of the Federal Government, consistent with the responsibility of State and local government for land-use planning and management, to undertake the development of a national policy, to be known as the national land-use policy, which shall incorporate ecological, environmental, esthetic, economic, social and other appropriate factors. Such policy shall serve as a guide in making specific decisions at the national level which affect the pattern of environmental, recreational and industrial growth and development on the Federal lands, and shall provide a framework for development of interstate, State, and local land-use policy.

"(g) The Congress further declares that the national land-use policy should—

"(1) favor patterns of land-use planning, management and development which are in accord with sound ecological principles and which offer a range of alternative locations for specific activities and encourage the wise and balanced use of the Nation's land and water resources;

"(2) foster the continued economic growth of all States and regions of the United States;

"(3) favorably influence patterns of population distribution in a manner such that a wide range of scenic, environmental, and cultural amenities are available to the American people;

"(4) contribute to carrying out the Federal responsibility for revitalizing existing rural communities and encourage, where appropriate, new communities which offer diverse opportunities and a diversity of living styles;

"(5) assist State government to assume responsibility for major land-use planning and management decisions which are of regional, interstate, and national concern;

"(6) facilitate increased coordination in the administration of Federal programs so as to encourage desirable patterns of environmental, recreational, and industrial land-use planning; and

"(7) systematize methods for the exchange of land-use, environmental and ecological information in order to assist all levels of government in the development and implementation of the national land-use policy.

"(h) The Congress further declares that intelligent land-use planning and management provides the single most important institutional device for preserving and enhancing the environment, for ecologically sound development, and for maintaining conditions capable of supporting a quality life and providing the material means necessary to improve the national standard of living.

"PURPOSE

"SEC. 402. It is the purpose of this title—

"(a) to establish a national policy to encourage and assist the several States to more effectively exercise their constitutional responsibilities for the planning, management, and administration of the Nation's land resources through the development and implementation of comprehensive 'Statewide Environmental, Recreational and Industrial Land Use Plans' (hereinafter referred to as 'Statewide Land Use Plans') and management programs designed to achieve an ecologically and environmentally sound use of the Nation's land resources;

"(b) to establish a grant-in-aid program to assist State and local government to hire and train the personnel, and gain the competence necessary to develop, implement, and administer a Statewide Land Use Plan which meets Federal guidelines and which will be responsive and effective in dealing with the growing pressures of conflicting demands on a finite land resource base;

"(c) to establish reasonable and flexible Federal requirements to give individual States guidance in the development of Statewide Land Use Plans and to condition the distribution of certain Federal funds on the establishment of an adequate Statewide Land Use Plan;

"(d) to enlarge the responsibilities of the Land and Water Resources Planning Council (formerly the Water Resources Council) to include the administration of the Federal grant-in-aid program, the review of Statewide Land Use Plans for conformity to the provisions of this title, and the issuance of a biennial report on national land use policies, trends, projections and problems; and

"(e) to exercise the Federal Government's responsibility to maintain, develop, and refine a coherent national land use policy with respect to the planning, management and administration of all federally owned lands.

"STATEWIDE ENVIRONMENTAL, RECREATIONAL AND INDUSTRIAL LAND USE PLANNING GRANTS

"SEC. 403. (a) In order to carry out the purposes of section 402, the Land and Water Resources Planning Council (herein referred to as the 'Council') is authorized to make land use planning grants to—

"(1) an appropriate single State agency, designated by the Governor of the State, which has statewide land use planning responsibilities and which meets the criteria and guidelines set out in section 406 of this title; and,

"(2) any interstate agency which is authorized by Federal law or interstate compact to plan and regulate land use development.

"(b) The Council is authorized to make land use planning grants in accordance with the provisions of this title to assist and enable eligible State and interstate agencies—

"(1) to prepare an inventory of the State's land and related resources;

"(2) to collect and analyse information and data related to—

"(A) population characteristics, migration, trends and densities;

"(B) economic trends, location patterns, and projections;

"(C) directions and extent of urban and rural growth and changes;

"(D) public works, public capital improvements, land acquisitions, and economic development programs, projects, and associated activities;

"(E) ecological, environmental, geological, and physical conditions which are of relevance to decisions concerning the location of new communities, commercial development, heavy industries, transportation and utility corridors, and other land uses;

"(F) the projected land use requirements of the State for recreation, urban growth, commerce, transportation, the generation of energy, and other important uses for at least the next fifty years;

"(G) governmental organization and financial resources available for land use planning and management within the State and the political subdivisions thereof; and

"(H) other information necessary to conduct statewide land use planning in accord with the provisions of this title.

"(3) to provide technical assistance and training programs for appropriate personnel on the development, implementation and management of statewide land use planning programs;

"(4) to develop, use, and encourage common information and data bases for Federal, State, regional, and local land use planning;

"(5) to establish arrangements for the exchange of land use planning information among State agencies, and among the various governments within each State and their agencies; between the governments and agencies of neighboring States as appropriate; and with interstate compact agencies, river basin commissions and regional commissions established pursuant to Federal law;

"(6) to establish arrangements for the exchange of information with the Federal Government for use by the Council in discharging its responsibilities under this Act; and

"(7) to conduct other related planning and coordination functions as may be approved by the Council.

"PROPOSALS FOR GRANTS

"SEC. 404. (a) To receive a State land use planning grant a State shall submit to the Council a proposal in such form and in accordance with such procedures as the Council may specify, indicating the program of State land use planning it proposes to undertake, the planning assistance that it will require, the period during which such activities will be conducted, and their estimated costs, and designating those functions which qualify for Federal assistance pursuant to this title.

"(b) From the sum appropriated pursuant to section 410 the Council is authorized to make State land use planning grants to agencies whose proposals are approved in an amount not to exceed two-thirds of the estimated cost of the planning for the three fiscal years after the date of enactment of this title. Thereafter, grants may be made in an amount not to exceed one-half of the new planning costs and one-fourth of the State agencies operating costs.

"(c) Planning grants shall be allocated to the States with approved programs based on regulations of the Council which shall take into account the amount and nature of the State's land resource base, population, pressures resulting from growth, and other relevant factors.

"(d) Any grant made for the purpose of this title shall increase, and not replace State funds presently available for State land use planning activities. Any grant made pursuant to this title shall be in addition to, and may be used jointly with, grants or other funds available for land use planning surveys, studies, and investigations under other federally assisted programs.

"DUTIES OF THE COUNCIL

"SEC. 405. (a) The Council shall promulgate rules and regulations to administer the provisions of this title, including the detailed terms and conditions under which State land use planning grants may be made.

"(b) In order to carry out the provisions of this title, the Council—

"(1) is authorized to make advance, progress, or other payments pursuant to any State land use planning grant made under this title without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529);

"(2) is authorized to provide technical assistance to any eligible State or interstate agency and to River Basin Commissions as specified in sections 403 and 404;

"(3) is authorized, by contract or otherwise, to make studies and publish information on problems related to State and National land use planning;

"(4) shall consult with other officials of the Federal Government responsible for the administration of Federal land use planning assistance programs to States, their political subdivisions, and other eligible agencies in order to enhance coordination; and

"(5) is required to periodically review provisions of the Statewide Land Use Plans for conformity to the provisions of this Act.

"FEDERAL GUIDELINES AND REQUIREMENTS

"SEC. 406. (a) A State agency specified in section 403 (a) must meet or be able to give assurances that it will meet the following requirements in the development of the Statewide Land Use Plan to be eligible for statewide land use planning grants under this title—

"(1) a single State agency, designated by the Governor, shall have primary authority and responsibility for the development and administration of the Statewide Land Use Plan and other appropriate State agencies will assist, where appropriate, in the development of the plan;

"(2) a competent and adequate interdis-

ciplinary professional and technical staff as well as special consultants, will be available to the State agency to develop the Statewide Land Use Plan;

"(3) to the maximum extent feasible, pertinent State and Federal plans, studies, information, and data on land use planning already available, shall be utilized in order to avoid unnecessary repetition of effort and expense; and

"(4) such records shall be kept and made available and such reports and evaluations shall be made as the Council may require regarding the status and application of Federal funds made available under the provisions of this title.

"(b) During the three fiscal year period following the date of enactment of this title, State Land Use Plans must, as a condition of continued grant eligibility, meet or be designed to meet, as additional information is developed, the following guidelines and requirements—

"(1) identification of the boundaries of the portions of the State subject to the Statewide Land Use Plan;

"(2) identification of the areas of the State which are not subject to the Statewide Land Use Plan: Such areas shall include—

"(A) lands which are located within the boundaries of any incorporated city which has exercised land use planning and authority, and

"(B) such other lands as the Council may specify pursuant to section 405;

"(3) identification of those areas of the State—

"(A) where ecological, environmental, geological, and physical conditions dictate that certain types of land use activities are incompatible and undesirable,

"(B) whose highest and best use, based upon projected State and National needs, on the Statewide Outdoor Recreation Plan required under the Land and Water Conservation Fund Act, and upon other studies, is recreational oriented use,

"(C) which are best suited for natural resource, heavy industrial and commercial development,

"(D) where transportation and utility corridors are or should, in the future, be located, and

"(E) which furnish the amenities and the basic essentials to the development of new towns and the revitalization of existing communities;

"(4) appropriate provisions designed to insure that regional requirements for material goods, natural resources, energy, recreation and environmental amenities given consideration;

"(5) provisions and procedures designed to insure that the plan is consistent with local, State, regional, and Federal standards relating to the maintenance and enhancement of the quality of the environment and the conservation of public resources;

"(6) provisions to insure that transportation and utility corridors do not damage Federal lands dedicated to the maximization of declared public values, and are established in compliance with regional and State needs, State policies, and policies and goals set forth in other Federal legislation;

"(7) measures such as buffer zones, scenic easements, prohibitions against nonconforming uses, and aesthetic standards to insure that federally designated, financed, and/or acquired areas including, but not limited to elements of the national park system, wilderness areas, and game and wildlife refuges are not damaged or degraded as a result of inconsistent or incompatible land use patterns in the same immediate geographical region.

"(c) To retain eligibility for statewide land use planning grants after the end of three fiscal years from the beginning of the first fiscal year after the date of enactment of this title, the State land use planning agency designated by the Governor pursuant to section 403(a)(1) must meet the following Federal guidelines and requirements—

"(1) the agency must have the authority necessary to implement the Statewide Environmental, Recreational and Industrial Land Use Plan;

"(2) the agency's authority shall include but need not be limited to—

"(A) authority to acquire interests in real property if deemed to be necessary under the Statewide Land Use Plan;

"(B) authority, under the State police powers, to place restrictions on the type of land use activities which may take place in areas designated for a special use under the Statewide Land Use Plan; and

"(C) authority to conduct public hearings, allowing full public participation and granting the right of appeal to aggrieved parties, in connection with the dedication of any area of the State as an area subject to restricted or special uses under the Statewide Land Use Plan;

"(3) the agency must have procedures for modification and change in the State Land Use Plan, including public notice and hearing, to meet changed future conditions and requirements.

"(d) The Council shall have authority to terminate any financial assistance extended under this title if, after the State has been given notice of a proposed termination and an opportunity to present relevant evidence, the Council finds that—

"(1) the State agency has failed to adhere to the guidelines and requirements of this title in the development of the land use plan; or

"(2) the State has not enacted State legislation which meets the requirements of section 406(c).

"OTHER GRANT-IN-AID PROGRAMS

"SEC. 407. Any State whose entitlement to statewide land use planning funds under the provisions of this title has been terminated pursuant to section 406(d), or who fails to develop an acceptable Statewide Land Use Plan by the beginning of the fourth fiscal year after the date of enactment of this title, shall—

"(1) have its entitlement to certain additional Federal assistance programs, which shall be designated by the President, reduced at the rate of 20 per centum per year until such time as the provisions of this title are complied with; and

"(2) be denied the issuance of any right-of-way permits or other permits available under the public land laws and other Federal laws to use or to cross the public domain or other Federal lands until such time as the provisions of this title are complied with.

"STATE-FEDERAL COORDINATION

"SEC. 408. (a) The Council shall not approve the land use plan submitted by a State agency until it has solicited the views of the Federal agencies principally affected by such plans or has evidence that such views were provided the State agency in the development of the plan.

"(b) All Federal agencies conducting or supporting public works activities in an area subject to a State Land Use Plan shall make such activities, unless there are overriding considerations of national policy which require departures from the plan, consistent with the approved plan for the area. State and local governments submitting applications for Federal assistance for activities in areas subject to State Land Use Plans shall indicate the views of the State land use agency as to the relationship of such activities to the approved plan for the area. Federal agencies shall not approve proposed projects that are inconsistent with the plan.

"FEDERAL PLANNING INFORMATION CENTER

"SEC. 409. (a) The Land and Water Resources Planning Council or such other appropriate agency as the President may designate, shall—

"(1) develop and maintain an information and data center which has on file, on both a geographical and a functional basis, an up-to-date set of all federally initiated and federally assisted plans for activities which involve any use of lands under State or Federal jurisdiction, which are of more than local significance;

"(2) seek cooperation in placing on file the plans of State and local government and, where appropriate, private enterprise, which have more than local significance for land use planning; and

"(3) develop and maintain statistical data and information on past, present and projected land use patterns which are of national significance.

"(b) All Federal agencies are required, as a part of their planning procedures on projects involving a major land use activity, to consult with the agency designated pursuant to section 409(a) for the purpose of determining whether the proposed activity would conflict in any way with the plans of other Federal, State, and local agencies.

"SEC. 410. There are hereby authorized to be appropriated such funds as may be necessary to carry out the purposes of this title."

SEC. 2. (a) Section 1 of the Water Resources Planning Act, as amended, is further amended to read as follows:

"SECTION 1. This Act may be cited as the 'Land and Water Resources Planning Act'."

(b) Section 2 is amended to read as follows:

"SEC. 2. In order to meet the Nation's rapidly expanding demands for water resources and in order to insure that the Nation's limited land resource base is properly planned and managed, it is hereby declared to be the policy of the Congress to encourage the conservation, development, and utilization of the water and land resources of the United States on a comprehensive and coordinated basis by the Federal Government, States, localities, and private enterprise with the cooperation of all affected Federal agencies, States, local governments, individuals, corporations, business enterprises, and others concerned."

EFFECT ON EXISTING LAWS

(c) In subsection 3(b), delete the last phrase "water and related land resource projects;" and insert instead the following: "projects for the development of land and water resources."

TITLE I—LAND AND WATER RESOURCES PLANNING COUNCIL

SEC. 3. (a) Amend section 101 to read as follows:

"There is hereby established a Land and Water Resources Planning Council (hereinafter to be referred to as the 'Council') which shall be composed of the Secretaries of the Interior; Agriculture; the Army; Health, Education, and Welfare; Transportation; and Housing and Urban Development; the Chairman of the Federal Power Commission. The Chairman of the Council shall request the heads of other Federal agencies to participate with the Council when matters affecting their responsibilities are considered by the Council. The Chairman of the Council shall be designated by the President."

(b) Amend section 102(a) by deleting the phrase "or at such less frequent intervals as the Council may determine,".

(c) Amend section 102 by adding the following new subsections:

"(c) Maintain a continuing study and prepare an inventory of the land resources of the United States, and issue biennially a report on land resources and uses, projections of development and uses of land, and analyses of current and emerging problems of land use.

"(d) Maintain a continuing study of the adequacy of administrative and statutory means for the coordination of Federal pro-

grams which have an impact upon land use and of the compatibility of such programs with State and local land-use planning and management activities; it shall appraise the adequacy of existing and proposed Federal policies and programs which effect land use; and it shall make recommendations to the President with respect to such policies and programs."

(d) Amend subsection 104(1) by deleting the word "related".

(e) Amend subsection 201(a) by deleting the word "related" before the phrase "land resources commission".

TITLE II—RIVER BASINS COMMISSIONS

SEC. 4. (a) Amend subsection 201(b)(1) by deleting the word "related".

(b) Amend subsection 201(b) by inserting a new clause (3) as follows:

"(3) prepare and keep up to date, to the extent practicable, a comprehensive coordinated joint plan for Federal, State, interstate, local, and nongovernmental plans which significantly involve land use or have significant impacts upon land-use patterns; zoning or other land-use regulation; and, to the extent possible, nongovernmental land-use plans. It should specifically indicate the relation of planned or proposed Federal projects to land-use development in the region.

(c) Renumber clause (3) of subsection 201(b) to become clause (4).

(d) Delete clause (4) of subsection 201 (b) and insert instead a new clause (5) as follows:

"(5) foster and undertake such studies of water resources and land-use problems in its area, river basin, or group of river basins as are necessary in the preparation of the plans described in clauses (2) and (3) of this subsection."

(e) Amend section 201 by adding a new subsection (c) as follows:

"(c) River Basin Commissions which have been established under the provisions of the Water Resources Planning Act (79 Stat. 244) prior to the date of enactment of this amendment may extend their jurisdiction to encompass the land-use planning provisions of this Act, (1) by the request of the Council or, (2) by written request addressed to the Council by the Governor a participating State: *Provided*, That the request is concurred in writing by not less than one-half of the participating States.

(f) Amend the first phrase of subsection 202(c) to read as follows:

"(c) Two members from each State * * *"

(g) Amend subsection 202(d) by inserting after the phrase "* * * and whose jurisdiction extends to the waters" the words "or lands."

(h) Amend clause (3) of subsection 204 by deleting the final word "and."

(i) Amend subsection 204 by deleting clause (4) and by inserting a new clause (4) as follows:

"(4) submit to the Council for transmission to the President and by him to the Congress, and the Governors and the legislatures of the participating States a comprehensive, coordinated, joint plan, or any major portion thereof or necessary revisions thereof, for land-use planning in the area, river basin, or group of river basins for which such commission was established. Before the commission submits such a plan or major portion thereof or revision thereof to the Council, it shall transmit the proposed plan or revision to the head of each Federal department or agency, the Governor of each State, and each interstate agency, from which a member of the commission has been appointed. Each such department and agency head, Governor, and interstate agency shall have ninety days from the date of the receipt of the proposed plan, portion, or revision to report its views, comments, and recommendations to the commission. The commission may modify the plan, portion, or revision after considering the report so submitted. The views, comments, and recommendations submitted by each Federal department or agency head, Governor, interstate agency, and United States section of an international commission shall be transmitted to the Council with the plan, portion, or revision; and"

(j) Amend subsection 204 by adding a new clause (5) as follows:

"(5) submit to the Council at the time of submitting the plans called for in clauses (3) and (4) of this subsection any recommendations it may have for continuing the functions of the commission and for implementing the plans, including means of keeping the plans up to date."

TITLE V—MISCELLANEOUS

SEC. 5. (a) Redesignate "TITLE IV" as "TITLE V".

(b) Amend section 401 to become a new section 501 as follows:

"SEC. 501. There are authorized to be appropriated to carry out the provisions of this Act—

"(a) $3,000,000 annually for the administration of this Act; and

"(b) not to exceed $8,000,000 annually to carry out the provisions of title II: *Provided*, That not more than $1,000,000 annually shall be available for any single river basin commission."

S. 3355—INTRODUCTION OF THE HEART DISEASE, STROKE, CANCER, AND KIDNEY DISEASE AMENDMENTS OF 1970

Mr. YARBOROUGH. Mr. President, heart disease, cancer, stroke, and kidney disease are by far the leading causes of death in the United States today. These diseases accounted for well over 1 million deaths in 1969, more than 70 percent of the deaths in the United States last year.

This country must enter an important new era in the struggle against disease. The last decade has seen tremendous advances in research on the nature of disease processes and means for preserving and extending life. Now we are determined that all Americans shall reap the benefits of these advances. We must move effectively to insure that all Americans do secure high quality health care. We must improve efficiency so that it may be done at a cost which bears a reasonable relationship to the benefits received.

We rightfully pride ourselves on our leadership in developing new ways of diagnosing and treating illness. Surely the same success which we have achieved in research can be ours in the delivery of services if we set our minds to it. We have a long way to go. This Nation ranks 15th among the nations of the world in infant mortality. We are sixth among nations in the death rate of males aged 40 to 60, the prime productive years of a man's life.

A major element in the solution to any problem is a precise identification of the problem. We see clearly that our health care system must be brought together to function in a more efficient and effective manner. We must overcome the fragmentation which currently exists in the provision of services.

We must reduce fragmentation in health care, but we must do so in a way that will not reduce its quality. We need to raise standards of care, not lower them.

An important national program was initiated in 1965 which shows great promise of dealing effectively with the problem of fragmentation. The program arose out of recommendations of a Presidential Commission chaired by the eminent heart surgeon, Dr. Michael DeBakey, of Baylor Medical College in Houston, Tex. This Commission, after pointing out the importance of heart disease, cancer, and stroke as causes of death and disability in this country, emphasized the need for efforts to promote the application of new knowledge arising from our extensive biomedical research effort. To achieve this objective, the Commission recommended a pattern of regionalization which would promote the rapid diffusion of new knowledge and skills to help physicians treat patients more effectively.

After examining the means for achieving outreach from the medical centers in order to bring the latest advances in diagnosis and treatment to patients, the Congress in 1965 passed a law, Public Law 89-239, establishing regional medical programs. Emphasis was placed on the development of cooperative arrangements among the providers of health care to improve the quality and availability of care. The law gave full recognition to the role of the medical center in promoting the application of improvements in methodology of health care, it gave equal recognition to those on the firing line—the doctors and other health personnel engaged in providing care who must be actively involved both in the planning and the carrying out of the programs to improve care.

In less than 4 years, 55 regional medical programs have been established; they cover the entire country. Active planning is going on in all of these regions, and as of this time, 44 of these programs have moved from the planning stage to the conduct of operational programs. Their activities are carefully designed to help physicians and other providers of care to bring the latest advances in diagnosis, treatment and rehabilitation to patients suffering from heart disease, cancer, stroke, and related diseases.

Concern has been expressed that this program has moved more slowly than had been originally projected. Various interpretations have been made of this situation, but it seems to me that the explanation is quite obvious. Setting the wheels in motion to bring together the separate elements of the health care system into regional medical programs involving cooperative arrangements is no easy matter. If it could be accomplished quickly and easily, there very probably would have been no need for this program at all.

The complexity of health care creates fragments that are very strong, and I think the progress which has been made to initiate the process of bringing these elements together to plan together, is impressive. The extent to which the various elements of the health care system are involved in this program is, to me, quite significant. For example, some 2,600 institutions and organizations are participating in regional medical programs—all of the medical schools; all

of the State health departments; all of the State affiliates of cancer and heart associations; very significantly, all of the State medical societies—indeed, five State medical societies have taken the leadership and are the grantee institution; and over 800 hospitals are involved in operational projects.

Early evidence of what can be accomplished in operational projects is similarly impressive. For example, my home State of Texas has sponsored an extensive screening program for the early detection of cervical cancer. It involved additional education for practicing doctors, laboratory technologists and the public. It provides financial support for laboratory facilities; and for patient care facilities; it insures that women with evidence of cancer can obtain a thorough and complete diagnostic study and, if necessary, prompt treatment and followup. This past year more than 38,000 women were screened. While this project is sponsored by the University of Texas Medical School at San Antonio, there are 109 clinics in 20 counties who are participating in the project. Also cooperating are the Texas Department of Public Health, the Bexar County Hospital District, the San Antonio Metropolitan Health District, and many other health agencies in the south Texas area.

All regional medical program activities authorized under the present legislation are concerned with heart disease, cancer, stroke, and related diseases. Title IX only authorizes training that can be accomplished within an individual regional medical program. The proposed legislative extension, which authorizes a new and separate training grant authority will give regional medical programs greater latitude to foster training programs to meet national demands for certain types of critical health manpower, for example, the training of cytological technicians, which is no longer being supported by other Federal health legislation. This training, unfortunately, has been phased out.

The new legislation will also extend the boundaries of the regional medical programs mandate beyond the diseases originally specified, to include kidney disease, specifically, and all "other major diseases and conditions." This specific inclusion reflects a growing concern over the national status of kidney disease, which has affected nearly 8 million persons in the United States. About 60,000 of these afflicted individuals will die each year if life-sustaining treatment is not made available to them. Kidney disease ranks as the fourth cause of death in the United States, and it is a chronic disease that tends to strike in the middle, most productive years of life.

Under this legislative extension, kidney disease will be attacked within the context of the existing regional arrangements of regional medical programs. Methods will be tested and evaluated at the community level for prevention and control of the disease, and improved treatment will be instituted in the local treatment centers. The broadened grant authority will also promote and support the organization of kidney disease programs on an interregional basis across the Nation. Additionally, the grants will be especially useful in stepping up the end-stage kidney disease program as it moves into the realm of kidney transplantation. And to insure that the kidney disease program does not lag, the proposed legislation stipulates that a maximum of $15 million of the appropriation for fiscal year 1971 may be used for such purposes. It further specifies that outstanding individuals in the study or care of kidney disease be added to the membership of the National Advisory Council on Regional Medical Programs.

There has been a growing concern about the development of an adequate system of primary health care in this country. The extended legislation recognizes that regional medical programs can make an important contribution in this direction. Explicitly, the extended legislation provides that regional medical programs concern itself with improving the organization and delivery of all health services, and strengthening our primary health care system.

Forty-four of the 55 regional medical programs have received operational grants. However, for those regions recently becoming operational, the level of funding has been drastically cut because of reduced appropriations.

In each of the operational programs, the success of their initial activities generated high levels of expectations, and subsequent requests for supplemental funds to carry out additional projects. A great deal of initial planning and development of Federal, State, and local cooperation was required before a region could become operational, and there was slow acceleration in spending. An increase in funds now will serve to exploit the initial momentum and to maintain the commitment of the many health interests and groups that have become involved. The interest and participation of these individuals will quickly erode if there are not reasonable expectations for adequate, orderly and sustained program growth. The 11 regions still in the planing stage will find it difficult to become operational in any meaningful sense, given the current funds available.

Mr. President, I am introducing today, along with Senators JACKSON, ANDERSON, BURDICK, CRANSTON, EAGLETON, HART, HUGHES, KENNEDY, MCCARTHY, MAGNUSON, METCALF, MONDALE, MONTOYA, NELSON, PELL, RANDOLPH, WILLIAMS of New Jersey, and YOUNG of Ohio, the Heart Disease, Cancer, Stroke, and Kidney Disease Amendments of 1970, which extends title IX of the Public Health Service Act for 5 years and increases the appropriation authorizations over this period from $120 million in 1970 to $250 million in 1975.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis of the bill be printed in the RECORD.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the text of the bill and section-by-section analysis will be printed in the RECORD.

The bill (S. 3355), to amend title IX of the Public Health Service Act so as to extend and improve the existing program relating to education, research, training, and demonstrations in the fields of heart disease, cancer, stroke, and other major diseases and conditions, and for other purposes, introduced by Mr. YARBOROUGH (for himself and other Senators), was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 3355

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Heart Disease, Cancer, Stroke, and Kidney Disease Amendments of 1970".

SEC. 2. (a) Section 900(a) of the Public Health Service Act is amended—

(1) by inserting "and contracts" immediately after "grants";

(2) by striking out "related demonstrations" and inserting in lieu thereof "demonstrations";

(3) by striking out "related diseases" and inserting in lieu thereof "kidney disease, and other major diseases and conditions".

(b) Section 900(b) of such Act is amended by striking out "diagnosis and treatment" and inserting in lieu thereof "prevention, diagnosis, treatment, and rehabilitation".

(c) Section 900 of such Act is further amended by—

(1) striking out "and" at the end of subsection (b) thereof;

(2) redesignating subsection (c) thereof as subsection (d); and

(3) inserting after subsection (b) thereof a new subsection (c) which reads as follows:

"(c) to promote and foster regional linkages among health care institutions and providers so as to strengthen and improve primary care and the relationship between specialized and primary care; and".

(d) Section 900(d) of such Act (as redesignated by subsection (c)(2) of this section) is amended by striking out "the health manpower and facilities to the Nation" and inserting in lieu thereof "the quality and enhance the capacity of the health manpower and facilities available to the Nation and to improve health services for persons residing in areas with limited health services".

SEC. 3. (a)(1) The first sentence of section 901(a) of such Act is amended by striking out "and $120,000,000 for the next fiscal year, for grants" and inserting in lieu thereof "$120,000,000 for the fiscal year ending June 30, 1970, $150,000,000 for the fiscal year ending June 30, 1971, $200,000,000 for the fiscal year ending June 30, 1972, $250,000,000 for the fiscal year ending June 30, 1973, and for each of the next two fiscal years, for grants".

(2) The second sentence of section 901(a) of such Act is amended to read as follows: "Of the sums appropriated under this section for the fiscal year ending June 30, 1971, not more than $15,000,000 shall be available for activities in the field of kidney disease."

(b) Section 901(a) of such Act is amended by striking out the period after "title" and inserting "and for contracts to otherwise carry out the purposes of this title".

(c) Section 901 of such Act is further amended by adding at the end thereof the following new subsection:

"(e) At the request of any recipient of a grant under this title, the payments to such recipient may be reduced by the fair market value of any equipment, supplies, or services furnished to such recipient and by the amount of the pay, allowance, traveling expenses, and any other costs in connection with the detail of an officer or employee to the recipient when such furnishing or such detail, as the case may be, is for the convenience of and at the request of such re-

cipient and for the purpose of carrying out the regional medical program to which the grant or contract under this title is made."

SEC. 4. Section 902(a) of such Act is amended by striking out "training, diagnosis, and treatment relating to heart disease, cancer, or stroke, and at the option of the applicant, related disease or diseases" and inserting in lieu thereof "training, prevention, diagnosis, treatment, and rehabilitation relating to heart disease, cancer, stroke, or kidney disease, and, at the option of the applicant, other major diseases or conditions".

SEC. 5. Section 902(f) is amended by inserting between the words "includes" and "alteration" "new construction of facilities for demonstrations, research, and training when necessary to carry out regional medical programs,"

SEC. 6. Section 903(b)(4) of such Act is amended—

(1) by striking out "voluntary health agencies, and" and inserting in lieu thereof "voluntary health agencies, official health and planning agencies, and"; and

(2) by striking out "need for the services provided under the program" and inserting in lieu thereof "need for and financing of the services provided under the program, and which advisory group shall be sufficient in number to insure adequate community orientation."

SEC. 7. That part of the second sentence of section 904(b) of the Public Health Service Act preceding paragraph (1) is amended by striking out "section 903(b)(4) and" and inserting in lieu thereof the following: "section 903(b)(4), if opportunity has been provided, prior to such recommendation, for consideration of the application by each public or nonprofit private agency or organization which has developed a comprehensive regional, metropolitan area, or other local area plan referred to in section 314(b) covering any area in which the regional medical program for which the application is made will be located, and if the application".

SEC. 8. Section 905(a) of such Act is amended—

(1) by striking out "The Surgeon General, with the approval of the Secretary," and inserting in lieu thereof "Secretary":

(2) by striking out "the Surgeon General" and inserting in lieu thereof "the Assistant Secretary of Health, Education, and Welfare for Health and Scientific Affairs";

(3) by inserting "health care administration," immediately after "the medical sciences,";

(4) by striking out "study, diagnosis, or treatment of cancer" and inserting in lieu thereof "study or care of cancer"; and

(5) by striking out "and one shall be outstanding in the study, diagnosis, or treatment of stroke" and inserting in lieu thereof "one shall be outstanding in the study or care of stroke, one shall be outstanding in the study or care of kidney disease, and three shall be members of the public".

SEC. 9. Section 907 of such Act is amended by striking out "or stroke," and inserting in lieu thereof "stroke, or kidney disease,".

SEC. 10. Section 909(a) of such Act is amended by inserting "or contract" after "grant", each place it appears therein.

SEC. 11. (a) Section 910 of such Act is amended to read as follows:

"SEC. 910. (a) To facilitate interregional cooperation, and develop improved national capability for delivery of health services, the Secretary is authorized to utilize funds appropriated under this title to make grants to public or nonprofit private agencies or institutions or combinations thereof and to contract for—

"(1) programs, services, and activities of substantial use to two or more regional medical programs;

"(2) development, trial, or demonstration of methods for control of heart disease, cancer, stroke, kidney disease, or other major disease and conditions;

"(3) the collection and study of epidemiologic data related to any of the diseases and conditions referred to in paragraph (2);

"(4) development of training specifically related to the prevention, diagnosis, or treatment of any of the diseases or conditions referred to in paragraph (2), or to the rehabilitation of persons suffering from any of such diseases or conditions; and for continuing programs of such training where shortage of trained personnel would otherwise limit application of knowledge and skills important to the control of any such diseases or conditions; and

"(5) the conduct of cooperative clinical field trials.

"(b) The Secretary is authorized to assist in meeting the costs of special projects for improving, and developing new means for the delivery of health services concerned with the diseases and conditions with which this title is concerned.

"(c) The Secretary is authorized to support research, studies, investigations, training, and demonstrations designed to maximize the utilization of manpower in the delivery of health services."

(d) The heading to section 910 of such Act is amended to read as follows:

"MULTIPROGRAM SERVICES".

SEC. 12. The heading to title IX of such Act is amended by striking out "STROKE, AND RELATED DISEASES" and inserting in lieu thereof "STROKE, KIDNEY DISEASE, AND OTHER MAJOR DISEASES AND CONDITIONS".

SEC. 13. Sections 902(a), 903(a), 903(b), 904(a), 904(b), 905(b), 905(c), 906, 907, and 909(a) (as amended by the preceding provisions of this Act) are each further amended by striking out "Surgeon General", each place it appears therein, and inserting in lieu thereof "Secretary".

The section-by-section analysis offered by Mr. YARBOROUGH follows:

SECTION-BY-SECTION ANALYSIS OF THE HEART DISEASE, CANCER, STROKE, AND KIDNEY DISEASE AMENDMENTS OF 1970

Section 1 states that the Act may be cited as the "Heart Disease, Cancer, Stroke and Kidney Disease Amendments of 1970."

Section 2 would: (1) Amend Sec. 900(a) so as to broaden the scope of Regional Medical Programs to explicitly add "kidney disease" to heart disease, cancer, and stroke as one of the diseases to which the program is specifically addressed; and also to include "other major diseases and conditions" (e.g., arthritis, trauma) as well. Sec. 900(a) would also be amended to provide specific contract as well as grant authority in carrying out the purposes of the legislation.

(2) Amend Sec. 900(b) to make explicit that "prevention" and "rehabilitation," as well as diagnosis and treatment of heart disease, cancer, stroke, kidney disease, and other major diseases and conditions, are clearly within the program's scope and concern. This is particularly appropriate in view of the increasingly important role of prevention with respect to these and other diseases.

(3) Add a new Sec. 900(c) to give additional emphasis to regionalization of health care resources and services in order to strengthen and improve primary care and the relationship between it and specialized care for heart disease, cancer, stroke and kidney disease as an objective of the program.

(4) Renumber the present Sec. 900(c) and 900(d) and amend it to emphasize that increasing the capacity as well as improving the quality of the nation's health manpower and facilities generally, is a proper concern of the program.

Section 3 would: (1) Amend Sec. 901(a) to extend the program for a five-year period, commencing in fiscal year 1971. Appropriations authorizations are $150 million in 1971, $200 million in 1972, and $250 million in 1973, 1974 and 1975, respectively. This would include funds for contracts as well as grants.

Add a requirement in Sec. 901(a) that a maximum of $15 million of the amount appropriated in fiscal year 1971 be available specifically for activities in the field of kidney disease.

Delete the present authority contained in Sec. 901(a) that allows funds appropriated for one fiscal year to remain available for obligation in the succeeding fiscal year. As a result, any amounts appropriated for Regional Medical Programs would be available for awarding grants and contracts only in the fiscal year for which they were appropriated.

(2) Add a new Sec. 901(e) providing authority to reduce grants by an amount equivalent to the value of equipment, services, or supplies furnished directly and/or the costs of personnel assigned to a Regional Medical Program, if such is requested.

Section 4 would amend Sec. 902(a) to make the expansion of the scope of any Regional Medical Program to encompass other major diseases and conditions at the option of the applicant.

Section 5 would amend Sec. 902(f) to permit grant funds to be used for the construction of such new facilities as may be necessary for carrying out Regional Medical Programs. Presently grant funds may be used only for alterations, major repairs, remodeling and renovations of existing facilities.

Section 6 would amend Sec. 903(b)(4) relating to the composition of Regional Advisory Groups, to require official health and health planning agency representation on such advisory groups; and to require that public members include persons familiar with the financing of, as well as need for services, and that such public members be sufficient in number to insure adequate community orientation of Regional Medical Programs.

Section 7 would amend Sec. 904(b) to require that the appropriate regional, metropolitan, or local areawide comprehensive health planning agency authorized under Sec. 314(b) of the PHS Act have had an opportunity to consider (e.g., review and comment on) any operational grant proposal or application of a Regional Medical Program involving services, facilities, or activities within that areawide agency's jurisdiction before such an application could be approved by the Secretary.

Section 8 would amend Sec. 905(a) relating to the composition of the National Advisory Council on Regional Medical Programs, to designate the Assistant Secretary of Health and Scientific Affairs as Chairman; to require that one member be outstanding in the study or care of kidney disease; that it include leaders in the field of health care administration, as well as in the fundamental and medical sciences; and that at least three of its sixteen members shall be members of the public.

Section 9 would amend Sec. 907 to require that a listing of the most advanced facilities for the diagnosis and treatment of kidney disease, including the availability of advanced specialty training in such facilities, be established and maintained. This is identical to the present requirements with respect to heart disease, cancer, and stroke.

Section 10 would amend Sec. 909(a) and Sec. 909(b) to permit the Secretary to require that contractors keep the same or similar kinds of records presently required of grantees for purpose of audit.

Section 11 would amend Sec. 910 to:

(1) Provide specific contract authority that would permit the conduct of coopera-

tive clinical and field trials and demonstrations relating to the development of improved methods for the prevention, diagnosis, treatment, and rehabilitation in heart disease, cancer, stroke, kidney disease, and other major diseases and conditions.

(2) Provide training grant authority that would allow the training of manpower required to help meet the national needs in these areas.

(3) Permit the support of research, studies, investigations, and demonstrations designed to maximize the utilization of manpower in the delivery of health services.

(4) Specifically permit funds to be used in meeting the costs of special projects for improving, and developing new means for, the delivery of health services concerned with heart disease, cancer, stroke, kidney disease, and other major diseases and conditions. This could include the costs of care and hospitalization when necessary to carry out the purposes of the program.

Section 12 establishes the title of this bill as "Title IX—Education, Research, Training, and Demonstrations in the Fields of Heart Disease, Cancer, Stroke, Kidney Disease, and Other Major Diseases and Conditions."

Section 13 substitutes the Secretary of Health, Education and Welfare for the Surgeon General throughout Title IX with respect to such matters as approval of grants and contracts, appointment of members of the National Advisory Council on Regional Medical Programs, and prescription of regulations.

S. 3356—INTRODUCTION OF A BILL MAKING ADVANCE PAYMENTS TO PRODUCERS UNDER THE FEED GRAIN PROGRAM

Mr. MONDALE. Mr. President, I introduce for appropriate reference a bill requiring the Secretary of Agriculture to make advance payments to producers under the feed grain program.

Joining with me as cosponsors is a distinguished group of Senators who share my concern that a recent decision by the Nixon administration might well cause the program's effectiveness and popularity to fade.

Cosponsors include Senators BURDICK, HUGHES, MANSFIELD, MCCARTHY, MCGEE, MCGOVERN, METCALF, NELSON, PROXMIRE, YARBOROUGH, and SYMINGTON.

Last year slightly more than 97,000 Minnesota farmers were enrolled in the popular feed grain program administered by the Department of Agriculture.

I am convinced that the decision announced by the Secretary of Agriculture to eliminate advance payments to farmers participating in the 1970 program is wrong for a number of reasons.

First, halting such payments is not a cost savings to the Government, but simply a shift in funding to another fiscal year.

Second, it will place a new financial burden on our farmers who must now borrow money at today's high interest rates in order to finance crop planting and operating costs.

Last year Minnesota farmers received over $31 million in advances and about $39 million in late summer. For farmers to borrow the equivalent of $31 million for 6 months—assuming they could find 9 percent loan funds—would saddle them with nearly $1.4 million in interest charges. The on-paper savings to the Federal Government in the current fiscal year does not seem adequate reason for imposing a new financial burden on family farms.

Third, the advance payments program has been working well for 7 years. It is directly responsible for encouraging many farmers to sign up and divert acreage. Under the program those farmers who elect to participate receive an advance on their diversion payments in the spring, with the balance paid in August. Without benefit of advances, farmers may well choose not to sign up, thus planting heretofore diverted acres, with resultant lower grain prices this summer and fall.

In 1969 a total of 97,009 farms with a base of 7,009,171 acres participated in the feed grain program. Over 3 million acres were diverted which brought Minnesota farmers $69,984,893 in diversion payments. Some 3,274,742 acres were under price support which yielded an additional $70,336,619. Thus, the feed grain program meant income of $140,321,512 in Minnesota farmers.

A change in the advance payment portion is wrong. Earlier, I wired Secretary Hardin urging, in the strongest possible terms, that he reconsider the decision.

I have not heard from the Secretary of Agriculture.

We did receive a press release in which he promised to make all final payments as early as possible, hopefully in July in certain areas.

I feel this does nothing to solve the problem and I am therefore introducing legislation to require the Secretary of Agriculture to make advance payments to producers under the feed grain program. My bill would amend existing legislation requiring the Secretary to make not less than 50 percent of any payments under the program to producers in advance of determination of performance.

Farmers in my State of Minnesota are equally concerned over any elimination of advance payments for wheat. Legislation similar to that which I am introducing today, but pertaining to wheat, is being offered by the able Senator from North Dakota (Mr. BURDICK). I will join as a cosponsor of that measure.

Mr. President, to illustrate the vital and deep impact which a termination of advance payments will have on Minnesota farmers, small businessmen and our communities, I ask unanimous consent to have printed in the RECORD a cross section of letters received on this issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MONDALE. Mr. President, to show the effectiveness of the feed grain program in Minnesota, I ask unanimous consent to have a county-by-county summary of this program for 1969 printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. MONDALE. Mr. President, I hope that this bill will be acted on promptly. Action is required immediately and I welcome the cosponsorship of my colleagues on this important measure.

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

The bill (S. 3356), to require the Secretary of Agriculture to make advance payments to producers under the feed grain program, introduced by Mr. MONDALE (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Agriculture and Forestry.

EXHIBIT 1

U.S. DEPARTMENT OF AGRICULTURE,
AGRICULTURE STABILIZATION AND CONSERVATION SERVICE,
Farmington, Minn., January 14, 1970.

Senator WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: The Dakota County Agricultural Stabilization and Conservation Committee called on the Community Committeemen to aid in developing the conservation program for the year and also to train or inform these committeemen of all programs carried out in the county.

The annual Feed Grain and Wheat progam was discussed and the announcement of no advance payment brought a quick discussion and a motion that the advance payment be restored. The motion was seconded. A further discussion followed. It was pointed out that the advance payment received by farmers would not mold in the pockets of that farmer, but would be used to pay for some of the high cost of planting a crop. The local townspeople would benefit and on down the line to the processors or manufacturers. A vote was taken of the fifty (50) people in attendance and it was unanimous that the advance payment be made available.

We, the County Committee, have seen reduction in farm income in many areas such as reduction in diversion payment, reduction in Price Support loan rates, increased diversion with no payment for Wheat program eligibility, increased interest rates on storage structures and an increase in loan fees. All these, coupled with higher cost of farm operation and production cost, are leading the way for America's loss of private enterprise. We need to explain that farm programs are far more than farm programs. These programs are really "The People's" program administered at the farm level.

The farmer is really the starter of our whole economy, and the family farmer has proven the world over to be the efficient one. But, if he is squeezed out, then all Americans are in trouble.

We urge you to take a good look at farm programs and maybe think of them as not costing the government but as stimulus to the economy of our country.

Sincerely yours,

A. T. SCHAFFER,
Chairman, Dakota County ASC Committee.

CO-OPERATIVE OIL CO.,
Minneota, Minn., January 22, 1970.

Hon. WALTER MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SIR: Our Cooperative has taken action to request that the advanced payment under the feed grain program be reinstated as it has been operating since 1961. We believe this can only be a handicap and hardship on the American farmer. In most cases the farmer has geared his operation to use these funds for his seasonal farm purchases. In our opinion these funds are not inflationary because of the nature in which they are used, such as buying seed, fertilizer and fuel for farming operation.

With the increased rate of interest and the short money problem, this exemplifies the problem to a greater degree. How is the farmer and the small town businessman going to survive under these circumstances? Farmers that are operating under a heavy financed operation now, how is he to get additional credit? The businessman will

either have to find a means of providing credit or carry the farmers account on accounts receivable.

We are a strong Cooperative, but we are in no position to increase our accounts receivable. While visiting with some of the other businessmen in Minneota, they feel as we do, something's got to be done and now.

We unanimously request and urge you to restore the advance feed grain payment immediately.

Sincerely,

J. H. GISLASON,
President.
S. FRANK JOSEPHSON,
Vice President.
NORBERT LANNERS,
Secretary.
ALBERT BORSON,
Director.
DONALD BOERBOOM,
Director.

JANUARY 15, 1970.

DEAR SENATOR MONDALE: I am enclosing clipping from the Belle Plaine Herald pertaining to Feed Grain Program stating we will not receive any advance payment this spring. The Feed Grain participants need this payment to help finance the crop in the spring. Hoping you can do what you can for us in this.

One of the *many* farmers that has looked forward to this. I know you are a friend of the farmer and labor.

Best wishes,

WILLIAM DIERS.

FARMERS AND MERCHANTS SUPPLY CO.,
Minneota, Minn., January 24, 1970.

Hon. WALTER MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SIR: Our Cooperative is very concerned and have taken action to request that the advanced payment under the feed grain program be reinstated as it has been operating the past years. In most cases we believe it can only be very detrimental to the farmer who has a heavy finance load at this time. We believe also that this included a very high majority of American farmers according to our conversation with them. In our conversation, our farmers have been telling us this money is used for purchasing their spring operating needs such as feed, seed, fertilizer and fuel for their operation.

By cutting this payment off, they are going to have to look elsewhere for credit. In this period of high interest and tight money, where are they going to get this money necessary for their operating capital?

Accounts receivable is our greatest problem in our elevator operation. This can only make it a lot tougher. We are not able or are we capitalized to extend more credit than we are at this time without putting us in a financial bind.

We unanimously request and urge you to restore the advance feed grain payment immediately.

Sincerely,

O. J. WIGNESS, *President.*
JOE BREWERS, *Vice President.*
MARVIN HELEGSON, *Secretary.*
HARRY MOORSE, *Treasurer.*
FRED GUDMUNDSON.
ELMER FURGESON, *Director.*
JOE JOSEFSON, *Director.*

WATERVILLE, MINN.,
January 8, 1970.

Senator WALTER MONDALE,
Senate Office Building,
Washington, D.C.

DEAR SIR: I was very disappointed to hear that there will be no advance payment on land diverted from feed grain for the year 1970. Do to the tight money and very high interest rate it is going to cause hardship to the already hard pressed farmers.

If it would at all be possible to fit this in the farm program it would be a great help.

Sincerely,

ROLAND CRAM.

January 22, 1970.

DEAR SENATOR MONDALE: Am writing in regards to advance feed grain payments. If we don't get advance payments in Big Stone County this spring this could amt to $250,000 and it would be a hardship to our farmers if they don't get this payment.

Thank you for any help you could give us.

Yours truly,

ALFRED SCHIRM,
Vice Chairman, Big Stone County A.S.C.

WELLS, MINN.,
January 12, 1970.

Senator WALTER F. MONDALE,
U.S. Senate.

SENATOR: Thank you very much for the reports to Minnesota you sent me and a bit late I want to wish you a happy New Year. I hope you can continue your good work you are doing for us, in particular about the advance payments from the Farm A.S.C. program. We all need the money to pay for our spring work expenses and I should think the government can advance this payment rather than wait till next Sept. Thanking you again and may you have much success in your work. I remain

Sincerely,

NORBERT CHIRPICH.

HAMEL, MINN.,
January 2, 1970.

Hon. WALTER MONDALE,
Senate Office Building,
Washington, D.C.

DEAR SIR: We are writing to express our concern on the matter that the Department of Agriculture may discontinue the eight-year practice of prepayment for participating in the soil conservation program.

As one who lives and works among farmers it is our observation that many of them are concerned about the discontinuance of this practice which would create a hardship for them in paying for seed and taxes in the spring.

Whatever assistance you can give in this area will be appreciated.

Rev. ARTHUR G. EMERSON.

JANUARY 10, 1970.

Senator MONDALE,
Washington, D.C.

DEAR SIR: This is an individual protest against the Presidents rejection of advance payments for agriculture program this year.

Farmers have been depending on that payments for putting in their crops and lot of farmers have to borrow at 8 or 10% to keep going, if they can't, they just have to quit.

I am 62 years and farmed all my life. This is the only way we the silent majority can show our feelings.

Thank you,

BENNIE C. VEUM.

MINNEOTA BUSINESSMEN'S ASSOCIATION, INC.,
Minneota, Minn., January 22, 1970.

Hon. WALTER MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SIR: The Minneota Businessmen's Association, has taken action to request that the advanced payment under the feed grain program be reinstated as it has been operating since 1961. We believe this can only be a handicap and hardship to the American farmer. In most cases the farmer has geared his operation to use these funds for his seasonal farm purchases, but this also saps his financial structure to purchase other things regardless of their nature.

With the increased rate of interest and the short money problem, this exemplifies the problem to a greater degree. How is the farmer and the small town businessman going to survive under these circumstances? Farmers that are operating under a heavy financed operation now, how is he to get additional credit?

We are a strong community, but this can only weaken our position to continue as we have in the past, giving service to the people of our area.

We unanimously request and urge you to restore the advance feed grain payment immediately.

Sincerely,

HAROLD JACKSON,
President.

JANUARY 22, 1970.

DEAR SIRS: Please try to get farmers an advance for signing up in the Feed Grain Program. It is going to be very hard to get a crop in the ground if we can't get the money in the spring.

Yours sincerely,

Mr. and Mrs. CARL WITTELSTADT.

EXHIBIT 2

U.S. DEPARTMENT OF AGRICULTURE, AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

1969 FEED GRAIN PROGRAM—MINNESOTA—FEED GRAIN, PARTICIPATING FARMS, BASE, DIVERSION AND PRICE SUPPORT ACRES AND PAYMENT, TOTAL PAYMENT, PLANTED ACRES AND SUBSTITUTION

	Participating		Diversion											Substitution (acres)	
			For which payment computed (acres)			For which no payment computed (acres)	Total (acres)	Payment computed (dollars)			Price support		Total diversion and price support payment	Planted acreage	Feed grain for wheat	Wheat for feed grain
County	Farms No.	Base acres	At 20 percent	At 50 percent	Total			At 20 percent	At 50 percent	Total	Acreage	Payment				
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Aitkin	220	2,465	444	1,659	2,103	35	2,138	$5,975	$50,562	$56,537	192	$3,264	$59,801	211		
Anoka	652	17,100	1,502	8,185	9,687	1,737	11,424	23,140	296,740	319,880	4,114	84,319	404,199	4,402		
Becker	1,078	51,445	1,882	12,867	14,749	8,107	22,856	20,031	330,278	350,309	20,418	203,418	553,727	25,247	93	793
Beltrami	216	2,778	465	1,814	2,279	61	2,340	4,000	36,312	40,312	217	2,400	42,712	247		9
Benton	809	26,840	1,664	9,743	11,407	3,560	14,967	23,523	320,342	343,865	9,214	166,708	510,573	10,862		1
Big Stone	943	84,777	347	19,657	20,004	16,431	36,435	4,487	602,645	607,132	41,527	650,263	1,257,395	46,770	2	15
Blue Earth	1,982	168,327	909	35,466	36,375	31,579	67,954	20,650	1,973,060	1,993,710	82,894	2,398,935	4,392,645	98,420	41	3
Brown	1,662	149,653	281	33,903	34,184	29,101	53,285	5,745	1,689,118	1,694,863	74,077	1,914,216	3,609,079	83,258	10	1

EXHIBIT 2—Continued

U.S. DEPARTMENT OF AGRICULTURE, AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

1969 FEED GRAIN PROGRAM—MINNESOTA—FEED GRAIN, PARTICIPATING FARMS, BASE, DIVERSION AND PRICE SUPPORT ACRES AND PAYMENT, TOTAL PAYMENT, PLANTED ACRES AND SUBSTITUTION

	Participating		Diversion									Price support		Total diversion and price support payment	Planted acreage	Substitution (acres)	
			For which payment computed (acres)			For which no payment computed acres	Total (acres)	Payment computed (dollars)								Feed grain for wheat	Wheat for feed grains
	Farms number	Base acres	At 20 percent	At 50 percent	Total			At 20 percent	At 50 percent	Total							
County	1	2	3	4	5	6	7	8	9	10		11	12	13	14	15	16
Carlton	29	287	58	217	275		275	$718	$6,371	$7,089				$7,089			
Carver	846	37,823	1,379	9,188	10,567	5,875	16,442	27,808	423,245	451,053		15,620	$377,052	828,105	19,276	8	9
Cass	511	9,690	1,256	5,652	6,908	547	7,455	15,266	158,147	173,413		1,394	21,975	195,388	1,455		
Chippewa	1,567	142,625	414	27,368	27,782	27,537	55,319	7,687	1,183,498	1,191,185		70,594	1,568,550	2,759,735	85,556	95	103
Chisago	1,075	23,989	2,338	11,462	13,800	2,329	16,129	41,554	466,306	507,860		6,102	133,634	641,494	7,029		
Clay	1,127	107,651	921	17,057	17,978	20,437	38,415	9,786	487,472	497,258		49,625	489,226	986,484	59,318	47	5,291
Clearwater	353	8,173	724	3,392	4,116	848	4,964	6,067	69,011	75,078		1,879	17,448	92,526	2,076		179
Cottonwood	1,714	175,093	301	42,203	42,504	34,200	76,704	5,546	2,057,224	2,062,770		86,803	2,220,067	4,282,837	96,297	5	
Crow Wing	301	7,711	776	3,619	4,395	683	5,078	10,127	111,585	121,712		1,800	34,626	156,338	1,999		
Dakota	1,055	65,910	1,326	18,337	19,663	11,262	30,925	21,393	751,431	772,824		29,187	625,543	1,398,367	33,966	116	7
Dodge	1,092	73,177	1,067	19,030	20,097	13,258	33,355	22,637	964,601	987,238		33,827	887,674	1,874,912	38,347	3	6
Douglas	1,218	51,032	2,043	15,216	17,259	7,834	25,093	25,988	462,853	488,841		20,191	307,407	796,248	23,386	43	174
East Otter Tail	1,495	57,280	2,738	20,415	23,153	8,253	31,406	32,461	560,905	593,366		21,100	304,707	898,073	23,259	15	7
East Polk	928	37,149	1,742	12,063	13,805	5,520	19,325	15,296	275,314	290,610		13,047	132,332	422,942	14,506	54	1,439
Faribault	1,794	181,012	205	34,050	34,255	34,289	68,544	4,984	1,958,710	1,963,694		90,082	2,706,622	4,670,316	110,630	12	5
Fillmore	1,395	80,930	1,335	20,484	21,819	14,686	36,505	27,323	1,016,825	1,044,148		37,233	960,929	2,005,077	43,437	8	
Freeborn	2,104	176,489	1,003	41,223	42,226	33,476	75,702	21,371	2,178,800	2,200,171		85,893	2,383,208	4,583,379	99,075	17	9
Goodhue	1,407	70,214	1,649	17,618	19,267	11,878	31,145	32,625	856,158	888,784		31,430	785,139	1,673,923	37,620	61	2
Grant	969	99,406	639	22,744	23,383	19,072	42,455	8,258	719,995	728,253		47,329	575,635	1,303,888	52,825	17	1,580
Hennepin	915	28,050	2,124	11,550	13,674	3,214	16,888	38,162	477,886	516,048		7,941	176,554	692,602	8,976		
Houston	791	32,001	1,085	7,480	8,565	5,274	13,839	25,795	418,076	443,871		14,065	407,786	851,657	17,489		
Hubbard	403	13,648	875	5,787	6,662	1,717	8,379	9,354	145,185	154,539		4,209	56,337	210,876	4,397		
Isanti	1,038	23,336	2,436	11,888	14,324	2,044	16,368	43,079	485,488	528,567		5,547	126,776	655,343	5,988		
Itasca	24	350	57	216	273	10	283	573	4,653	5,226		27	315	5,541	32		
Jackson	1,907	199,575	233	39,214	39,447	39,297	78,744	4,650	2,055,826	2,060,476		99,319	2,750,443	4,810,919	118,499	3	
Kanabec	684	14,045	1,755	7,309	9,064	954	10,018	27,019	256,194	283,213		2,875	57,241	340,454	3,312		
Kandiyohi	1,787	139,958	1,237	33,835	35,072	26,113	61,185	20,741	1,537,752	1,558,493		66,471	1,611,234	3,169,727	76,668	55	2
Kittson	724	93,508	618	22,698	23,316	17,864	41,180	4,028	370,489	374,517		37,524	285,822	660,339	41,378	10	5,860
Koochiching	71	1,045	177	724	901	16	917	1,023	10,069	11,092				11,092			
Lac qui Parle	1,939	166,893	489	37,081	37,578	32,316	69,886	7,777	1,414,001	1,421,778		82,209	1,657,635	3,079,413	94,308	42	90
Lake of the Woods	131	2,519	271	1,275	1,546	166	1,712	1,524	16,170	17,694		219	1,381	19,075	269	3	90
Le Sueur	1,281	73,960	1,527	19,116	20,643	12,686	33,329	35,092	1,049,132	1,084,224		33,980	960,471	2,044,695	39,019	32	13
Lincoln	1,243	119,392	279	30,000	30,279	23,386	53,665	4,205	1,044,370	1,048,575		58,674	1,073,642	2,122,217	64,080	7	1
Lyon	1,584	199,733	240	42,052	42,292	39,265	81,557	3,826	1,612,554	1,616,380		99,287	1,995,470	3,611,850	116,189	26	
Mahnomen	441	29,098	522	6,230	6,752	5,152	11,904	4,836	162,527	167,363		12,733	128,964	296,327	14,769	53	1,124
Marshall	1,585	129,229	1,940	27,609	29,549	23,518	53,067	13,974	481,511	495,485		51,637	389,137	884,622	56,555	8	11,559
Martin	1,843	218,420	203	44,306	44,509	43,388	87,897	4,830	2,483,085	2,487,915		108,769	3,206,484	5,694,399	127,881		
McLeod	1,313	72,056	1,178	15,372	16,550	12,758	29,308	23,639	726,233	749,872		34,223	833,198	1,583,070	41,401	46	
Meeker	1,340	90,333	1,087	22,473	23,560	16,605	40,165	18,282	993,289	1,011,571		42,518	988,125	1,999,696	48,635	18	13
Mille Lacs	679	14,598	1,598	7,235	8,833	1,226	10,059	21,963	226,259	248,222		3,297	59,940	308,162	3,772		
Morrison	1,466	40,980	3,132	16,562	19,694	4,763	24,457	44,425	539,170	583,595		12,766	227,383	810,978	14,811	7	
Mower	1,924	152,361	1,187	39,301	40,488	28,790	69,278	24,324	1,889,604	1,913,928		73,097	1,799,419	3,713,347	81,177	23	2
Murray	1,743	180,823	186	39,491	39,677	35,667	75,344	2,913	1,506,107	1,509,020		89,949	1,802,774	3,311,794	103,760	1	
N. St. Louis	7	174	15	101	116	20	136	103	1,529	1,632		4	22	1,654	4		33
Nicollet	1,051	98,272	253	22,059	22,312	18,760	41,072	5,710	1,209,534	1,215,244		48,542	1,372,254	2,587,498	56,123	7	3
Nobles	1,808	176,632	259	29,039	29,298	34,638	63,936	4,867	1,302,207	1,307,074		87,643	2,057,303	3,364,377	110,222	24	
Norman	1,083	110,364	869	20,853	21,722	21,004	42,726	9,062	586,586	595,648		50,939	495,108	1,090,756	59,603	112	5,158
Olmsted	1,315	75,239	1,702	20,869	22,571	13,058	35,629	35,161	1,032,335	1,067,496		32,944	845,691	1,913,187	38,166	6	11
Pennington	584	23,051	1,154	8,156	9,310	3,289	12,599	8,098	144,657	152,755		7,346	55,791	208,546	7,910	8	843
Pine	875	14,774	1,980	8,366	10,346	885	11,231	31,350	301,793	333,143		2,541	50,598	383,741	2,829		
Pipestone	857	104,038	149	18,824	18,973	20,540	39,513	1,993	631,110	633,103		51,628	917,155	1,550,258	62,718		
Pope	1,146	75,617	1,292	19,193	20,485	13,090	33,565	16,711	605,676	622,387		33,834	578,712	1,201,099	39,769	91	183
Ramsey	33	831	93	473	566	65	631	1,718	18,525	70,243		21	521	20,764	21		
Red Lake	500	22,509	928	7,140	8,068	5,391	11,405	1,750	161,328	169,078		7,696	75,831	244,909	8,240	39	974
Redwood	2,229	229,878	388	49,648	50,036	44,505	94,541	7,064	2,270,444	2,277,808		114,084	2,707,786	4,985,594	133,313	52	6
Renville	2,261	242,070	465	51,534	51,999	46,626	98,625	9,651	2,545,328	2,554,979		119,424	3,046,155	5,601,134	138,769	124	94
Rice	1,461	66,504	1,977	17,944	19,921	10,859	30,780	39,234	86,272,375	901,609		29,123	737,879	1,639,483	34,615	8	1
Rock	932	111,444	86	16,317	16,403	21,966	38,369	1,482	680,596	682,078		55,462	1,207,596	1,889,772	71,872		
Roseau	959	32,326	2,650	15,063	17,713	2,886	20,599	14,886	199,153	214,039		3,383	21,111	235,150	3,454	6	1,232
S. St. Louis	5	65	13	34	47		47	125	699	824		18	204	1,028	18		
Scott	987	43,048	1,502	12,155	13,657	6,771	20,428	28,075	529,710	557,876		17,727	410,417	968,202	21,196	5	
Sherburne	752	26,533	1,542	10,788	12,330	3,498	15,828	21,730	399,505	377,235		8,233	146,060	523,295	8,749		
Sibley	1,513	116,018	768	25,873	26,641	21,630	48,271	16,089	1,271,025	1,237,114		56,135	1,417,210	2,764,324	65,260	68	
Stearns	2,016	100,268	2,532	23,616	26,148	16,895	43,043	35,588	780,490	816,078		43,121	770,400	1,586,478	53,430	18	
Steele	1,263	83,600	838	19,863	20,701	15,520	36,221	17,537	1,024,474	1,042,011		39,668	1,066,015	2,108,026	45,891	26	
Stevens	990	121,408	166	25,830	25,996	23,905	49,901	2,273	837,879	840,152		60,144	948,790	1,788,942	69,849	42	227
Swift	1,519	149,623	658	35,988	36,646	28,769	65,415	10,243	1,376,139	1,386,382		72,515	1,446,923	2,833,305	82,208	45	4
Todd	1,875	59,853	3,966	23,646	27,612	7,588	35,200	54,220	742,212	796,432		19,850	330,312	1,126,744	21,860	6	
Traverse	859	94,833	407	22,564	22,971	18,119	41,090	5,216	721,639	726,855		45,847	622,266	1,349,121	51,158	8	261
West Otter Tail	1,574	68,498	2,677	19,557	22,234	10,558	32,792	31,413	549,894	581,307		27,722	338,570	919,877	32,895	162	290
Wabasha	794	41,706	872	9,850	10,722	7,224	17,946	18,413	507,545	525,958		18,675	499,498	1,025,456	22,860	23	1
Wadena	698	24,558	1,421	9,533	10,954	3,354	14,308	14,788	242,650	257,438		8,086	121,659	379,097	8,728		
Waseca	1,135	96,036	374	21,872	22,246	18,142	40,388	8,334	1,277,282	1,285,616		47,408	1,431,470	2,717,086	54,427	12	4
Washington	773	28,376	1,636	11,140	12,776	3,835	16,611	25,872	435,411	461,283		9,495	210,570	671,853	10,319	3	6
Watonwan	1,157	122,433	184	24,365	24,549	24,095	48,644	3,776	1,229,549	1,233,325		60,739	1,611,970	2,845,295	71,552		1
West Polk	1,119	171,681	471	20,273	20,744	33,693	54,437	3,836	424,288	428,124		79,086	641,963	1,070,087	91,916	18	16,695
Wilkin	1,063	118,938	445	26,734	27,179	23,191	50,370	4,898	839,099	843,997		57,161	554,115	1,398,112	63,525	28	1,090
Winona	732	37,703	999	9,851	10,850	6,423	17,273	21,947	508,070	530,017		16,614	436,332	966,349	19,755	10	
Wright	1,657	70,083	3,072	20,735	23,807	10,483	34,290	52,335	832,581	884,916		27,916	610,507	1,495,423	32,734		1
Yellow Medicine	2,025	195,250	413	41,158	41,571	37,536	79,107	7,013	1,623,096	1,630,109		96,843	1,999,929	3,630,032	115,255	69	40
State total	97,009	7,099,171	93,060	1,674,440	1,767,500	1,295,601	3,063,101	1,409,042	68,575,851	69,984,893		3,274,742	70,336,619	140,321,513	3,814,052	2,001	55,545

Mr. YARBOROUGH. Mr. President, I am pleased to join with the distinguished junior Senator from Minnesota in cosponsoring the bill which would require the Secretary of Agriculture to make advance payments of at least 50 percent to farmers participating in the feed grain program for 1970. This legislation has been made necessary because of the Secretary of Agriculture's decision on January 16, 1969, to eliminate the advance payment program for feed grain producers. If this decision is allowed to stand, it will force another financial hardship on the already overburdened American farmer.

The Secretary of Agriculture's decision to eliminate advance payments clearly demonstrates a lack of understanding of farm problems, or a lack of concern for the financial plight of our

farmers. In past years, a farmer who decided to participate in the feed grain diverted acreage program would receive approximately 50 percent of his payment during the spring and the balance at harvest time. Farmers rely on the advance payments as a means of financing their planting operations and to carry them over until harvest. Without advance payments, farmers will be forced to borrow the money they need to plant their crops and finance their operations from the banks and financial institutions that are charging 8 to 9 percent interest on the money they loan. Many smaller farmers will have difficulty finding a bank to loan them money at all, regardless of the interest rates the farmer must pay. What will result is that the financial vice will be tightened even further on the farmers of this country causing many of them to go out of business altogether.

The elimination of advance payments is but one of a long string of actions by the administration which are contrary to the best interest of the American farmer.

In August of 1969, the Secretary of Agriculture announced a 12 percent cut in wheat acreage for 1970. This decision will result in a reduction in the wheat acreage allotment from 51.6 million acres to 45.5 million acres. Furthermore, the Secretary of Agriculture has announced a cut in the price support on cotton seed of almost $5 a bale. In November, the Department of Agriculture announced that it was calling the 1967 and 1968 reseal loans on grain sorghum. Fortunately after strong congressional protest, this ill-advised order was rescinded. In December, the Secretary of Agriculture announced a cut in the rice allotment of 15 percent for 1970.

The desperate condition of the American farmer is clearly dramatized by a report prepared by the Lubbock Production Credit Association of Lubbock, Tex., concerning cotton farmers in the High Plains area of Texas. According to their report, out of the total of 888 production loans which were made to cotton farmers in 1968, only 45 percent or 394 of these farmers made a profit. Fifty-five percent of these farmers who obtained loans from the Lubbock Production Credit Association either lost money or made such a small net profit in 1968 as not to justify their staying in agriculture.

Information that I have received from bankers and others involved in advancing farmers credit have indicated that the same desperate situation was present in 1969. Unless a reasonable and fair cotton program is enacted soon, many cotton farmers of Texas and other parts of the Nation will soon go broke.

Now the Secretary of Agriculture has taken this untimely and unwarranted action with regard to advance payments. In the official news release of the Department of Agriculture, an attempt is made to justify this action because of "the extreme financing problem faced by farmers." I submit that the "extreme financing problem" is the very reason why advance payments should be continued. Not since the Civil War have the interest rates on bank loans been higher. Credit is becoming almost impossible to obtain by the average farmer. The only segment of our society that can possibly benefit from the elimination of advance payments will be the large banks who charge high interest rates.

Mr. President, the record of this administration in Agriculture has been consistent, that is, consistently bad for farmers. The only groups that have benefited from the agricultural policies of the Nixon administration have been large banks and processors. The average farmer is day by day being forced off the farm. Farmers in my State of Texas are equally concerned over elimination of advance payments for wheat. Similar legislation has been introduced by the able Senator from North Dakota (Mr. BURDICK), pertaining to wheat, of which I am a cosponsor.

Mr. President, it is the duty of Congress to take affirmative action to reverse this unfortunate trend. The bill we introduce today is a step in the right direction. I am proud to be a cosponsor of this bill, and I commend the junior Senator from Minnesota for introducing it.

Adlai Stevenson once said:

> A society can be no better than the men and women who compose it. The heart of any farm policy must therefore be the life of those who work the farms. Our objective is to make that life full and satisfying.

Let us today redicate ourselves to that belief. I urge swift approval of this bill.

ADDITIONAL COSPONSOR OF A BILL

S. 746

Mr. BYRD of West Virginia. Mr. President, at the request of the Senator from Montana (Mr. METCALF), I ask unanimous consent that, at the next printing, the name of the Senator from Idaho (Mr. CHURCH) be added as a cosponsor of S. 746, to amend title XVIII of the Social Security Act so as to include chiropractors' services among the benefits provided by the insurance program established by part B of such title.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE FAMILY ASSISTANCE ACT OF 1969—AMENDMENTS

AMENDMENTS NOS. 467 AND 468

Mr. SAXBE. Mr. President, I would like to say a few words today about the "forgotten Americans."

If any term is overused, it is that one. Depending on who is doing the talking, a forgotten American can be deserving or undeserving, praised or maligned, ethnic white or urban black, rich or poor, and all the rest. You name it and someone can find a forgotten American to fill it.

So the question persists: Who, really, are we talking about when we refer to forgotten Americans?

Is he the poor dirt farmer somewhere in Appalachia, plugging away on somebody else's half-acre with scant chance of getting ahead? Is he the hard-working laborer in some big-city plant, a blue-collar guy who minds his business, pays his taxes, and seems forever in debt? Perhaps the forgotten American is a young black man already imprisoned in some festering slum, a youth whose future is as bleak as his surroundings.

I submit, Mr. President, that the forgotten American very much on my mind today is none of these. Who then is he? Go to any of America's great cities, and you will find him. Chances are he will be sequestered behind old gray walls in an old gray building in the oldest, grayest part of town. Or go to a rural backwater and he is there, too, nested perhaps behind walls as old as he is and in buildings as old and gray as their urban counterparts.

The forgotten American, Mr. President, is the old American. He is that individual who helps make up the faceless army numbering nearly 10 million today. He marches to a distant, fading drum. He is too old to work, too young to die, too proud to beg.

Mr. President, the amendment I am submitting today is at best a beginning—an initial step in providing relief to these forgotten millions. Put simply, my amendment will provide an increase in the guaranteed income provision of S. 2986, the Family Assistance Act of 1969.

Already present in S. 2986 is a guarantee of $90 a month to those having reached age 65. My proposal increases this figure to $155 a month for the 72-year-old, the amount necessary to lift an individual above the poverty line. The poverty line for a single individual as established by the Bureau of Census and adjusted to allow for price increases through August 1969 is $1,846.

Therefore, I have decided to concentrate my efforts on this critical area where circumstances are most trying. Those above age 72 have virtually lost their earning power; they either lack the opportunity or they have severe physical limitations. The very aged are unable to provide for themselves and therefore must have some relief. My amendment would provide their relief to nearly 10 million elderly and would assure that at least half our aged population is living out of poverty.

Unfortunately, this bill comes during a period of extreme inflation. However, the additional Federal spending can be justified to preserve the dignity and security of our older citizens. If this measure is favorably considered by my colleagues, I am prepared to offer a bill amending the income tax rate to cover the entire cost of this Federal expenditure.

Mr. President, I would like to submit a second amendment to S. 2986. This one is to encourage the employment of the elderly in the day care centers provided for in this bill. The amendment calls for preference in hiring those over age 60.

I ask unanimous consent that the text of both amendments be printed in the RECORD following my remarks.

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

The amendments were referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

On page 62, immediately after the word "month" on line 16, insert ", in the case of an individual who has not attained age 72, and $155 per month, in the case of an individual who has attained age 72"

On page 65, line 12, strike out the period and insert in lieu thereof "; plus".

On page 65, between lines 12 and 13, insert the following:

"(4) with respect to expenditures incurred in providing such aid to individuals age 72 or over, 100 per centum of so much of the expenditures so incurred as exceeds the product of $90 multiplied by the total number of individuals who have attained such age and are recipients of such aid for such month, but not counting so much of any expenditures so incurred with respect to such month as exceeds the product of $155 multiplied by the total nmber of individuals who have attained such age and are recipients of such aid for such month."

On page 42, between lines 3 and 4, insert the following:

"(e) The Secretary of Health, Education, and Welfare, in providing assistance to any project under this section for child care or services, shall impose such conditions thereon as may be appropriate to assure that such project, in the selection of personnel to provide such care or services, will make a special effort to employ individuals over 60 years of age and, in considering applications for employment, will give preference to applications submitted by such individuals."

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary.

Kenneth M. Link, Sr., of Missouri, to be U.S. marshal for the eastern district of Missouri for the terms of 4 years, vice Olin N. Bell, Sr.

John T. Pierpont, Jr., of Missouri, to be U.S. marshal for the western district of Missouri for the term of 4 years, vice Francis M. Wilson, term expired.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Thursday, February 5, 1970, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

A SALUTE TO THE STAFF OF THE SUBCOMMITTEE TO INVESTIGATE JUVENILE DELINQUENCY

Mr. DODD. Mr. President, I am very pleased with the Senate's action yesterday in passing, unanimously, S. 3246, the Controlled Dangerous Substances Act of 1969.

I believe that this bill will be considered one of the most important pieces of legislation passed by the 91st Congress and may well become a landmark.

I cannot let the occasion pass without saluting Mr. Carl Perian and the staff of the Subcommittee To Investigate Juvenile Delinquency.

Carl, Gene Gleason, Bill Mooney, and their very able colleagues have been at my side throughout the years as we have sought to find remedies for a host of social problems.

They have worked diligently on the subject of drug abuse and misuse for several years, and the passage of yesterday's bill is as much a tribute to them as anyone.

I applaud Carl Perian and the Subcommittee To Investigate Juvenile Delinquency, and I state, without reservation, that this staff is one of the best that the Senate has ever known.

VETO AND HOUSE FAILURE TO OVERRIDE A CRIPPLING BLOW TO EDUCATION

Mr. YARBOROUGH. Mr. President, the Republican administration has snatched $63 million from Texas schoolchildren on the ground that education is inflationary. Texas will lose this amount in Federal funds that had been appropriated by Congress. Yesterday, the House of Representatives failed to override that veto by the required two-thirds vote, although the majority was clearly in favor of doing so. The appropriation bill for health, education, and welfare was vetoed by President Nixon on Monday, January 26, 1970, and the House's failure to override occurred on Wednesday, January 28, 1970, with a vote of 226 to 191 in favor of overriding the veto.

The effect of the President's veto on Texas education is devastating. Of the $63 million total Texas lost in education funds caused by the veto, 43 percent, or $26,908,000, is in impacted school aid funds.

This administration is demonstrating daily its utter disregard for the hopes and needs of the people to educate their children properly. This veto makes it clear that the administration is willing to sacrifice our children's education for the sake of its misguided and mistaken priorities. It is unbelievable that the President takes the position that it is inflationary to educate our children. I do not believe that all the Madison Avenue advertising firms working together could package this bitter pill so that the people of this country will swallow and believe it.

The wisest and most sensible investment this Nation can make is that of educating our children with the highest quality programs we can provide. As Texas' senior Senator and chairman of the Senate Labor and Public Welfare Committee, I pledge to the people of Texas and the Nation that I will not retreat in this battle; I will not concede defeat to the forces of regression and less education. While this is a serious setback to those of us who consider education a high national priority, we cannot give up trying to provide the necessary funds to educate the children.

Congress fought inflation by slashing the administration's overall budget by $5.6 billion, and only made modest increases in education and a few other areas to reflect Congress' views on the appropriate national priorities.

When the President vetoed the Health, Education, and Welfare appropriation bill with a great flourish on his dramatic nationwide television show, he took $63 million from the Texas schoolchildren and hundreds of millions from schoolchildren over the Nation. That was one of the most costly television extravaganzas ever presented, and the parents, teachers, children, the aged, the handicapped, and the poor will have to pay the price. I ask the people of America: Was that show worth the $1,129,000,000 loss to education and health over the Nation?

THE ODDITIES OF AIRLINE FARES

Mr. SAXBE. Mr. President, I ask unanimous consent to have printed in the RECORD a particularly interesting article, written by Washington Post Columnist Nicholas von Hoffman.

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

BEING TAKEN FOR A RIDE

(By Nicholas von Hoffman)

According to the economics taught in school, last week would have been the time for Pan Am to announce a cut in the cost of a ticket to England. It was last week that the airline's huge jetbus made its maiden voyage at a lower per-passenger-mile cost than possible before. According to free enterprise theory, Pan Am should grab hold of this competitive advantage, cut its prices, attract more customers and make more money by increasing its volume of business.

You don't have to be told that nothing like that was in danger of happening. Instead, television news had a spate of stories pointing out that no airport in America is presently equipped to service these Boeing 747 monsters, but that work is under way to remedy the defect. Most of the stories did not mention the fact that it would be the taxpayers, not the airlines, who will pay for these improvements.

This situation prompted Charles Murphy, the chairman of the Texas Aeronautics Commission, to pose this question: "What if General Motors decided it would build a 1,000-foot-long bus that was 80 feet wide? Would we immediately redesign every highway and every automobile underpass to accommodate it?

Murphy exemplifies the large number of people who are unhappy about air service and not much impressed by announcements of the departures of new types of airplanes. They feel they haven't gotten their money's worth out of the old ones yet. And it is their money because, from drawing board to takeoff and touchdown, every aspect of flying is subsidized.

Yet there was some motion in the economics of the air transport last week. The Civil Aeronautics Board decided that it would be a good time to crack down on charter airline companies which are underselling the big guys. There'll be none of this free enterprise competition, it said in effect, and started proceedings against charters that sell tickets to anybody who walks in the door. Under the board's regulations, only "affinity" groups may take advantage of charter fares, which can cut as much as two-thirds off the regular price. An "affinity" group isn't a sabotage team, but any organization that exists for a purpose other than enabling its members to travel cheaply.

Why you should have to be an Elk or an Odd Fellow or a member of the plumber's union to enjoy the savings of a cheap competitive fare to Europe was explained by a chappie over at the Aeronautics Board: "Why, if you didn't have to be an organization to charter a plane, you or I could advertise and say we were renting a plane and anybody could go at one-third the regular price. It would be like going out and starting a competing city bus company."

That would be terrible, too, the ugliest violation of the free market, free enterprise system that has made American urban and suburban transportation the envy of the world.

The same Aeronautics Board chappie was definite in denying that there could be any connection between the action against the charter companies and the possibility that Pan Am is going to be stuck with a lot of empty seats on its huge new airbuses unless the tariffs are lowered or people are forced off cheaper, sneak competition. Maybe so, but the board runs the airline business so that the companies never compete for the passenger dollar by offering the best service at the lowest price.

"All airlines are free to spend millions of dollars in socially wasteful, non-price competition. Instead of reducing fares, they provide unnecessary luxury services, insult the consumers with deceptive and expensive advertisements about the superior quality of food, liquor and stewardesses, and offer free gifts and souvenirs," writes K. G. J. Pillai in *The Air Net, The Case Against the World Aviation Cartel* (Grossman Publishers, New York, 1969, $5.95), a book that will tell you why you can't afford to go to the world's fair in Japan this summer.

If you stop to think about the airline company ads on TV, you'll agree that Mr. Pillai isn't exaggerating. Fly Zilch International Airways and get drunk outta your skull. Fly the Besotten Skies of Wonder Lines and eat yourself into a coronary. Take Trans-Oceanic and pinch our stewardesses. Judging from the ads, your average airplane passenger is a gluttonous, sex-crazed souse.

Nowhere do we see a TV spot that tells us to consider buying a ticket on Thrifty-Nifty Airlines—We take you where you want to go comfortably and cheaper than anybody else. The one thing they don't like to talk about is the price of tickets, and when they're driven into a corner and have to discuss how much they charge, they use the language of non-Euclidean geometry. As an example, here are excerpts from an exchange of letters between George F. Galland, a Washington lawyer who made the mistake of trying to take his wife on a vacation to Puerto Rico, and E. J. Kuntzmann, customer relations manager for Pan American World Airways. Mr. Galland leads off:

On Nov. 23 I flew from Baltimore to San Juan with my wife . . . We had been ticketed through Dupont International Travel, Inc. at a cost of $132.00 for my ticket and $115.00 for my wife's. At the Baltimore checkin desk your clerk extorted an additional $16 for my wife's transportation—a gesture which tends to make the going much less great than your PR people would like the public to think it is . . . On checking with a long succession of people in your own muddled organization, they found someone who confirmed the decision of your Baltimore clerk—on the theory that the kind of family plan which would have resulted in a $115.00 fare was available only in tourist class, whereas seats in the rear compartment of your Puerto Rico flights are designated as 'thrift class' . . . The only distinction, other than cost, observable to the public between tourist and thrift is that thrift food is a little worse than tourist food. The difference in fares between tourist and thrift classes is apparently that thrift fares are lower.

". . . I find myself disconcerted to observe that family plan transportation under the thrift label turns out to be more costly than the equivalent plan under the tourist label. Only the malign ingenuity of a tariff shark could contrive a rate structure which attaches a price premium to austerity."

"DEAR MR. GALLAND: It does seem odd that an economy-class fare in an excursion would be lower than a 'thrift fare' for the same sector . . . The family plan fares cannot be applied when travel is thrift class, as in your case. I certainly realize that fare restrictions and computations are extremely complex and I can only assure you that the charges you have paid are proper for the transportation provided."

"DEAR MR. KUNTZMAN: . . . you concluded in your letter that I should accept your verdict on the grounds that tariffs are technical . . . I have suffered a fair measure of exposure to tariffs (Mr. Galland specializes in transportation law) and know quite as well as Pan Am that they serve as a handy legal cover for a variety of outrages against the public . . . The doctrine that tariffs have the force of law permits carriers to cram them with absurdities and oppressions, which the carriers then deplore to their customers as mandates which they abhor but which some nameless super-power requires them to enforce. . . . An interpretation which results in a higher charge for an inferior service does not make sense. Any one who thinks it does should visit his psychiatrist . . . the company should at least correct the spelling of its slogan. The proper version is: Pan Am makes the going grate."

"DEAR MR. GALLAND: I appreciate your writing me again regarding the fare charged for your trip to San Juan. The crux of the matter is that . . . your travel agent erroneously used the formula for computing family-plan fares between those points and charged your wife 75 per cent of the regular thrift fare. The travel agent erred again when he charged $115.50 for Mrs. Galland's ticket, as the fare shown on her ticket for the return trip does not exist. To summarize, there are no family plan fares applicable on thrift class from either Baltimore or Washington to San Juan . . . I apologize that a better explanation was not offered you previously and hope that you will not allow this incident to permanently damage your opinion of us."

"DEAR MR. KUNTZMANN: Thank you for your last installment in our mutual recrimination series. The dispute seems good for an indefinite sequence of future exchanges, which should be all right with both of us since it provides you with a career and me with a hobby . . . the process of extorting extra money from travelers at the instant of takeoff is an outright business atrocity . . . My closing suggestion is that the company buy a large incinerator—with suitable pollution controls—and break it in on the Puerto Rico tariffs."

The statistics show that only 15 per cent of the American population ever flies. Now you know why.

DESTRUCTION OF THE ENVIRONMENT MUST BE HALTED

Mr. PELL. Mr. President, it is becoming increasingly clear that the destruction of the environment must be halted. It is also clear that the great effort needed to accomplish this end cannot be mounted unless an enlightened citizenry insists that it be done. With this in mind, I wish to commend to the attention of the Senate a very fine address by Dr. James E. Allen, Jr., the U.S. Commissioner of Education.

In his address, Dr. Allen said:

In all our history we have found no better way than through the process of education for equipping citizens—you and me and our children—with the knowledge and understanding needed to make these choices and take these actions.

The adults of today and the children of today—who will be the leaders and teachers of coming generations—must be taught that man is not a thing apart from the natural world, and that the destruction of nature means the destruction of man as well.

The thoughts so ably expressed by Dr. Allen are shared by a growing number of people. For example, S. 3151, the Environmental Quality Education Act, introduced by the Senator from Wisconsin (Mr. NELSON), deals with many of the points Commissioner Allen spoke of. With this in mind, I am tentatively scheduling hearings on the bill by the Education Subcommittee of the Committee on Labor and Public Welfare late in March or early in April.

Mr. President, I ask unanimous consent that Dr. Allen's thoughtful speech be printed in the RECORD.

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

EDUCATION FOR SURVIVAL

(Address by James E. Allen, Jr., Assistant Secretary for Education and U.S. Commissioner of Education)

In the course of the past few weeks we have been treated to every conceivable kind of review of the 60's and prediction for the 70's that hindsight and foresight together could reduce to words.

One of the most troubling things we have learned from this inventory is that our world—which once we believed would endure for almost anyone's casual definition of "forever"—is in acute danger of becoming the subject of a premature obituary notice.

As President Nixon said in his State of the Union address yesterday, "The great question of the 70's is shall we surrender to our surroundings or shall we make our peace with nature and begin to make reparations for the damage we have done to our air, to our land, to our water."

If the tragic state of the environment seems a rather inappropriate subject for an address by the United States Commissioner of Education, let me assure you that it is not. Indeed, everything we have been alerted to about the perilous condition of our planet comes under the heading of "education."

Granted, it is an unusual form of education. Instead of learning it as a matter of course from our earliest classrooms on through the educational process, we are having it sledgehammered into our heads rudely and with little warning. It is education nonetheless, and in the light of history, it may prove to have been the most valuable we have ever been exposed to.

Though this may seem at first to be education for catastrophe, it can also provide the catalyst for creating *education for survival.* For the human species, all of whom share a steadily worsening environment, there can be no more important consideration.

At the outset, let me say this: there is nothing whatever that is remotely political or even partisan in what I am saying to you tonight. The environmental deterioration in which we find ourselves knows neither Republican nor Democrat, white or black, rich or poor, young or old. To experience it, to suffer from it, to be concerned with it, to be committed to do something about it—all that is required is that you be alive. All else is quite literally irrelevant.

The plain fact is that the technology of living that we have created has gotten—we hope, only temporarily—out of control. Our mere existence is creating dangerous changes in the delicate balances by which we have thus far survived on earth. Our technology has so far been used primarily in ways which aggravate these changes. Only now are we learning how to measure the changes we know about—and to be wary of the subtle long-range changes of which we are not yet even aware.

I need not belabor you with statistics. You have read them, and heard them, and flinched at them, and perhaps wearied of them.

Who, after all, can really visualize 142 million tons of pollutants discharged into the air of this country every year?

What does it really mean to say that $20 billion is the estimated cost of the havoc wrought annually by these pollutants?

Eight million junked automobiles, 26 billion discarded bottles and 48 billion cans, 150 million tons of solid wastes, 2,100 communities dumping billions of gallons of raw sewage into our waterways—these are statistics that boggle the mind, and they are repeated like clockwork every year, inching higher and higher toward the point that reads "human extermination." It takes something really different—like a river so filthy it actually catches fire—to engage our jaded attention.

We created this technology by exploiting our talent for invention, our dedication to learning, and willingness to work and work hard. Now we face the ultimate challenge of using these same national characteristics to regain control of our technology—lest uncontrolled it exterminates us.

The time we have to achieve this reversal may be no longer than the few years remaining in this century. In any event, there is no time to lose. *The key to human survival is education.*

Why do I say that education is the key to survival? Why not new laws? Why not new rules and regulations and codes and all the rest of the complex apparatus of government which regulates nearly all human endeavor? Why is education more important than all of these admittedly important measures?

The answer is that in a free society it is always the citizen who must bear the ultimate responsibility for the choices that are made and the actions that are taken. In all our history we have found no better way than through the process of education for equipping citizens—you and me and our children—with the knowledge and the understanding needed to make these choices and to take these actions.

What we desperately need is not ingenious tinkering with the surface of our culture but a new vision of the possibilities of human life in our age. To whom should we turn for such a vision, and who can persuade our citizens to pay the price for carrying it to fruition?

Not so long ago, many people were confident that science could solve such problems, but such confidence is no longer as pervasive as it used to be. The scientists themselves are frequently known to express pessimism. All of the threats to human existence ironically derive, to a greater or lesser degree, from the extraordinary flowering of science-based technology in the twentieth century. That this flowering has brought many benefits to man, few will deny. That it also extends his power beyond his demonstrated wisdom to use it to his collective advantage is also hard to deny. There is growing conviction in this country that science is now too portent-laden to be left to scientists alone. In this regard, I am reminded of the prophetic words of Lord Snow in his book, *Two Cultures*, some years back.

It is at this point—at the last millisecond before midnight—that the humanist and social scientist are being invited to help salvage our society. It is ironic because, like Churchill under the clock in Parliament thundering unheeded warnings of disaster prior to World War II, the social scholars have long predicted the state of affairs to which we have come. Yet like Churchill, they must now assume a major responsibility for averting the impending doom.

There is only one way to do so, and that is to reassert the primacy of a man-centered culture which subordinates technology to the human condition. That is what the new national environment policy is really all about—a Renaissance of Man in the decade of the 70's.

This Renaissance takes as its paramount issue the quality of life. And who is better equipped to speak on the quality of human existence than the man of humane letters and social concerns? Who else has devoted his life to the most productive and liberating ways of approaching the human condition? I charge each of you with the burden of leadership, of speaking to the creation of exemplary men.

In this regard, I cite Classics Professor William Arrowsmith of the University of Texas whose views on education should constitute a statement of goals for us all:

"It is men we need now, not programs. It is possible for a student to go from kindergarten to graduate school without ever encountering a *man*—a man who might for the first time give him the only profound motivation for learning, the hope of becoming a better man. Since the humanities aim at humanization, their meaning and end are always, I believe, an exemplary man. Hence the humanities stand or fall according to the human size of the man who professes them."

It is clear, then, that scientists are not alone responsible for the woes of our civilization. Humanists and social scientists by their indifference must share with other citizens some responsibility for the current state of our world too. But the times are now suddenly ripe for a fruitful intercourse between the humanities and the sciences. The surge in inter-disciplinary team research and study represented by the concern for ecology constitutes a major opportunity for an impact upon public policy by the humanities and social sciences.

A major thrust will be made through the agency of education. I hope that you will not neglect the challenge presented to you to participate in the reorientation of American education toward man-centered environmental study. The newly awakened social conscience in our country demands a response by educational authorities. We ask that you join us in shaping an educational policy consonant with that Renaissance.

The responsibility of the government is to lead.

That is why the President, on January 1, 1970, marked the start of a new decade by signing the bill establishing a Council of Environmental Advisers. It is why he said, "The 1970's absolutely must be the years when America pays its debt to the past by reclaiming the purity of its air, its waters and our living environment. It is literally now or never." It is why he has dedicated this Administration to the saving of our fragile, threatened environment—on which our survival depends.

It is also the responsibility of government to set an example—to encourage the growth of public understanding of its activities, of public concern, of public participation. "Until he has been part of a cause larger than himself, no man is truly whole," the President said in his inaugural address.

Above all, it is the responsibility of all government—not just national or state, but every local unit that operates a public school system—to educate . . . to replace confusion with knowledge . . . to replace concern with commitment and action.

It is at this point that the humanists and social scientists should be "doing their thing." The problems we have are not just scientific. They are social and they bear directly upon human interaction with the total environment. What we need desperately from the cognoscenti such as you here tonight is help in posing the right questions. If the growing surge of citizen concern is to give rise to new human survival techniques and attitudes, a leadership role for the humanities is essential.

Learning about environment and ecology and all that affect it is admittedly complicated. Even today, when we know how dangerously threatened our environment is, we have only a small corps of qualified professionals to call upon. But if government at any level should take the attitude that this is all too complicated for the average citizen to understand—that he is needed merely to pick up the bill—then we shall be inviting public apathy, and even the most ambitious programs will eventually fail.

We simply cannot afford failure.

We must therefore begin immediately to use our full educational capability to learn as much as we can, as fast as we can, about how to save our environment. At the same time, we must begin to teach not just one but two generations of Americans, simultaneously, all that they must know in order to revive the earth on which we live.

Why do I say two generations? Simply because you and I and every other adult American must learn all this, just as must every American whose age puts him in the student population. We must learn it so we can understand it—and we must learn it in order to be able to teach it on a vastly greater scale than anything we have so far envisioned.

The teacher we intend to send into our public schools in 1980 is today a sixth grader somewhere in America. He or she must be taught—beginning right now—along with every American boy and girl, about environmental quality, about ecology and about all of the complex and interacting elements that go to make them up.

We and they must learn together—and in the spare time we have left, we must begin to write the textbooks for this new educational enterprise. We must think about America as it will be in 1980—a nation with some 235 million citizens with different kinds of schools and different kinds of teaching and learning programs, and we must do this right now. That future teacher will enter college in 1976 and textbooks will have to have been written and published, courses mapped out and instructors trained in these new disciplines.

When we turn these brand-new teachers loose in 1980, they had better know much more than any of us do right now about the problems involved in human survival—or else the war may well be lost, although the battles may go on for a few decades longer.

What are the specific tasks to be assigned to this new environmental/ecological education? They can be summed up briefly: *awareness, concern, motivation and training:*

Awareness of how we and our technology affect and are affected by our environment;

Concern for man's new and unique responsibility to re-establish and to create beneficially balanced relationships among all forms of life within the closed earth system;

Motivation and training to enable us to acquire and spread the knowledge and skills that will help us solve interrelated environmental problems and prevent their future occurrence.

The end product of this kind of education—and it must take place at every level of the educational enterprise—will be to create, within the decade that has just begun, a citizenry with a clear understanding that man is an inseparable *part* of the system and that, as such, his continued existence is totally dependent on its continued functioning.

Departments devoted to the environmental

sciences are being started at many of our nation's universities. This is an excellent beginning—but we must also begin now to develop similarly oriented programs in our grade schools, in our high schools and in our junior colleges. It is essential for students reaching the university level—and just as urgent for those whose education will not take them that far—that they already know the basic facts about environment just as you and I learned addition and subtraction.

These same basic courses must be developed and put into action at every stage of adult education. Logically, this should include not only adult education sponsored by formal school systems, but also the educational enterprises conducted by business and industry, by unions and by other organized groups. The future of society lies in its ability to react and respond to situations and events—and we are in a situation with regard to our environmental preservation that calls for a clear and vigorous response by every sector of American life. Eventually, as we gain ground, we should become able to *act* rather than merely *react*.

It is a matter of urgent necessity that we develop in both young and old an understanding of the society in which they live—an increasingly urbanized society with all the problems that this creates. We need to develop ecological studies designed to make everyone aware of the fragile and interacting relationships of land, air and water—and to give new understandings of the eco-concepts—that must govern the development of society, encompassing the demands of increasing urbanization.

We need in our schools to counteract the idea of environment as being something "out there" that can be visited and then left behind at the end of the field trip. Our goal must be to see that every school has access to an environmental study area where youngsters of all ages can grow up with the concept of environment as being everything that makes up their world, and with an understanding of the interdependency of all its numberless elements.

Through the development of EEE—environmental/ecological education—at every level of learning, I see some very exciting things:

Pre-schoolers will be using the out-of-doors as a classroom—for it is a matter of urgent necessity that our children early begin to understand their environment.

High school students will use civics courses to engage in work-study programs with city planners and environmental quality professionals. They will focus on all sorts of urban problems to which solutions must be found—waste disposal, water supply, pollution and population.

Undergraduates will participate in multi-disciplinary classes under the guidance of master teaching teams to allow them to work out the great intellectual synthesis of the 1970's—the newly emerging coalescence of the humanities, the natural and social sciences, and the broad-based environmental studies that are being undertaken.

Graduate students will work in special study programs directed to creating new and different approaches to solving ecological problems.

Teachers will be given opportunities to acquire the knowledge and the methods of teaching EEE.

Out-of-school adults will learn to understand how and why the ecology and the environment interact; and while the professionals and the para-professionals work toward finding the immediate solutions we *must* have, all of us will acquire the kind of knowledge we can no longer do without. The entire level of mass citizen understanding and participation must be raised if we are to reverse the environmental skid. In this effort, we must rely on educational television, on community colleges, on business, on labor—in fact, on a total fusion of individual and group effort.

If our communications do not fail us in this crisis, all Americans will, to some degree, become eco-activists.

Let me illustrate what this can mean.

In California, voters in San Bernardino County recently turned down a proposed coal burning plant despite the increased tax revenues it would have contributed. Residents in a Seattle suburb chose to preserve a wooded park area instead of clearing it for a golf course.

A recent example of the effectiveness of the working meld provided by mass communications, citizen response, and various levels of government working in partnership was the halting of the Everglades Jetport. An irreversible ecological tragedy was averted and we lighted a beacon of hope and inspiration for a nation of environmental underachievers.

The decisions to be made by each of us in the future will be on both small and very large environmental issues, but, whatever their degree, they will be more and more numerous in the years ahead. It is vital that we and our children be equipped with the wisdom and understanding that reject haphazard or emotional choices in favor of informed, reasoned decisions.

Undertaking this vast new educational enterprise will have far reaching and highly beneficial implications for American education. It will be a catalyst whose impact will register in every classroom and, I hope, in every home and office and plant in America.

Scholarship will benefit by the development of the essential inter- and cross-disciplinary studies that will be needed. The active involvement of our educational system in problems that pervade the lives of all will help to make the educational process more relevant and responsive.

This new emphasis in American education will help to make every individual more aware of how dependent each of us is upon the other. We shall—we must—learn that in the highly complex structure which is human society, survival depends on self-control (which includes control of technology—that mammoth extension of "self.")

The simple goal of all this educational effort is the realization that the acts of one react on all. If we can learn this lesson, we shall live in a better society. If we do not learn it, we may well have no society at all.

What is the Office of Education going to do to help American education implement the environmental challenge outlined by the President and alluded to here today? A number of things:

Promote EEE as a major activity of the Office in the 1970's.

Set up a special environmental studies staff to coordinate existing programs, redirect existing resources, and plan new programs and activities. This can be done by drawing creatively on all the relevant resources in O.E., without creating another bureaucratic unit.

Support appropriate legislation for Federal initiatives in environmental education.

Call a major conference in June on the challenge of EEE to the American educational community.

Support wholeheartedly the Environmental Teach-In scheduled nationally for April 22. I urge all American educators, at elementary, secondary and higher levels throughout the nation, to concern themselves with this effort and to give this environmental event the impact it deserves.

Proposed that teachers follow up the National Teach-In by organizing and planning regional *Ecological Environmental Teach-Ins for Teachers* in the Summer of 1970. The Office of Education and the Department of the Interior would assist these efforts in cooperation with State and local groups and organizations.

Cooperate with the Department of Interior to put to the highest educational use the cultural and natural environmental resources of the National Park Service. The Department of Interior's National Environmental Education Landmark program represents a major step in the direction that education for survival must take.

And finally, begin to plan for our participation in the 1972 UN International Environmental Year. Since we are the leading industrial nation, we must take leadership in countering industrial violence to the environment. The spread of our industrial technology has brought with it the spread of its rot. As John Gardner recently said: "The problems of nuclear warfare, of population, or the environment are impending planetary disasters. We are in trouble as a species."

Before us stands a great challenge. Arnold Toynbee has told us that the essence of the story of mankind and the survival of civilizations is to be found in the cycle of challenge and response. Those that respond survive; those that do not decline and die.

I believe America contains the seeds of response. Some are disturbed by the enormity of the challenge—but the very fact that we are willing and anxious to focus on our environmental problems is the best assurance that we do indeed still possess the energy to tackle them and the ability to forge the tools to conquer them.

In just six years, this nation will enter upon its third century of independence. How our children and their children will live in that century—or even if they will—is almost totally dependent on the commitment we must now make and the dedication with which we carry it out.

If we are committed and steadfast, then we can in good time step aside and make room for the future, with the reassurance that we have kept the faith . . . that in the brief but eloquent words of Eccelesiastes:

"One generation passeth away and another generation cometh, but the Earth abideth forever."

FOREIGN POLICY AND POLITICS—TWO ADDRESSES BY SENATOR MATHIAS

Mr. SCOTT. Mr. President, the Senator from Maryland (Mr. MATHIAS) made two outstanding speeches in recent months on the subjects of foreign policy and politics. I ask unanimous consent that the two speeches be printed in the RECORD.

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

REMARKS OF SENATOR CHARLES MCC. MATHIAS, JR., BEFORE THE MONTGOMERY, MD., COUNTY MEN'S REPUBLICAN CLUB, NOVEMBER 18, 1969

The Republican Party—as is usual for vibrant and growing political organizations—has been embroiled in debate ever since its Presidential victory. Most of the discussion within the Party has revolved around the question of how to expand its narrow Presidential plurality into a durable national majority.

One school of thought focuses on the supporters of George Wallace who comprise over one-third of the electorate in the South and seven percent elsewhere. These analysts suggest that the country is moving toward a realignment of the two major political parties, with all the conservatives and Wallacite radicals in the Republican Party and all the liberals in the Democratic Party. One spokesman for this position, who serves as an adviser to a high Administration official, contends that it will cost several million moderate Republican votes. But he says the losses

will be more than made up by the movement of Wallace voters into the GOP. This approach—also supported by the engineers of Barry Goldwater's nomination in 1964—is supported by elaborate statistical analysis showing that the country's old political alignments are being overthrown by broad resentment against black militancy and youth protest.

One might have expected the Democrats to have expressed alarm at these predictions of doom for their Party. Outside some Administration circles, however, Democrats are—and long have been—the leading advocates of this realignment. From former Kennedy associates like Theodore Sorsenson, Arthur Schlesinger and Adam Walinsky, to backers of Senator Eugene McCarthy like Richard Goodwin and Paul O'Dwyer, leading Democratic strategists and intellectuals have long urged a reformation of the two parties on strict ideological lines. Liberal Democratic Congressman Bertram Podell of New York recently wrote an article that was virtually indistinguishable in its argument from the approach of realignment Republicans. Such Democrats regard the continued Republican flirtation with these ideas a dream coming true. These Democrats, moreover, wrongly allege that the Nixon Administration is already following their advice.

Well, I for one hate to have the daydreams of our opponents interrupted. Dreaming after all is a usual prelude to sleep. And in politics few things can put a man to sleep so quickly—and separate him so surely from the bracing pulse of public sentiment—as the dream of ideological inevitability. Especially soporific is the recurrent fantasy that tides of history are irresistibly channeling public opinion into a couple of neat ideological categories, with your own assuming dominance. Neat ideological nooks are the cubicles to which politicians often retreat before a rude awakening at the hands of the voters.

I hope, therefore, that those of our opponents who dream of rigid ideological realignment slept through the latest elections. But I hope that those Republicans currently lost in reveries wake up and closely study the returns. They will find a pattern of dramatic triumphs by a style Republicanism that eschews narrow categories and truly promises an emerging Republican majority.

It is not a majority that will emerge for those who write off large sections of the country, or vituperate broad segments of the electorate. It is not a majority that rises to the incantation of simple emotional slogans or blindly succumbs to the tides of history—or of silent consensus. Since its members tend to think for themselves, they don't always think alike. It is thus a pluralistic majority. It is not strictly speaking of a "new" majority at all. It is the same kind of majority that has brought the Party most of its greatest victories—the kind that elected and reelected President Eisenhower, that won for President Nixon, that put Republican Governors into state-houses across the country—that keeps in office the Republican leadership in both Houses of Congress.

It is a majority that emerges for those who reject dogma and adopt an approach of integrity, pragmatism and service; who—as President Nixon urges—lower their voices, speak intelligently, and act responsibly. Because it is a thinking majority, it is not fickle, does not shift with every surge of emotion that sweeps through the electorate. It spoke out loud and clear on November 5.

The three most conspicuous Republican winners were Bill Cahill, the new Governor of New Jersey, Linwood Holton, the new Governor of Virginia, and John Lindsay, the fusion Mayor of New York City. Lindsay's case is interesting because as a Mayor trying to keep peace in a racially embroiled city he became identified with some of New York's more strident ideologues and with old liberal programs that he actually opposed. As a result, he narrowly lost the Republican primary and it was assumed that with a bigger turnout he would have lost by a larger margin. But after the primary he reached out to all the citizens of New York in a moderate responsible tone while his opponents attempted the politics of ideological polarization. Though Mario Proccacino tried to make Lindsay's Republicanism a key issue in the campaign and though Lindsay was under intense pressure to repudiate the Party, he doggedly refused. After the primary defeat when everyone expected him to keep silent and court the Democrats, the Mayor immediately asserted his determination to remain a Republican.

In a sense Lindsay's campaign was in fact more Republican than that of the GOP nominee. The winner of the Republican primary endorsed the Conservative Party candidates for controller and city council president and refused to support the Republican nominees. But Lindsay stuck by his Republican running mates. At the same time he pursued the basic principle of winning Republicanism—to eschew rigid ideology and reach out for new supporters.

The results were a victory for the Mayor and a larger victory for his Republican—liberal running mate for city council president. Though in the midst of putting together a fusion administration, Lindsay has once again indicated to the press he is staying a Republican. Indeed, despite the fact he was not on the Republican line, he was estimated by election statisticians to have split the Party's vote evenly with the official Party candidate.

Like Lindsay, Bill Cahill of New Jersey was a friend and colleague of mine in the House and an early member of the Wednesday Club. He followed a similar strategy of reaching out to gain new supporters for responsible and pragmatic Republicanism. The diverse coalition, including normally Democratic metropolitan labor leaders, Catholics, and blacks, most closely resembled the grouping achieved in previous years by Senator Clifford Case in New Jersey and by Governor Rockefeller in New York. Cahill's monumental victory contrasts strikingly with the equally overwhelming defeat suffered in 1965 by a Republican gubernatorial candidate—Wayne Dumont. Dumont attempted the politics of ideological polarization by basing nearly his whole campaign on the presence of a communist professor at Rutgers.

But the best news of all for responsible Republicanism came from the South, for the South is the region where the politics of ideological stridency and racial exclusion is supposed to be irresistible. This theory has always been weak, because Eisenhower greatly improved his performance in the region in 1956 despite his support for the Supreme Court's desegregation ruling. The two incumbent Republican Governors in the South, moreover, Winthrop Rockefeller and Claude Kirk, both were racial moderates who supported Nelson Rockefeller at Miami Beach.

Now Linwood Holton's victory in Virginia—with the support of blacks and labor—and after an admirably responsible and constructive campaign—offers splendid new vindication for those of us who advocate a southern strategy that reaches out to embrace all the people of the region. The impact of the President's personal participation and of his November 3 Vietnam speech must be assessed. It must be assumed that the President's political foray into Virginia had a measurable beneficial effect. The standard of measurement is somewhat obscured, however, by the fact that the force of the President's national posture was totally ineffective to avert Republican disaster in neighboring Kentucky where the moderate pattern set by Thruston Morton, John Sherman Cooper and Marlow Cook was abandoned.

It must also be assumed that the President's activities in New Jersey contributed to the landslide victory there. Again, the attempt to measure the Presidential impact is complicated by the unexplained and perhaps inexplicable lack of response in neighboring New York and in communities of comparable character such as Pittsburgh. With this imponderable identified, it is then possible to consider other factors that contributed in some way either to Republican difficulties or Republican success.

In closing I would like to comment on the allegation of our opponents in the other party that President Nixon has already adopted a sectional or racially exclusive political strategy. Although I have criticized the Administration for a tendency to overemphasize the South at times, the idea that the President is a captive of the far right is obvious nonsense, as anyone can see who analyzes the President's whole domestic program or saw the intensity of his campaigning for Cahill and Holton.

The President's chief domestic programs in fact embody the two leading themes of national moderate Republicanism: revenue sharing with states and cities and massive welfare reform. The revenue sharing formula is based on population and tax effort and thus is enormously favorable to the cities; the welfare reform exceeds all the Democratic poverty programs in boldness of conception, in responsiveness to the real problems of the poor, and in adequacy of financing. These are not the programs of a President who has resolved on a racially or sectionally exclusive strategy. If they are enacted, in fact, the Nixon Presidency will have done more for the poor—and for the metropolitan states—than any of his recent predecessors.

This is the approach I think the Party should follow. Holton and Lindsay and Cahill all showed the way in their campaigns. I trust the Party in Maryland and throughout the nation will follow their examples—diverse in style and circumstances—but unified in rejecting the politics of polarization, unified in adopting the politics of responsibility and reconciliation—and unified in achieving victory. I hope and trust that their achievement will be repeated often by Republicans in years to come.

American Foreign Policy

(Remarks of Senator Charles McC. Mathias, Jr., at St. John's College, Annapolis, Md., January 14, 1970)

Almost six weeks ago, I introduced in the Senate—with the co-sponsorship of Majority Leader Mike Mansfield and the encouragement of Minority Leader Hugh Scott—a major initiative on the Congressional role in American foreign policy. A joint resolution, to be acted upon by both Houses, it was designed, in Senator Mansfield's words, "to break with the past, to face up to the present, and to prepare for the future"—the future American role in international politics.

The resolution has five sections. The first would repeal four foreign policy resolutions enacted during cold war crises over the last two decades. Technically still in effect, these enactments have been interpreted as relinquishing broad authority to the President to intervene militarily around the world—despite the emphatic constitutional reservation of war powers to the Congress. Included in the repealer would be the Formosa Resolution of 1955, the Middle East Resolution of 1957, the Cuban Resolution of 1962 and the Tonkin Gulf Resolution of 1964. All these resolutions are to some extent based on the principle that the United States is faced with an essentially monolithic international communist movement. They further assume that international communism can be effectively resisted by military intervention whenever a country associated with communism poses a significant threat to the present international order. In the belief that such as-

sumptions should be reexamined before more American lives are lost in their behalf, I am recommending that the four cold-war resolutions be rescinded as of the end of this Congress.

The second section of my resolution would create a special Congressional committee to confer and consult with the President on termination of the national emergency proclaimed by President Truman in 1950 without Congressional endorsement or ratification. This proclamation is still in effect and activates extensive executive powers—some associated with the Korean Conflict, some with the depression of the 1930's and some with more recent cold war exigencies.

In creating the national emergency concept, however, Congress never intended a state of emergency to be the normal state of affairs. Yet since 1933 when Congress first provided one President with national emergency powers, to be activated at his discretion, this authority has lapsed only from 1946 to 1950, and even during this brief period some depression powers were retained.

My proposal on the Korean emergency is designed to initiate a general effort to restrict the President's "emergency" powers to genuine crises which arises too suddenly for Congressional response, and to purposes related to the specific emergency.

The last three sections of my resolution are designed to achieve formal Congressional replacement of the Johnson plan for a military solution in Vietnam with the Nixon plan for a political solution and accelerated withdrawal of American troops. These sections also urge measures to broaden the political base of the South Vietnamese regime; advocate creation of a U.N. peace keeping force to prevent reprisals in Vietnam and propose multilateral programs for reconstruction of war-ravaged areas in Southeast Asia.

In Chile, the communist party, dominated by middle class workers in American owned companies, cooperates with the right to block the radical programs of the Christian Democratic government of Eduardo Frei, backed by the United States. The communists are among the wealthier and more conservative elements. In Europe the communists are looking more like just another socialist party, enjoying affluence, and horrified by the excesses of "revolutionary" youth. Almost everywhere the split between Russia and China is reproduced by internal splits in national parties.

Meanwhile, it is non-communist governments that have recently been expropriating American companies in Latin America. And many non-communist governments trade with North Vietnam, while communist leaders in eastern Europe, afraid of the Chinese, confide to American journalists their sympathy with U.S. policy in southeast Asia.

My point is that what communists say—that is, mere rhetoric—is an increasingly uncertain guide for American military action overseas. If we use it as the justification for intervention we will find ourselves intervening continually, as in Vietnam, in ways that may not contribute to and may conflict with the national interest. My further point is that such an automatic anti-communist policy will isolate us more surely from a world in constant change—the world of the seventies—than any deliberate isolationism we could adopt. In terms of the American form of government, these resolutions as well as unreviewed "emergency" proclamations pose a further danger. They relinquish to the President the war power specifically delegated to the Congress by our founding fathers in the Constitution. Only Congress was empowered to raise armies or declare wars; the President could act independently in his executive role as Commander-in-Chief only to repel attack. From the earliest days of the Republic, and in the debates shaping the Constitution, Congressional war powers were interpreted as applying to limited as well as declared wars. It is only in recent years that Presidents have asserted "inherent powers" and Congress has been lax in maintaining its constitutional prerogatives. I do not believe that Congress should be isolationist—should isolate itself from responsibility for the foreign policies of this country.

This country will inevitably become more, not less embroiled in world affairs as time passes and transport and communication improve and international commerce expands. Congress must participate in this process, or it will effectively abrogate its constitutional role and abdicate from history. No isolation is as complete as obsolescence and atrophy.

My resolution is designed to lead the Congress back into the historic arena of foreign policy—the realm of decisions on war and peace. I do not think this effort is as dangerous as the alternative risk: an increasingly powerful executive, using national emergencies as stepping stones to omnipotence.

I will conclude by quoting the last paragraph of a book, *The Way We Go To War* by Merlo Pusey, which presents these arguments with passion and authority and which I recommend to all of you here.

"If Congress will not authorize a war, limited or full-fledged, after reasonably full knowledge of the facts and sober deliberations, the American people should not be in it. Our first and largest constitutional obligation in the late sixties is to move toward restoration of that principle."

We are now in the seventies. We have had a year more to contemplate the undeclared and ambiguously authorized war in Vietnam. Let us now move to carry out the principle that Pusey declares "our first and largest constitutional obligation."

In future speeches I will discuss these sections on Vietnam policy. Today I want to explore with you the sections dealing with previous cold war resolutions and with the President's emergency powers. I shall discuss the issue of neo-isolationism. And I shall raise the general problem of foreign involvement after Vietnam. For it is my conviction that despite the need for increasing American involvement in world affairs, the slogans of the fifties will never again suffice to persuade the young people of this country to risk their lives in war. We will have to develop foreign policies based on current perception of international reality rather than on ideological preconceptions of it.

I have said that the four cold-war resolutions are based to some extent on the assumption that international communism is a monolithic force—a force that can be effectively resisted by U.S. military intervention, whenever a country associated with communism poses a significant threat to the existing international order. I do not say that all advocates of these resolutions hold these positions. In fact it is difficult to find anyone in authority today who seriously believes in a centrally and effectively directed international communist conspiracy—or advocates U.S. intervention whenever it produces conflict. But these resolutions—as well as many of our international treaties—embody such assumptions.

After all it is only communist aggression or subversion that invokes instant American response without Congressional consultation. And why is it only communist aggression—and in some cases even communist subversion—that is seen as justifying precipitate U.S. military action? Clearly because communism is regarded as a coherent and centrally directed international movement. Otherwise an aggression by a communist state—or communist subversion of an allied state—would occasion no more apprehension than one of the revolving military coups d' etat in any underdeveloped country—or in a developed country like Greece; and U.S. military action would be no more seriously considered than in the case of the civil war in Nigeria.

Still there will be sophisticated analysts who grant that communist is not monolithic or centrally controlled but nonetheless believe that communist associated movements are psychologically inter-connected. These observers, sometimes known as domino theorists, contend that a Vietcong triumph, by a kind of political telepathy, would bring other communist victories around the world. Political telepathy is a hard concept to deal with. I can only point out that experience does not bear it out.

For one example, China was clearly the biggest domino in Asia. Yet when China fell to the communists no other Asian country followed in its wake until Tibet more than a decade later. Furthermore, I would contend that Vietnam is unique. It is the only country in the world where the communists from the beginning led an anti-colonial war against a western power, namely, France; won the war; and then were faced with yet another western power, namely the United States. This point cannot easily be overemphasized. For all the communist talk of wars of national liberation Vietnam is the only anti-colonial war led by a communist; and Ho Chi Minh was a very independent leader who regarded himself as a more important communist spokesman than Mao, and who was friendly to the United States until we started supporting the French colonialists.

Beyond the domino telepathy theory there are several further grave flaws in these resolutions. Communism—communist rhetoric, ideology or trained political leadership—exists in virtually every country in the world today. Almost every significant movement of political change will contain a communist element or will be exploited by communists. Communism—like socialism, democracy, imperialism and other such political designations—is so widespread, so diverse, so fragmented as to evade simple classification or even definition.

HIGH INTEREST RATES

Mr. GORE. Mr. President, the Nixon administration announced yesterday that it would offer a choice of three U.S. securities with interest rates ranging from 8 percent to 8¼ percent.

These new high interest rates are to be offered in replacement of U.S. securities that bear interest ranging from 2½ to 4 percent. This, Mr. President, illustrates the disastrous rise of interest rates on U.S. Government bonds and the tragic and unnecessary burden upon taxpayers.

Recently while visiting in Johnson City, Tenn., I was advised that within that week several hundred thousand dollars in deposits in local banks had been withdrawn and promptly invested in U.S. Government bonds at interest rates exceeding by as much a 2 percent interest which the local banks could pay. This, of course, meant a reduction in credit availability in that community.

These new high rates but worsen this problem in communities throughout the country.

Our democratic society and our free enterprise economic system have achieved for our country a productive capacity unequalled by any people anywhere at any time. We have the resources and the technical skills to bring decent housing and adequate diet; better health services; better educational facilities and the other indexes of a more abundant life to the great mass of our people.

This progress is attributable in large measure to the phenomenal increase in

productivity of American men and women, and to the investment potentials and dynamics of our traditional low interest rate policy.

But these dynamic forces are quelled by the mistaken administration policies of high interest rates.

Though the wages of those who produce goods and provide services have increased substantially in recent years to reach all-time high levels, it is sometimes surprising—and always frustrating—to realize that inflation has wiped out the gains from the pay increase that was so enthusiastically anticipated.

Many who have looked forward to the purchase of a home or perhaps to the enlargement or improvement of an existing home find that they must defer their plans, not because their income is low but because financing is not available at all or is available only on terms that are utterly unreasonable and beyond the reach of the average American.

For many, the dream of a college education for their children fails to materialize because the college loans that have been so widely publicized cannot be found.

Those in the moderate income group must sometimes remind themselves that the prosperity they read about does not exist at all for many of our older citizens in the twilight of their lives and for the disadvantaged who are not equipped for a technological age.

But they do not have to be reminded that all too often for themselves, also, prosperity continues to be a goal not yet achieved.

Inflation, high interest rates and an inequitable Federal income tax structure have eroded the prosperity our system has achieved and threaten the economic growth and stability that we have enjoyed in the 1960's.

Inflation is a complex problem and there is no single solution—no simple formula to bring it under control. I am in no sense unmindful of these difficulties and complexities. It does seem to me, however, that policies that have been followed and which are still being followed by the Federal Government in the name of combating inflation are misguided and actually intensify the spiral of rising prices that must be paid by the consumer. This administration continues to offer as its primary weapon against inflation a policy of tight money and high interest rates. This, I submit, has not worked, it is not working.

Former Secretary of the Treasury, George Humphrey, during the Eisenhower administration had a simple explanation for inflation. He said it was caused by too large a supply of money "chasing," too small a supply of goods. His theory was that if Government acted to reduce funds available for spending, demand would go down and prices would be sure to follow. His theory did not work then, and it will not work under conditions we face today. Moreover, the situation is not the same. What commodity, for instance, is in short supply?

Yet the Federal Government continues to follow a policy of restricting the availability of credit and of pushing interest rates higher and higher. This does not bother the giant corporations too much. As the best and strongest customers, they can borrow what is available in the largest banks and simply add the exorbitant interest charges to the price of what they sell. This, of course, directly boosts the price to the consumer.

Meanwhile, the small business man cannot find credit at all on terms he can afford to pay. Home purchases cannot be financed and serious dislocations develop in our economy.

Eight percent and 10 percent or still higher interest rates have not stopped inflation and they will not stop it. Higher carrying charges on credit purchases and stretched out payments are just as much a part of the cost of living as is the purchase price of the article itself. Too, interest on borrowed money is an important cost of doing business, thus forcing upward the prices of commodities as well as the cost of consumer credit. No economist can gainsay this elementary fact.

Our economy is based upon the availability of credit at reasonable terms. I hope that present policies will be changed before it is too late.

Fully mindful and deeply concerned about these dangers and about these hardships, the Congress last month enacted a bill that gives President Nixon unprecedented power to regulate, roll back and control interest rates. I call upon the President to use the powers in the public interest.

THE SUCCESS OF THE DEBBIE FUND

Mr. DODD. Mr. President, last year, it was my privilege to serve as chairman of the Debbie Fund, which was organized to raise funds to provide a kidney transplant operation for 7-year-old Debbie Krasowski of Milford, Conn.

The people of Connecticut contributed more than $38,000 to give this little girl the priceless gift of life, and I salute the warmth and generosity of the many Connecticut citizens who responded to our call for help for a desperately ill child.

Debbie's father, Eugene, furnished the transplant, and I am very pleased to report that the operation appears to have been a complete success, and both Debbie and her father are recovering nicely.

In addition, I can report with pleasure that, since the money collected was more than enough to pay for Debbie's operation, the surplus was used to purchase a kidney machine for the Yale-New Haven Hospital kidney clinic.

Everyone who contributed so generously in this humanitarian effort deserves our warm thanks, and I regret that I cannot personally thank them all. However, I do want to express my particular appreciation for the time, work, and dedication that Mr. Charles F. O'Dowd and Mrs. Patrick O'Neill of Milford devoted to this project.

Again, my congratulations to the people of Connecticut who made this heartwarming story a reality.

POLLUTION OF THE ENVIRONMENT—ESSAY BY MISS CAROLYN REINES

Mr. PERCY. Mr. President, at a time when so many Members of Congress are concerned about pollution of the environment, the population problem, and the need for agreements to control and cut back the nuclear arms race. I am encouraged by the support we are receiving in these efforts from young people all across the country. Our young men and women obviously understand the urgency of these problems, and they call on us to act before it is too late.

One young person, Miss Carolyn Reines, a senior at Walt Whitman High School in Bethesda, Md., has written an essay in which she states the problems clearly and dramatically. I commend this essay to the attention of the Senate.

I ask unanimous consent that Miss Reines' essay be printed in the RECORD.

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

Speculating about his future has long been a favorite occupation of man. But until the turn of the century, the prediction that man might not survive the next thirty years would have received little serious consideration. That man had inhabited the earth for one million years was proof that he would survive all future contingencies. Today, however, the extinction of the human species is not so alien an idea. Time has been compressed, insofar as technological progress is concerned, so that we have accomplished more in the last seventy years than in the whole history of mankind. But the same technology that has furthered man's knowledge, increased his life span, and enabled him to live in greater comfort has brought in its wake adverse effects that may destroy all the miracles it has wrought.

We are now confronted with such problems as overpopulation and the existence of weapons capable of decimating the entire population, a shortage of natural resources and the use of substitutes and additives that render those remaining resources unfit for human consumption and the environment hostile to life itself. If we do not grapple with these problems now, it is likely that thirty years hence, the human race will no longer exist or that the quality of its life will be so poor as to be worthless. On the other hand, if we marshal the great ingenuity, intelligence, and determination that we possess and direct it towards the solution of these problems, perhaps the era starting three decades from now will come to be known as one of the great ages of mankind.

One of the not so gentle ironies of the contemporary environmental crisis is that man, for all his technological prowess, has been oblivious—through ignorance or through choice—of one of the fundamental laws of nature: that changes do not occur in one part of the complex web of life without engendering changes elsewhere.

Man thought it good to use the land's lush verdure and the dark, silent riches beneath it to build his homes, furnish them, heat them. But he worked indiscriminately and bared the soil so that it could no longer stem floods but only silt the waterways, bared the soil so that the habitats of many living things were gone, resulting in the depletion and extinction of entire species. To process his goods with speed and accuracy, man developed vast industries that operate with harnessed natural energy. But with a rush of ingratitude, the wastes inevitably generated by industrial processes are poured into the water, spewed into the air, and buried in the soil, wherein they do little to ameliorate the chemical content. Man, in an effort to produce larger and better crops, nourishes the soil with fertilizers and treats his plants with pesticides. His tampering with the careful balances in natural systems does indeed kill one predator, only to result in the unnatural proliferation of another. And while his crops

flourish, a man may die from the excess nitrogen in his drinking water, produced by the fertilizer that seeped into the water supply. Man would do well to put the stick of ecological knowledge between the cogs of his machine for environmental alteration before it can arrive at its inexorable destination, the wholesale destruction of man himself.

In quite a different sense, man is now upsetting nature's ecological balance by demonstrating his fecundity at an extraordinarily fast pace unmatched by the death rate. Malthusian logic indicates that within the next generation, an already crowded world will triple its population. It is a matter of equal scientific certainty that the earth cannot support a population numbering six or seven billion. Even up to this point, man has failed to provide adequate solutions to the problems posed by the spread of his own numbers. There is ample evidence even now of how overpopulation can destroy the quality of human life. It gives rise to shortages of housing, water, professional services. It breeds unemployment, crime, illness, and ugliness, in short, the slum and its attendant miseries. In not too many more decades, starvation will not be a phenomenon confined to India or Biafra but a universal situation. All the known applications of agricultural technology will be inadequate in postponing world famine because they will serve only to wreck the biosphere with chemical pollution and bring death to all living things. Posting a "full to capacity" sign on the earth has not reduced the surging tide of new human beings. Only if we give substance to this message with multimedia dispensation of information about birth control and the consequences of overpopulation will it prove effective.

What more eloquent testimony to the versatility of man than the fact that he is gripped in a self-made vise that threatens extinction by overpopulation on the one hand and death en masse by nuclear weapons on the other! Man has been developing techniques of organized warfare for nearly 6,000 years, but only recently has he been able to kill with such efficacy. With a few effortless motions, perhaps provoked by a mistaken radar sighting, man can activate missiles that within moments will decimate a large segment of the world population and condemn the rest to a less precipitate death by nuclear fallout. If man wants to insure his survival, he must halt the production of, and eventually dismantle his nuclear weapons. Yet this most potent threat to survival is less likely to spur remedial action than a slower killer such as environmental pollution. We have, first, no evidence of its presence, no reminder like periodic deaths caused by smog-induced asthmatic attacks. Then, too, we drink from the River Lethe and say that no man would dare to unleash a nuclear holocaust under any circumstances. So we negotiate with the ritual, the hedging, and the deliberation that push a settlement years away despite the fact that expenditures for arms become insupportable, despite the fact that any day, may, any minute, the forces we seek so casualty to ban may descend upon us.

And so the macabre shadows of our own extinction dance on the wall. Only by flooding the room with the bright, often harsh, light of realistic thinking and action can we lay them to rest. A world of health, plenty, and individual creativity, perhaps a halcyon world, awaits us.

THE 52D ANNIVERSARY OF UKRAINIAN INDEPENDENCE

Mr. DODD. Mr. President, January 22 marked the 52d anniversary of the establishment of an independent Ukrainian State.

It was my privilege, on Saturday, January 24, to address a meeting commemorating this anniversary, convened under the auspices of the New Haven branch of the Ukrainian Congress Committee of America.

In my statement I said "the demand for national freedom has become so strong and so universal in the Ukraine that the Soviet terror apparatus can no longer control it."

I related a few cases case histories from the long log of modern martyrs to the cause of Ukrainian freedom.

And I said that I consider it scandalous that the free world and the United Nations have, by and large, remained completely silent about the inhuman persecution of the Ukrainian people and of other national minorities by the Soviet Government.

Mr. President, I ask unanimous consent to have printed in the RECORD the complete text of the speech I made last Saturday before the New Haven branch of the Ukrainian Congress Committee of America.

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

THE 52D ANNIVERSARY OF UKRAINIAN INDEPENDENCE

(By Senator THOMAS J. DODD)

It is always a pleasure to get together with my many Ukrainian friends, and it is, at the same time, always an inspiration to meet with fellow Americans who truly understand the meaning of freedom.

We meet today to celebrate a somber anniversary.

We also meet to renew a solemn commitment.

Fifty-two years ago, taking advantage of the overthrow of the Czarist regime, the Ukrainian people declared their freedom from Moscow's rule and established an independent democratic government.

Their freedom unfortunately was short-lived.

On December 17, 1917, Lenin issued a proclamation recognizing the Ukraine as a completely sovereign and independent state. But one week later, on December 25, the Bolshevik army invaded the Ukraine in force.

In the bitter war that followed, the Red Army emerged triumphant and the Ukrainian people once again became the subjects of a Muscovite tyranny, a far crueler tyranny than they had ever known before.

The persecution of the Ukrainian people under the Communist regime constitutes one of the blackest chapters of recorded history.

Hundreds of thousands of innocent Ukrainians were executed..

Millions more were deported to the slave labor camps of Siberia.

At least five million were deliberately starved to death by Stalin in breaking the resistance of the Ukrainian peasants to forced collectivization.

A systematic effort was made to destroy all sense of Ukrainian nationality by settling the Ukraine with Russian colonists and by discouraging the use of the Ukrainian language.

But despite the ruthless efforts of the Moscow regime to destroy the Ukrainian sense of nationhood, the Ukrainian people, in their overwhelming mass, continued to adhere to their language and their culture and to their centuries-old desire for national freedom.

And today the demand for national freedom has become so strong and so universal in the Ukraine that the Soviet terror apparatus can no longer control it.

In recent waves of arrests, thousands of Ukrainian nationalists have been sentenced to long terms of exile in Siberia.

But new voices have arisen to take their place.

And instead of remaining silent, those who have been exiled have managed to smuggle out of Siberia to the free world hundreds of letters and petitions and statements and documents. Indeed, the Ukrainian resistance movement of recent years has given birth to a massive new literature of freedom, a surprising amount of which has been translated into English and other languages.

The fact that so many documents are reaching the West from the depths of the prison camps of Siberia, not only indicates the existence of an effectively organized resistance movement, but also strongly suggests that high-ranking Soviet officials, including members of the secret police and diplomatic service, are involved in this movement. That is why the Soviet terror apparatus can no longer deal with the situation.

I have recently had occasion to thumb through some translations of the literature of the new Ukrainian resistance movement, and I must say that I found it a very moving experience. It is impossible not to be impressed by the spirit and heroism of these new martyrs for the cause of Ukrainian freedom. To me, it is incredible that crimes of this magnitude could take place and that the world should remain so indifferent to them.

One of the documents which I recently read was the petition addresed to the Ukrainian Supreme Soviet from Siberia by the imprisoned Ukrainian historian, Valentyn Moroz. I would like to quote a few words from this petition:

"The present events in Ukraine are also a turning point: the glacier of terror which had firmly bound the spiritual life of the nation for many years is breaking up. As always they put people behind bars and as always deport them to the East. But this time, these people did not sink into obscurity. To the great surprise of the KGB, for the first time in the last decade public opinion has risen: for the first time the KGB felt powerless to stifle all this."

The Ukraine is supposed to have a parliament of its own and it sits as an independent member nation in the ranks of the United Nations. But when Ukrainian nationalists are sentenced for opposition activities, they are not imprisoned in the Ukraine, but are, instead, deported to the most remote areas of another member state of the United Nations, the U.S.S.R.

No member of the Ukrainian parliament, as Moroz pointed out in his petition, has ever risen to protest against this ridiculous situation, which violates the most elementary rule of national sovereignty.

Moroz is serving a sentence of five years at hard labor. This is lenient as sentences go for the crime of "Ukrainian" nationalism.

The well-known Ukrainian poet, S. Karavanski, who has translated both Shakespeare and Byron into the Ukrainian language, spent from 1944 to 1960 in Soviet concentration camps. In November of 1965 he was arrested again and sentenced to an additional eight years and seven months of hard labor.

But one of the most heart-rending stories I have read involves a young Ukrainian by the name of Yuri Shukhevych who was first arrested on the suspicion of nationalism in 1948 when he was only 15 years old, and who has spent almost all of his life in prison since that time.

Shukhevych was first sentenced to ten years in prison. He was released in 1956; but almost immediately he was rearrested and sentenced to another two years in prison. To me, it was an interesting personal footnote that the man responsible for sending

him back to prison was none other than my Soviet counterpart at the Nuremberg trial, the Soviet Prosecutor General, M. Rudenko.

When Shukhevych was released for the second time in 1958, he was rearrested on the very day of his release and sentenced to an additional ten years in prison.

What terrible crime led the Soviet authorities to sentence a 15-year-old boy to a virtually endless term of life imprisonment? The answer may be known to you, even though his name does not mean anything to most Americans.

The one crime and the only crime of which young Yuri Shukhevych was guilty was that he was the son of General Taras Chuprynka, who commanded the Ukrainian underground resistance movement from 1944 to 1950.

Twenty years in prison has not broken the spirit of this modern day Ukrainian hero.

In July of 1964, the Soviet secret police called Shukhevych in and promised him a pardon if he would write a statement condemning Ukrainian nationalism and also condemning his own father. This he flatly refused to do.

All of these facts were set forth in a stubbornly defiant letter which Shukhevych wrote to the chairman of the Ukrainian Supreme Soviet on the 28th of July, 1967. The text of this letter, too, found its way to the free world with the help of the resistance movement.

The epic heroism displayed by the Ukrainian freedom fighters of today is all the more remarkable when one considers the inhuman conditions under which they are kept in prison.

For example, a recent letter smuggled to the West by a group of Ukrainian political prisoners in a Siberian concentration camp, reported that most of the male prisoners in the camp were seriously ill; that in the sick bay there were only seven beds for 225 invalids; that there are no medicines and prisoners have no right to receive them from their relatives; and that when one prisoner had a heart attack, the camp administration took seven days to transfer him from the barracks to the sick bay.

Valentyn Moroz, in his "Report from the Beria Reservation," told the story of two escaped prisoners who surrendered to a search posse with their hands up. They were mercilessly gunned down, and their bodies were brought back to camp and thrown down inside the gates to frighten other prisoners.

This is the kind of treatment that the Soviet Communist regime metes out to those who are rash enough to demand that it live up to its own constitutional guarantees of freedom of speech and freedom of self-determination!

One would imagine that others would at least be frightened by terror applied in so ruthless a manner and on such a scale. But the terror, as Moroz pointed out, no longer terrorizes people.

When the Fifth Congress of Ukrainian Writers convened in 1965, all of the participants were supposed to be loyal and carefully screened Communists, but the Congress nevertheless became a rostrum from which speaker after speaker rose to defend the right to a national culture and to protest against the great Russian chauvinistic oppression to which the Ukrainian people are subjected.

I consider it scandalous that the free world and the United Nations have, by and large, remained completely silent about the inhuman persecution of the Ukrainian people and of other national minorities by the Soviet government and that they have voiced no protest worthy of the name against the mass imprisonment of intellectuals who demand more freedom for the individual or more freedom for their people.

It may be that there has been no protest movement because the facts are not as well known as they should be. This is something that those of us who know the facts must seek to rectify.

One can have nothing but contempt, however, for those hypocritical liberals who will protest to high heaven against the imprisonment of any suspected Communist by an anti-Communist regime, but who systematically close their eyes to all the crimes of Communism against the dignity of the individual.

On this day, therefore, it is particularly appropriate that those of us who do know the facts should honor the memory of the millions of Ukrainian victims who have fallen prey to Soviet tyranny, and of the hundreds of thousands more who have given their lives in the cause of Ukrainian freedom, and that we should pay tribute to the scores of thousands of modern Ukrainian heroes who are at this moment risking their lives in the resistance movement or serving the cause of freedom in the prisons and concentration camps of Siberia.

The United Nations Charter is supposed to assure the right of self-determination to every people, large and small, primitive or cultured. The United Nations has in fact taken measures to assure this right to primitive African societies, some of them with a total population no greater than the city of Hartford.

I say it is an outrage that this basic human right should still be denied to the great Ukrainian people, a people who are over 40 million strong, who have a proud history and who possess a rich cultural tradition, and who have over the centuries manifested their will to freedom in an unending battle against their oppressors.

But the Ukrainian people *will* be free.

I am not only certain that this is so, but I am confident that the day of liberation is not too far away.

I know that the Ukrainian people will persevere in their efforts; and I hope that we in the free world will have the wisdom and courage to stop kow-towing to Moscow's sensitivities and to give the Ukrainians and the other captive peoples the moral support to which they are entitled.

A SEPARATE AGENCY FOR FEDERAL CREDIT UNIONS

Mr. SAXBE. Mr. President, currently a bill, H.R. 2, to provide for an independent agency supervising federally chartered credit unions is on the Senate calendar. Before this measure comes to the floor of the Senate, I should like to comment upon it and the proposed amendment No. 271, bringing out some facts I feel pertinent to the consideration of the bill by Senators.

The Federal Credit Union Act was passed by the 73d Congress on June 26, 1934. During the past 35 years the organizations created as a result of this act of Congress have grown in terms of assets from a net balance of zero to an estimated $7.8 billion.

Supervision of these membership-owned credit unions has shifted from the Farm Credit Administration to the Federal Deposit Insurance Corporation, and then to the Bureau of Federal Credit Unions.

Today we find credit unions supervised by a bureau in the Social Security Administration which is, in turn, a part of the Department of Health, Education, and Welfare. Such an arrangement is no longer adequate to meet the needs of our Federal credit unions; and H.R. 2 proposes to establish an independent agency.

For the past several years the Federal Credit Unions Bureau has reported:

> The Bureau of Federal Credit Unions is self supporting. It is financed through fees charged to Federal credit unions for chartering, supervision, and examination servıces.

The Bureau of Federal Credit Unions is one of the few self-sustaining Government agencies. And the creation of a National Credit Union Administration would not increase the national budget 1 cent. Credit union people everywhere are proud of the fact that they pay more into the Bureau than is expended for services rendered.

Ohio has approximately 750 credit unions which have, independently and through their State organization, expressed their desire to have H.R. 2 enacted by the 91st Congress. Credit unions have a far greater stabilizing effect on our national economy than is generally recognized. Leaders of industry, commerce, education, labor, church, and government agree that credit unions have been good for our people. We in government have the need to clear the way for the creation of a supervising authority which will be responsive to the needs of the people and to insure the future growth of this great program.

The amendment No. 271, sponsored by the Senator from Utah (Mr. BENNETT), the Senator from Texas (Mr. TOWER), and the Senator from Massachusetts (Mr. BROOKE), proposes to establish a Federal system of insurance for credit unions. Opposition to this amendment should not be directed to the merits of the amendment, but to the fact that the amendment is of such magnitude that it should stand as a separate piece of legislation. When the standing committees of the House and Senate considered H.R. 2, the subject was casually referred to, but the question was never weighed on its merits.

Legally, the shares—savings—in a credit union represents an investment in the stock of the credit union, and no company insures the value of a share of stock. This is a departure from the concept of the relationship of the credit union and its members. There is a precedent for the shares of a corporation to be insured. This occurs when a mutual savings and loan association participated in the FSLIC insurance program.

A comprehensive study of the need of share insurance for credit unions should be made. The experience of efforts to insure credit union shares is inadequate to accelerate the implementation of such a program.

During the 1960's there was an effort to create a share guarantee program in the State of Illinois. The assets of this corporation were liquidated without loss to the supporters of the fund. Massachusetts has had such a program for a limited period of time—about 2 years. To date no bad experience has challenged the ability of the fund to meet the demands made upon it. The Wisconsin State Legislature has recently enacted such a statute—no experience to date. Information has reached my office that the formation of such a plan may be

forthcoming in my own State in the very near future.

Further, FDIC and FSLIC have powers not bestowed upon credit union insurance corporations. They can control deposits and accounts, mitigating their losses and extending them over a period of years.

The dramatic development of credit unions since the Korean war gives reason for us to examine the question of share insurance for credit unions on a national basis instead of on a piecemeal basis by individual States. Reliable sources of information indicate that this is a highly controversial question on which strong voices from both sides seek an opportunity to be heard.

I hope Senators will give the bill careful attention and, following the recommendation of the majority of Senators on the Committee on Banking and Currency, vote to provide an independent agency to care for the affairs of the Federal credit unions; and that they will allow insurance for the financial institutions to be provided by separate legislation rather than as a rider to this bill.

EDUCATION FOR ALL—I

Mr. PROXMIRE. Mr. President, recently the U.S. National Commission for UNESCO unanimously endorsed a resolution supporting U.S. ratification of the UNESCO Convention Against Discrimination in Education. As I support and urge ratification of other Human Rights Conventions, specifically those dealing with forced labor, women's rights, and genocide, I am equally convinced that the United States should soon ratify the Education Convention.

Basically, the convention follows the generally accepted American tradition of guaranteeing equal educational opportunities for all without discrimination as to sex, race, or religion.

Prefacing its analysis of the Education Convention, the National Commission for UNESCO delves into the American position on the human rights conventions in general. The Commission finds that the U.S. position on human rights has been "an anomaly." The United States has been a leader in drafting human rights conventions; and we have taken bold steps to insure that all our citizens are in fact given equal rights and equal opportunity. But for some unexplained reason, we have lagged far behind in ratifying the human rights conventions.

I ask unanimous consent to have printed in the RECORD excerpts from the U.S. National Committee for UNESCO's discussion of the historical background for America's posture on the human rights conventions. At a later time, I shall discuss the Convention on Education in some detail and argue why I feel this body should ratify it.

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

THE U.S. POSITION

The position of the United States on human rights treaties by the United States generally has been an anomaly. The United Nations Charter, adopted in 1945 and ratified by the Senate made recognition of human rights a basic principle of the new international organization. Its purpose clause asserts that it is to promote human rights "without distinction as to race, sex, language or religion". To achieve this purpose the members "pledge themselves to take joint and separate action".

UNESCO's constitution has a similar provision. The support of UNESCO for education of a non-discriminating basis is basic. The United States, one of the original members of UNESCO, has been a consistent supporter of its purposes and objectives.

In 1948, the United Nations adopted the Universal Declaration of Human Rights. This document to a large extent was the handiwork of the United States Delegation and particularly of Mrs. Eleanor Roosevelt. It provided that "Everyone has the right to education without distinction as to race or colour."

The Universal Declaration of Human Rights was, as its name indicates, solely a declaration of principles. It was a written recognition of the objectives of the international community. Like our own Declaration of Independence, it was not law but a statement of principles. Specific treaties had to be drafted, just as the Bill of Rights and statutes had to be drafted in our own country.

A series of these treaties (or conventions) have been drafted over the years. The United States was an active and leading participant in their drafting. But for a number of years, despite the leadership of the United States in the matter of equal rights in its own national history and despite its leadership in the preparation of human rights treaties, it had been a laggard in the ratification of these treaties.

Much of the failure in our own country to act can be traced to the opposition by Southerners to the Genocide treaty. This dates back to 1948. The history of this opposition and its effect on subsequent treaties is set out in more detail in a paper presented by the chairman of this committee at the University of California in April 1969.

Suffice to say that it was not until 1967 that the Senate finally ratified a U.N. human rights treaty, one respecting slavery. A second one, dealing with refugees, was subsequently ratified in 1968. The failure to ratify these treaties has usually been justified by raising constitutional questions but the real reason appears to be political. This committee considered both the constitutional and the political objections. It believes there are no sound reasons for not ratifying these two treaties from a constitutional viewpoint.

If it appears desirable to assert an understanding or even a reservation as to the race treaty for reasons hereafter noted, this can be done. As to the education treaty which does not recognize reservations, if it were indicated, an understanding might accompany its ratification. In the past, reservations or understandings have been used by governments to clarify their understanding of provisions open to different interpretations and even to except themselves from specific language they construe as conflicting with their own legal system or historic traditions.

The U.N. treaty specifically provides for reservations. The Unesco treaty does not recognize reservations but this should not bar the United States from conditioning its ratification on certain understandings if they are really essential.

The Special Committee of Lawyers of the President's Commission for Human Rights Year, although dealing with the broad problem and not a particular treaty, concluded as follows:

"It may seem almost anachronistic that this question continues to be raised. It is nearly a quarter of a century since this country used the treaty power to become a party to the U.N. Charter one of whose basic purposes is the promotion of human rights for all. The list of parties to the various human rights treaties proposed by the U.N. has become longer each year. In each of the last 2 years the U.S. Senate has approved a human rights treaty without a single dissenting vote. In December, 1968, the Chief Justice of the United States noted that, 'We as a nation should have been the first to ratify the Genocide Convention and the Race Discrimination Convention.' And yet the suggestion persists that this Nation is constitutionally impotent to do what we and the rest of the world have, in fact, been doing."

With respect to the constitutionality of the education treaty, it is the expectation of the committee that a separate law memorandum will become available.

On the question of political considerations, the committee feels that this is a matter which can be appraised by the whole Commission. The committee, however, believes that this should not be a factor in determining the merits of the recommendation.

This leads to a more specific consideration of the two treaties.

SURRENDER OF WHEELUS AIRBASE TO LIBYAN GOVERNMENT MAY ENDANGER ISRAEL

Mr. YOUNG of Ohio. Mr. President, our Government constructed and maintains at great expense the Wheelus Air Base in Libya. This major airbase cost American taxpayers more than $77 million. It has been maintained over the years at huge expense.

At the present time there are approximately 3,000 airmen, mechanics and office personnel of our Armed Forces stationed at Wheelus Air Base. In addition, there are some thousands of civilian personnel. Also, dependents of officers and men of our Armed Forces live at and close to this airbase.

Nearly 10 years ago, officials of our Government signed an agreement with King Idris of Libya whereby we agreed that in event our Government withdrew its Armed Forces from Wheelus Air Base we would give over to the government of King Idris all permanent nonmovable buildings without any cost whatever.

Well, late last year King Idris who had been regarded as one Middle East potentate who was exceedingly friendly to the United States was suddenly overthrown in a midnight coup conceived, so it is said, by President Nasser of Egypt and a group of army officers of Libya who are militantly pro-Nasser. Almost immediately after these officers commenced governing Libya, that country, in the dictatorial manner army officers invariably govern as is evident in Athens and elsewhere, made it crystal clear that our nation should remove its officers and men from the Wheelus Air Force Base and that the Libyan Government would take over. Then, in late 1969, our Government yielded to this duress on the part of the Libyan officers then in power and agreed to abandon Wheelus Air Base by June 30, 1970.

Americans should know that the treaty agreement made with the government of King Idris nearly 10 years ago should not be considered as binding upon our Government as his government has been overthrown. Yet, officials in the executive branch of our Government are

proposing to turn over and give to the new military Government of Libya all permanent buildings at this airbase without any compensation whatever.

Unfortunately, instead of receiving substantial payment for some 985 large buildings on and adjacent to this air base our Government officials are proposing to abandon this entire base and the buildings intact without even moving more than a small fraction of the contents receiving no compensation or payment for permanent structures. However, American taxpayers although suffering a great financial loss due to this take over by the pro-Nasser government of Libya may find slight comfort in the fact that our officials are asking for some payment even if at a huge discount for radio equipment, transmitters and the contents of a high radio tower there and also for some of the readily movable equipment. Apparently, everything else will be abandoned and given free to those pro-Nasser generals now governing Libya.

Mr. President, I feel that Americans should know that we are continuing the policy pursued over recent years of training Libyans in technical airbase training and in military operations. Since we are so generous in giving these permanent buildings at Wheelus Air Base intact to the generals now governing Libya, they will be free commencing next July 1 to give over the use of this airbase to the Egyptian Air Force if they so desire. They certainly may feel free to operate the Wheelus Air Base in conjunction with the air force of President Nasser of Egypt as a joint operation and make this a huge base for training exercises for Egyptian and Libyan air personnel in operations against the state of Israel which we Americans helped create and have an obligation to help maintain, not to help destroy.

Mr. President, in my view, administration officials should receive ironclad guarantees from the ruling junta in Libya that Wheelus Air Base will not be used to further the cause of Nasser's aggression. Otherwise, we should demand compensation for the buildings and material left behind or see to it that they cannot be used for military purposes in the future. If the Libyan Government does not accede to this, then we should forthwith stop training any Libyan Air Force personnel and return those now in our country to their homeland.

There is no threat whatever to Libya's security. The only possible purpose for training these future pilots is for their use in another war of aggression against the valiant nation of Israel, the only true democracy in that troubled area of the world.

A SALUTE TO MARY BRANNEGAN

Mr. DODD. Mr. President, a wonderful woman who has devoted her life to public service was recently honored by her friends and associates, and it is a privilege for me to bring this achievement to the attention of the Senate.

Mrs. Mary Brannegan, of Pawcatuck, Conn., has been chosen as "Woman of the Year" by the Napatree Professional Business Women's Club, Westerly, R.I./Pawcatuck, Conn.

Mrs. Brannegan is an old and dear friend. She is a delightful person, a kind and generous woman, and a competent and efficient worker, who gets things done.

She is well known in eastern Connecticut and has made many friends through her years of service as clerk of the probate court. She has long been deeply involved in civic affairs and now serves as president of the Democratic Women's Club of Stonington.

"Woman of the Year" is an honor that Mary Brannegan richly deserves.

THE PEOPLE SUPPORT THE PRESIDENT

Mr. GRIFFIN. Mr. President, the latest Gallup poll shows support for President Nixon's Vietnam policy has reached its highest level to date.

Thus, while some continue to carp, or criticize, or complain that the President is not doing this or that, it is significant that the Nation as a whole seems to be in remarkable agreement with Mr. Nixon.

This is far too important a point to be allowed to slip into yesterday's newspaper files. This Nation has survived—but just barely—a period of deep divisiveness and of national bickering and tension seldom witnessed in the 20th century. And we have done it by following Mr. Nixon's admonition to lower our voices, to stick with reason and not allow ourselves to be carried away with rhetoric.

The surveys undertaken by the Gallup organization indicate that most Americans support the President in Vietnam policies and the way he is handling the situation.

Mr. President, I ask unanimous consent that a New York Times article entitled "Sixty-Five Percent in Poll Support Nixon Policy on Vietnam," be printed in the RECORD.

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

[From the New York Times, Jan. 29, 1970]

SIXTY-FIVE PERCENT IN POLL SUPPORT NIXON POLICY ON VIETNAM

PRINCETON, N.J., January 28.—Support for President Nixon's Vietnam policies is holding firm, the Gallup Poll reported today.

Sixty-five per cent of Americans interviewed in the latest survey said they approved the way Mr. Nixon was handling the situation.

Disapproval came from 24 per cent, while 11 per cent did not express an opinion.

Interviewing for the latest survey, in which 1,460 adults were reached in personal interviews, was conducted Jan. 16 to 19. The previous survey on the subject, conducted Nov. 14 to 17, followed the President's Nov. 3 speech to the nation on Vietnam, produced the closely comparable approval rating of 64 per cent.

The approval ratings given the President in the January and November surveys represent his highest scores to date.

NOT TOTAL ENDORSEMENT

President Nixon's announcements of troop withdrawals have won him considerable support. The surveys indicate that Americans for the most part believe the President is doing everything he can to bring about an early end to the war.

However, the high vote of approval currently accorded Mr. Nixon does not necessarily represent total endorsement of his Vietnam policies.

A recent Gallup survey showed 41 per cent of people interviewed in favor of the immediate withdrawal of all troops or their withdrawal by the end of the current year. Eleven per cent favored sending more troops to Vietnam and stepping up the fighting, while 40 per cent said that troops should be withdrawn at a rate commensurate with South Vietnam's ability to take over the fighting.

Following is the question asked in the current survey in about 300 localities across the nation:

"Do you approve or disapprove of the way President Nixon is handling the situation in Vietnam?"

Following are the latest results and trend:

	Percent		
	Approve	Disapprove	No opinion
Latest	65	24	11
November [1]	64	25	11
October	58	32	10
September (late)	52	32	16
September (mid-)	45	40	15
August	54	28	18
July	53	30	17
June	52	24	24
May	48	27	25
April	44	24	32
March	44	26	30

[1] Nov. 3 Vietnam speech.

Most likely to express approval were men, persons with a college background, respondents who were 30 years of age and older, persons living in the Midwest or South and Republicans.

ASSOCIATION RECOMMENDS HALT FOR PLEDGE OF ALLEGIANCE

Mr. BYRD of West Virginia. Mr. President, according to an Associated Press story, principals in New York City's 63 academic high schools have been asked to eliminate the Pledge of Allegiance as a school-opening ceremony.

The request was made by the city's High School Principals Association, following a Federal court ruling that gave students the right to refuse to recite the pledge.

Mr. President, I feel that the association's decision to eliminate the Pledge of Allegiance was a most unfortunate one. In an effort to appease the few students who refuse to recite it, the association has decided to take away from all the students the opportunity to openly pledge allegiance to the flag of their Nation.

Just as unfortunate as the principals' decision, however, was the court ruling that precipitated it. New York State law requires that the pledge be recited in each classroom before the start of each school day—or, at least, that was the law until the Federal court decided otherwise.

Mr. President, perhaps the most telling line in the news story explains that the city has not yet appealed the ruling of the Federal court. City officials, no doubt, are aware of how futile an appeal to a higher Federal court would be—at this time.

The story to which I refer appeared in the Charleston Daily Mail on Monday, January 26.

I ask unanimous consent that the news story be printed in the RECORD.

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

NEW YORK PRINCIPALS URGED TO HALT PLEDGE TO FLAG

NEW YORK (AP).—The High School Principals Association has called on principals of the city's 63 academic high schools to discontinue use of the Pledge of Allegiance each school day.

In a letter mailed to principals today, the association's executive board said the confused legal status of the mandatory pledge made it difficult to conduct the daily ceremony.

About 240,000 students attend the 63 academic high schools.

State law requires that the pledge be recited in each classroom each school morning. But a recent ruling in federal court gave students the right to refuse to recite the pledge.

U.S. Dist. Judge Orrin G. Judd ruled last month that two 12-year-old girls who did not recite the pledge and remained seated during the ceremony were within their rights. Judd said the girls had the right to remain seated until the school could prove their dissent "materially infringed" on other students' rights.

The city has not appealed Judd's ruling.

A spokesman for the city's elementary schools said no suspension of the ceremony was planned.

C. HOWARD HARDESTY SPEAKS ABOUT THE COAL INDUSTRY

Mr. BYRD of West Virginia. Mr. President, a West Virginian, Mr. C. Howard Hardesty, Jr., senior vice president of the Continental Oil Co., recently made a speech in which he discussed both the opportunities and responsibilities that lie ahead for the coal industry. The executive made his remarks in London, at a meeting of the British Coal Industry Association.

Mr. Hardesty predicted that coal consumption will continue to increase, and that expanded research will result in new uses for coal. However, he also called on industry leaders to throw their weight solidly behind the fight against pollution, and said that a good portion of the future research should be devoted to the development of antipollution programs.

This call was very timely, Mr. President, because the United States today finds itself embroiled in a battle for survival against air and water pollution. If we are to win that battle, then we must enlist the aid of industry. Mr. Hardesty's speech and previous efforts put forth by the coal industry show an awareness of the problem that confronts our society—an awareness that technological advancements that result in environmental pollution represent artificial progress at best, and could, in fact, ultimately bring about the end of society as we now know it.

To be sure, the coal industry has already made significant progress in combatting pollution. For example, new uses have been found for fly ash, tons of which are sent annually into the air we breathe. I am hopeful that this progress will continue, and that the Federal Government and the industry will move forward together in the field of coal desulfurization.

The time has come for all of us—Government, industry, and the individual citizen—to realize that our responsibilities regarding pollution go much further than simply putting our trash into litter baskets.

Mr. President, Mr. Hardesty's speech is most informative.

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

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

ADDRESS BY C. HOWARD HARDESTY, JR., THE COAL INDUSTRY SOCIETY, LONDON, JANUARY 5, 1970

While in Australia this past year, I participated in the Third International Conference on Clean Air. I was introduced by the Head of Victoria College where our meetings were held, who said: "I can't quite figure out the relationship between Continental Oil Company and Consolidation Coal Company, but since we are talking about air pollution, Mr. Hardesty should wear his coal hat." Having served Consolidation Coal for several years prior to its acquisition by Continental, I defensively replied that I didn't think the coal industry had a monopoly on pollution and I hoped that during the course of our meetings I could clear the air of that impression.

That little colloquy will serve to paint the backdrop for my talk today. There are still too many people in this world who think of the coal industry as "pick and shovel," "sooty chimneys", "belching smokestacks" and far too few who recognize it for what it is—a vibrant, aggressive, modern, mechanized provider of vast amounts of low cost energy. It constitutes a compatible part of modern society. Its main problem today is to keep pace with demand.

It's not only my pride of the coal industry that brings me here. Our new 80,000 bpd refinery at Immingham, our joint venture with the Coal Board in the North Sea gas reserves, our chemical interests and our outstanding group of British managers make London a second home. For these reasons, I am grateful for your invitation to be here today.

Let's take a moment to place the operations of Consol in proper perspective. It is the world's largest coal company. Last year its production exceeded 60 million tons against reserves of approximately 9 billion tons. The company has 50 mining operations in 7 states and Canada, and as a result of capital commitments annual production will increase to over 80 million tons in 1975. It is this size and growth, fostered by an insatiable demand for energy from fossil fuels that fires our desire to alter the 19th Century image—the horse and buggy image—of the coal industry.

It has not always been so. When World War II ended, coal supplied slightly more than half of America's energy needs. Only 15 years later that shrank to 23 percent. At that time the future of coal in the energy industry reminded me of an incident that Harold MacMillan related in his memoirs. He was a young officer in the Brigade of Guards which has always mounted at St. James Palace. He said: "The fact that the monarch had thought fit, more than a hundred years before, to go and live elsewhere, at Buckingham Palace, did not seem to the Brigade of Guards any reason for altering their own habits."

That's the way some people felt about the energy industry and the place for coal in it. The industry had gone somewhere else and only an unlikely return to the halcyon days of comfortable habits would bring back a market for coal. But the prognosticators were quite wrong. Their doubts and fears were reminiscent of Mark Twain's cable from London: "The reports of my death are greatly exaggerated."

When Continental Oil and Consolidation Coal merged in 1965, Consol was producing a record 49 million tons annually. Five years earlier, the Company's output had been only 29 million tons, and so its increase was 68 percent compared to the healthy, but smaller, industry gain of 20 percent.

Looking still farther ahead, we are projecting a growth rate for Consol exceeding the Bureau of Mines forecast for the industry as a whole. The Bureau predicts that the 1980 tonnage will be 737 million short tons or an increase of 57% over 1965's production.

Now, what caused such a dramatic turn around in the coal industry? The answer is, of course, directly related to the massive needs of the electric utility industry for coal as a power source. The annual growth rate for consumption by electric utilities in the United States between 1963 and 1968 was a little over 7 percent per annum—a little higher than your own rate of increase. For us, that increase made the difference in consumption between the 1963 needs of 209 million short tons and the 1968 need of 295 million.

Granted, during the same period, we were losing retail sales at the annual rate of nearly 9 percent, but that drop involved a loss of only 8 million tons while at the same time we were gaining 86 million tons of sales to the electric utilities.

At the time Consol became a part of Continental, its growth rate was outdistancing the growth rate of the United States economy—which was itself at one of its own high points in history. The Federal Power Commission expects per capita consumption of kilowatt hours to reach 10,600 by 1980 as opposed to 6,000 in 1965. To meet this burgeoning demand, the electric generating capabilities must double by 1980.

I apologize for burdening you with so many statistics at the very outset. I do so, however, not so much for the figures themselves but because they provide a perspective on some thoughts about the future of the coal industry. And that future must, of course, be with quantities, but equally, I believe, there must be a concern about industry direction.

The quantitative need is going to grow. Taking 1960 as a base year, Japan more than doubled her imports of coal by 1965. In the same five year period. Canada increased her imports by 25 percent; Belgium by 75 percent; Spain by 80 percent. The need for coal is world-wide.

I spoke a moment ago of the losses of important coal markets. It is not my intention today to suggest that those losses could have been avoided. What I will suggest is that we *could* have done a better job in projecting the public's needs. We *could* have done—and now *must* do—a better job of preparing our industry to meet future needs.

Coal has, I fear, been slow to sense the direction of change. The coal industry has failed to understand the vital need for what might be called an "Early Warning System" for the major environmental forces which will confront us in our business planning for the next decade. There has—at least in the United States—been a tendency to merely *react*. In my opinion, the leaders of an industry should be able to anticipate and, by so doing, help to shape the course and the character of our business environment, rather than be shaped by a tide of public opinion. We ought to have imaginative ideas coupled with practical action. We ought, in short, to be more attuned to what the people who make up our business environment want from us.

Everyone of us knows that the public demands for cleaner air and water are sincere and deep-seated. In the States there is already good evidence that the anti-war fervor will soon focus on anti-pollution goals. Recently at a football rally at the University of

California, a cheer went up: "We want out of Vietnam, we want to end pollution, and we want to beat Stanford." While "Three cheers for so-and-so" may be easier to pronounce, the messages of today's generation come through sharp and clear.

In short, we cannot rest comfortably about the future of our industry. There are constant as well as changing challenges to the viability of our industry. I believe that the image of the mining industry has grown out of a failure to recognize the rapid change and evolution of society's desire before they became demands. The rosy picture painted by increased demand must not blind us to the problems ahead as it has done so frequently in our cyclical past.

If we have the capacity for an Early Warning System, what would it be telling us now? I think the message is two-fold:

First, we must improve the mining process in today's context—in other words, *as it is*. We must identify and define the problems and then move to improve them.

Second, and here is where the Early Warning System really begins to function, we must approach the mining process from the point of view of what it *should be*. We must attack the roots of the problems and go far beyond what has in the past been considered as normal research. These considerations apply to all phases of the mining cycle.

In a sense, these two approaches might be described this way:

First, what the industry can do by itself.

Second, what the industry, government, and the academic community can do together.

There is mounting pressure in the States to develop the breeding ground for the second—cooperative—approach. What that proposal foresees is the development of a "Systems Approach" not unlike the overall effort that has made the Apollo flights to the moon possible. And, again, not unlike the moon effort, it will involve research and monies that individual companies find impossible to allocate.

Presently, our government spends at least $150 million a year on development of civilian nuclear reactors. One United States Senator has suggested that a third of that amount spent over the next ten years would fully develop the energy potential of coal.

What would a Systems Approach to coal entail? Basically, it means that we would accept as common goals, the need to produce, transport, and use coal at low cost, in high volume, and with minimal threats to the nation's environment and the industry's own workers.

It rejects the notion that a problem like mine safety is the inevitable result of industrialization. It recognizes such problems as the byproduct of past technology.

Why a Systems Approach? I believe that this is no time to settle into a comfortable and carefree marriage with electric power. At some point this market will be largely occupied by atomic generation. Thus, our real challenge is in the area of conversion to liquid and gaseous fuels and we must be working harder in that direction.

But this is no time to think in terms of one problem and one solution. If, for example, we take the problem of mine safety, we could approach it two ways: in terms of present technological opportunities or in terms of developing a whole new mining system. The first produces interim solutions which are subject to change. The second assumes that inherently safe systems can be developed if we are willing to rethink the process *and* have the money to do so. The first assumes that mining technology is evolutionary and not subject to pre-planning. The second says that technology can be directed.

But mine safety is only one vital issue which an Early Warning System would have alerted us to. Other crucial problems include:

1. Pollution abatement.

2. Our ability to improve working conditions.

3. The recruitment of more supervisors and managers in the industry.

Let's take them in that order. First, the pollution issue. The plain fact is that the quality of our lives is bringing us into closer contact with our outdoor environment. We are no longer quite so dedicated to our jobs as were our grandfathers or our fathers. We achieve a higher degree of material security at a fairly early age. Suddenly we find outdoor pursuits open to us in a way that was not previously known, whether it be in golfing, swimming, boating or fishing. Each activity brings us in closer contact with nature. Each makes us more aware of the increasing assault on the environmental quality of our lives—be it in the city or a favorite weekend retreat. That is why pollution abatement must lead any list of environmental factors that affect each of us and our industry.

From one coast of America to the other, there has been a so-called "new wave" of people—of conservationists and environmentalists turning to action programs. A co-founder of the Yippee movement put it this way: "There is a role for everybody in ecology." University students are writing and distributing environmental newsletters. What is already lost in the anti-pollution frenzy is a realization that industry itself is a major *victim* of the pollution problem. It is an economic liability to us. We must not lose the perspective that industry can be a major contributor to the solution of the problem, but we cannot *alone* solve the problem.

One example is worth a plethora of conjecture (every American should be entitled to one pompous statement before any British audience). Let's turn around the cries for ending sulfur dioxide emissions. Today's slogan is simple: "More energy!" The public demands it, but we in the coal industry are as shy as babes in the woods about consequences.

The great blackout of the Atlantic states a few years ago produced more than its share of vehement protests. But, they all sang the same tune: "The electric utilities had failed their publics." No one observed that in many cases the publics had failed their industry. New sites for generating facilities had been rejected by the public. Pollution—be it SO_2 or nuclear waste—had to be kept out of the suburbs, so said the suburbanites. Alternatives were not mentioned—much less considered. Now, I grant you, perspective is seldom a stable thing. But someone had better start working to make it more stable.

It is nearly impossible to predict accurately fuel and energy availability and requirements, technological advances or economic and environmental acceptability over the next 50 years. However, some significant trends can be identified, and coal is very much a part of them.

1. The U.S. Federal Power Commission now states that the 1970 requirement, including reasonable reserves, for electrical generating capacity is nearly 344 million kw. This requirement is expected to nearly double by 1980 and exceed 1.25 billion kw in 1990.

2. There is an upper limit to the amount of energy generation that can be accommodated. Some factors must cause a decline in growth. For example: (a) Heat rejection—since ultimately all fuel used ends up as heat given up to man's environment, we shall one day, perhaps in the twenty-first century, reach the point where continued increase in energy consumption will dramatically change the earth's temperature. (b) Pollutant build-up—as with heat rejection, even allowing for the most advanced control methods, the slow increase in concentration of materials ejected into man's environment during energy generation will ultimately result in the need to curtail expansion. (c) Space limitation—local problems with cooling water, air pollution, and plant siting (and transmission systems) are even now becoming inhibiting factors in the growth of energy generation.

3. Fuel availability and use patterns are dependent upon supply and certain technical developments. Projections indicate a reduced availability of natural gas supplies in the United States within 20 years and petroleum products in 30 years.

Nuclear generation is growing but not as rapidly as previously expected. It will not account for a major portion of the energy generation for another 30 years.

If we begin to think in terms of energy alternatives in conjunction with anti-pollution alternatives, we will have made a major step forward in viewing the quality of our lives in proper perspective. The same type of analysis will apply to our other mining needs.

As still another example, safety of our employees has prompted a new mine and safety bill to be adopted by the Congress of the United States. Having participated actively in drafting the legislation, I believe we have run out of the time for passive compliance; it is a time of aggressive programs.

And, even beyond the intrinsic value of the programs themselves there is the need for progress as an incentive to find the best supervisors and the best managers for our industry. Recruitment depends upon a turnaround in public opinion as much as a turnaround in the need for the product—neither is accidental, both are the result of intensive and well planned work.

There is no question but that the mining industries have lost some of their glamour as career opportunities. The fact that you and I know that the glamour is basically still here doesn't mean that others have the same insight. You and I can predict that through expanded and imaginative research efforts we will reach the point of liquidfaction and gaseous conversion—at least by the time that nuclear power is available in realistic quantities at down to earth prices. We are looking ahead to an innovative time in our industry—a time when we move in the public interest and ahead of public opinion. But so far we have failed to communicate that story.

We are looking ahead to new communication systems from mine to surface, to new roof support systems, to innovations in long wall systems and to high velocity hydraulic mining. Each and every one of these developments could be part of a Systems Approach to this industry.

In short, we face the need to improve the image of the industry so that it will more accurately reflect the modern conduct of our activities. I think that improvement could be more systematic than it is at present. Certainly image and conduct are not divisible. If our conduct is found wanting, no skillful public relations man will be able to put our house in order. But, if our image is negligible, we may find ourselves incapable of progress. We have the capacity to do part of the job. To achieve the best results we will need the commitment and the help that can be provided by government and the academic community joining our partnership. Today we think of those other two forces as providing the demands on our conduct as an industry. With a new orientation, I believe they can share the opportunities of our industry. As for the responsibilities, you will find as a playwright once observed: "The fault is not in our stars but in ourselves." I see no reason to be stingy about sharing those responsibilities with our publics—be they consumers or academicians or government leaders. I do believe that in an age when satellites fill the skies, when the President talks to the moon, when computers speak and lasers flash, that we, in the energy industry, can achieve goals undreamed of by our fathers. I know we have the capacity, I trust we have the determination.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

NEWSPAPER PRESERVATION ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (S. 1520) to exempt from the antitrust laws certain combinations and arrangements necessary for the survival of failing newspapers.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the bill.

The Senate resumed the consideration of the bill.

Mr. HRUSKA obtained the floor.

Mr. MANSFIELD. Mr. President, will the Senator yield, without losing his right to the floor, so that I may suggest the absence of a quorum?

Mr. HRUSKA. I yield.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. I thank the Senator from Nebraska for yielding.

The VICE PRESIDENT. The Chair recognizes the Senator from Nebraska.

Mr. HRUSKA. Mr. President, in S. 1520 we have a bill which, as amended, has for its purpose the granting of limited anti-trust exemptions to past agreements which meet the tests of this bill and to make available this method of insuring newspaper stability to other newspapers in danger of financial collapse, after the passage of the bill.

Before I go into the history and the circumstances that gave rise to this legislation, I should like to recall to the Senate the fact that it was the one-time senior Senator, for many, many years, from the State of Arizona who introduced this bill 3 years ago. It was Senator Hayden who introduced, sponsored, and advocated the enactment of this legislation. It was not completed before he left the Senate and retired to his well-earned rest after his wonderful and very fruitful career as a Member of Congress for so many years.

However, the occasion for this bill and for legislation in this direction has been occasioned by the heavy fatalities in the field of newspapers. The statistics are to be found in the report. I shall not detail them at this time. It became increasingly clear, however, as time went on, that unless some steps were taken to effectively deal with the economics and the financing of newspapers, many more would drop by the wayside and would be completely obliterated.

A number of factors entered into this situation. One was the spiraling of labor cost increases. Another was the greatly increased cost for the replacement of machinery and equipment. Still another was the substantially increased cost of newsprint and other materials necessary. The fourth factor was the tremendous growth of suburban newspapers, regional editions of national magazines, and the growth of radio and television as major media of communication.

These forces of competition, of course, actually worked hand in hand toward the elimination of many newspapers.

In due time, and starting in about 1933, there was an effort by newspapers in various parts of the country to enter into joint printing and publication arrangements with one another. The normal situation would be one where there was a strong newspaper, and a second or third newspaper was in rapidly failing circumstances. The economic curve that was drawn showed that as soon as they entered below a certain percentage of circulation and of advertising in a given community, as compared with the competitor, then the die was cast and the boat would have reached that part of the stream where the pull of the waterfall would inevitably take it down.

Instead of suffering that fate, agreements and arrangements were made between newspapers for operating situations. Two newspapers would be published with the same equipment, lodged in the same building, but not in the same quarters. They would not use the same news-gathering and editorial policies, but would otherwise join their resources, which, again, are detailed in the report and in the testimony.

This process started back in 1933, in Albuquerque, N. Mex. Then it proceeded in some 21 cities in which two newspaper voices were able to survive by reason of this type of arrangement.

I ask unanimous consent that a list of those cities which I submit for that purpose be printed at this point.

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

CITIES WITH JOINT OPERATING ARRANGEMENTS AND DATES ENTERED INTO

Albuquerque, New Mexico; 1933.
El Paso, Texas; 1936.
Nashville, Tennessee; 1937.
Evansville, Indiana; 1938.
Tucson, Arizona; 1940.
Tulsa, Oklahoma; 1941.
Madison, Wisconsin; 1948.
Fort Wayne, Indiana; 1950.
Bristol, Tennessee-Virginia; 1950.
Birmingham, Alabama; 1950.
Lincoln, Nebraska; 1950.
Salt Lake City, Utah; 1953.
Shreveport, Louisiana; 1953.
Franklin-Oil City, Pennsylvania; 1956.
Knoxville, Tennessee; 1957.
Charleston, West Virginia; 1958.
Columbus, Ohio; 1959.
St. Louis, Missouri; 1959.
Pittsburgh, Pennsylvania; 1961.
Honolulu, Hawaii; 1962.
San Francisco, California; 1965.
Miami, Florida; 1966.

Mr. HRUSKA. Mr. President, for a long time—almost a third of a century—these arrangements were either approved by the Antitrust Division of the Department of Justice or were acquiesced in. They were noted. They were observed. The Division was either notified or knew of this arrangement, and there was either approval—express or implied—or acquiescence in this type of arrangement.

Upon the basis of those arrangements, vast sums of money were invested. They were invested, first of all, in buildings that would house two newspapers. They were invested in the tens of millions of dollars in new press and equipment.

Then, all of a sudden, in 1964, the Department of Justice filed a lawsuit against the two newspapers in Tucson, Ariz., and said, "Regardless of what the attitude and policy and view has been in the Department of Justice, we are suing under the antitrust statutes and we want to put you out of business under this arrangement."

Mr. President, it is often said that the king can do no wrong. But I believe that in this country we have long, long ago determined that the Government should not use its majesty, its power, and its prerogatives in a way that would visit great inequity, hardship, and vast change on the media of this country, in a way that would be highly detrimental.

It is for that purpose that, in the bill, we have included a declaration of policy, which declares that it is 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 or may be entered into because of economic distress.

The bill as originally filed was quite sweeping. In its section 4, for example, it would have exempted all existing arrangements and all future arrangements of this type from the operation of the antitrust law.

That was considered, in due course, by the Committee on the Judiciary, as being too sweeping, as too broad; and therefore it was modified, as will be found in the present sections 4(a) and 4(b) on page 4 of the bill that was filed here on November 18, 1969, and also in section 4(c) of the original bill.

In another respect, there was the matter of pending lawsuits, and the ability to institute and prosecute lawsuits seeking treble damages against several newspapers on account of the restraint of trade, and so on; and the problem arose as to what we should do with those. Among those of us who drew the original bill, there were those who favored it—and Senator Hayden was among them—who said that all lawsuits based upon this situation should be barred. That was on the basis that certainly the newspapers that had entered into such arrangements

were warranted in going ahead as they did, on the basis of either express or implied approval by the Department of Justice, or their acquiescence in this situation, and it would be inequitable for any lawsuits to be instituted on that account.

Now that has been modified in the bill which is before us, Mr. President. It has been modified to this extent: That lawsuits now pending will not be interfered with, but any additional lawsuits brought from now on would be barred. It is hoped, however, that the effective date of such a policy and such a prohibition of further lawsuits will be moved from the date of enactment back to November 4, when this amendment was first adopted in the Committee on the Judiciary, for the obvious reason that unless that is done, there could well be, and there is a likelihood that there will be, a plethora of lawsuits filed, even if there is no cause of action, much to the distress of situations which would be detrimentally affected. That will be the subject of an amendment which we will get to in good time; and it is my hope that the situation will be taken care of in that fashion. There will also be an amendment for the benefit of a class on whose behalf a lawsuit now pending was brought.

We believe that, with perhaps some additional amendments of a clarifying nature, the bill is a good one, and has for its purpose the achievement of a national policy which would be very beneficial.

Mr. ELLENDER. Mr. President, will the Senator yield?

Mr. HRUSKA. One more observation; then I shall be happy to yield.

We pride ourselves on a free press in this country, Mr. President. But there have been shackles—in fact, shackles is a mild term—there has been oblivion suffered by hundreds of newspapers in the last 30 or 35 years. Unless this bill is passed, we are apt to witness the disappearance of at least these 44 newspapers which are now under the protection and operation of these arrangements. It would be a sad day indeed if those separate editorial voices were stilled, if the picture as we now know it, as restricted and as shrunk as it is, were made even worse.

It is my earnest hope that the bill will be promptly passed, with these few amendments to be submitted in due time, which I hope will not be resisted by those who have been successful in getting their amendments attached to the bill.

I yield now to the Senator from Louisiana.

Mr. ELLENDER. Mr. President, the Senator referred to an amendment of section 4 of the bill. This amendment as I understand, was proposed by the committee.

Mr. HRUSKA. Yes, that is right.

Mr. President, I ask unanimous consent that the committee amendment be agreed to en bloc and that the bill as thus amended be considered as original text for purpose of further amendment.

The PRESIDING OFFICER. Is there objection?

Mr. INOUYE. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ELLENDER. Going back to section 4, under (b), it is stated:

> It shall be unlawful for any person to propose, enter into, perform, or enforce a joint operating arrangement, not already in effect, except with the prior written consent of the Attorney General—

And so forth.

As I interpret that language, it means that any newspapers that are now operating, let us say, with separate editorial staffs, but using the same presses, will remain in business and will not be affected at all by this legislation?

Mr. HRUSKA. That is correct, and that is covered in section 4(a), as the Senator will remember from his reading of that section.

Mr. ELLENDER. Yes. Does it in any manner affect any of those newspapers that own, let us say, a television or a radio station?

Mr. HRUSKA. No, it does not. But I might say to the Senator from Louisiana that an amendment is pending—which is, as I understand, sponsored by the Senator from New Hampshire (Mr. McINTYRE)—the purpose of which would be to put that prohibition into the bill.

Mr. ELLENDER. I understand that that amendment is printed.

Mr. HRUSKA. But the bill as it is before the Senate as original text now does not include any such prohibition.

Mr. ELLENDER. The committee does not endorse the amendment proposed by the Senator from New Hampshire?

Mr. HRUSKA. That is correct.

Mr. ELLENDER. Have there been any hearings on that amendment?

Mr. HRUSKA. Not that amendment. There have been some hearings on general holdings of newspaper companies, but we had not considered the particular approach included in the amendment proposed by the Senator from New Hampshire.

It seems to members of the committee—certainly to this Senator—that because that subject is so far reaching and would have such a big impact, and is based upon other considerations than are found in this bill and in the thrust of this legislation, that amendment should be defeated.

Mr. ELLENDER. That was what I was going to ask the distinguished Senator. It is the purpose of the committee, or of the manager of the bill, to oppose that amendment?

Mr. HRUSKA. The Senator from Hawaii can speak for himself, but this Senator will vigorously resist it.

Mr. ELLENDER. I assume the Senator from Hawaii will follow through with that. In fact, I hope so, because I doubt that sufficient consideration has been given to the matter.

Mr. HRUSKA. The Senator is absolutely correct. It would not be sound legislative policy to get into that vast subject on the basis of the information we now have.

Mr. ELLENDER. The Senator has stated that the record shows that newspapers in 22 cities now operating in such a manner will not be affected; that is, where there has been an agreement entered into, established between certain newspapers that have different editors and editorial writers, and so forth, but have found it economically feasible and proper to have their newspapers printed on the same presses, sharing the expenses of the printing.

Mr. HRUSKA. That is right.

Mr. ELLENDER. That could be continued?

Mr. HRUSKA. They would continue as they have heretofore operated.

Mr. ELLENDER. I thank the Senator.

Mr. HRUSKA. I yield the floor.

Mr. FANNIN. Mr. President, as one of the original sponsors of S. 1520, the Newspaper Preservation Act, I am most pleased that it has been favorably reported by the Senate Judiciary Committee after extensive hearings by the Antitrust Subcommittee, and I would hope, the Senate will pass this landmark legislation today.

I originally joined with my former colleague, the then beloved dean of the Senate, Senator Carl Hayden, in introducing during the 90th Congress S. 1312, the predecessor to the Newspaper Preservation Act. With several of our colleagues, we introduced that bill because of the action brought by the Justice Department against the two newspapers in Tucson, Ariz., seeking to break apart a joint operating arrangement which had existed there for over 25 years. In that case, the Antitrust Division had challenged what before had been considered to be a proper arrangement, a commercial merger which retained two separate and competing news and editorial voices. Similar joint operating arrangements have been in existence since 1933, and now are in effect in some 22 major cities. Their existence had been known to the Department of Justice and to the Congress, and no one had questioned their legality or propriety before the action in Tucson.

We from Arizona were immediately concerned because we had been advised that the two papers in Tucson could not both exist if they were forced into commercial as well as editorial competition. Then the attorneys for the Antitrust Division let it be known that Tucson was a test case, and that they intended to bring like actions against the other 21 cities with joint operating arrangements if they were successful in their case in Tucson. This danger was apparent to a number of our colleagues who joined us in sponsoring S. 1312 in the last Congress and S. 1520 on March 12 of this year.

Mr. President, the Antitrust and Monopoly Subcommittee of the Judiciary Committee held 21 days of hearings in the 90th Congress and 3 days of hearings this year on this legislation. All sides have been heard from and I feel that I can safely state that the case made for this legislation is overwhelming.

S. 1520 was introduced, with 25 sponsors, just 2 days after the Supreme Court's decision in Citizen Publishing Co. against United States, because the Court's decision made it eminently clear that the existence of 22 papers was in immediate danger. We introduced this bill to correct the law and thereby reverse the Supreme Court, and we have since been joined by eight additional sponsors and have been heartened by the favor-

able consideration given this bill by the Antitrust Subcommittee and the Judiciary Committee.

The Newspaper Preservation Act overrules the Supreme Court by changing the antitrust laws in two areas. First, it provides recognition in the law for a commercial merger by two newspapers, at least one of which was in a failing condition, with the preservation of two separate and competing news voices. Second, it provides a definition as to when a newspaper is "failing," and thereby amends the judicially created "failing company" doctrine. The changes made in the antitrust laws, therefore, have a limited scope and do damage to the intent and purposes of the antitrust laws. In fact, the bill is consistent with the antitrust laws by preserving the only competition which can exist—and that is a competition in news and editorial news. Such competition is vital to our Republic. As that eminent jurist, Learned Hand, said of the press:

> It serves one of the most vital of all general interests, the dissemination of news from as many different sources, and with 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 presupposed that right conclusions are more likely to be gathered out of a multitude of tongues than through any kind of authoritative selection. To many this is, and always will be, folly, but we have staked upon it our all.

Today, however, we must sadly acknowledge that the number of newspaper voices has been decreasing in our major metropolitan areas. The competition from radio, television, magazines, and other media have steadily diminished the diversity in the printed press we had so long cherished.

Mr. President, the enactment of S.1520 is absolutely essential if we are to forestall the continued diminution of separate voices. Right now, 22 papers in 22 cities hang in the balance and we must act to preserve them. The Supreme Court's decision in the Tucson case is nothing less than an epitaph for 22 points of view.

I am most pleased to note that this bill is not a partisan issue. It is sponsored by Republicans and Democrats, and from every shade of political opinion on both sides of the aisle. This is as it should be. The newspapers involved cover this broad range of views. Moreover, past joint operating arrangements, dating back to 1933, have been entered into during Democratic and Republican administrations, and were well known to Attorneys General of both parties.

I am gratified, Mr. President, to note that the present administration has determined to support this legislation.

The issue before us is clear. By correcting the law in the two particulars I just mentioned—as to commercial mergers and the definition of a failing newspaper—we can undo the damage done by the Supreme Court in the Tucson case. We can maintain separate news and editorial voices in the 22 cities where joint operating arrangements now exist.

Tucson has two papers, presenting two diverse points of view. Carl Hayden stated in support of this legislation, and I agree with what he said:

> Their different philosophical positions do not enable both papers to endorse me or my point of view. But that, too, is in the broad public interest. All sides of a question must be available to the public.

In concluding, I can only tell the Senate that if the two papers in Tucson, the Citizen and the Star, are forced apart, only one can untimately survive. The people of Tucson would be the losers if that should happen.

Mr. President, I am certain that the Senate will pass the Newspaper Preservation Act, and thus strengthen and maintain a free and vigorous press in the United States.

Mr. INOUYE. Mr. President, on March 12, 1969, I was joined by 24 Senators in introducing S. 1520, the Newspaper Preservation Act. Since then, eight additional Senators have joined as cosponsors of this legislation.

The bill was introduced 2 days after the Supreme Court affirmed the decision of the U.S. District Court in Tucson, Ariz., and held, on March 10, 1969, in Citizen Publishing Co., against United States, that a joint operating arrangement between two newspapers in the same city constituted per se violations of the antitrust laws.

Mr. President, the obvious and clear effect of the Supreme Court's decision on newspaper operations in Tucson, Honolulu, and 20 other cities would be to put one paper in each city, with its independent news and editorial voice, out of business. That is why we, the sponsors, joined in offering a bill to reverse this decision of the Supreme Court and correct the law.

Such action was not taken lightly and I can assure the Senate that it was not taken without full consideration of the consequences involved. The situation, however, required corrective legislation in order to protect and preserve the public interest in a free and diverse press. Further, this action conformed to the procedure suggested by the Department of Justice on this matter in argument before the Court that redress be sought through the Congress.

Let me review briefly what the Supreme Court did, and why we feel it necessary to correct the law to accommodate joint newspaper operations. The Supreme Court has now interpreted the antitrust laws as prohibiting an agreement between two newspapers in the same city, at least one of which was failing, from entering into a commercial merger, while maintaining separate and independent news and editorial voices. The Court held that the actions by the two papers in setting advertising and circulation rates, market allocation, and revenue pooling constituted per se violations of the antitrust laws. The anomaly, however, is that if the two papers in the same city had fully merged and operated under single ownership, then such actions would not be illegal. The one owner would set his advertising and circulation rates for both morning and afternoon papers, have a reasonable noncompete clause for stockholders, and divide the profits in any way he saw fit.

Thus, one owner of two papers, with only one news and editorial voice, is preferred by the antitrust laws to a joint operating arrangement which has competing editorial and news voices. No competition at all is preferred to competition in the area most vital to our democratic form of government—the free interchange of ideas and points of view.

Mr. President, it is obvious that this does not make good sense. The first amendment to our Constitution recognizes the importance of a free press, and the Newspaper Preservation Act is consistent with this by correcting the law so as to encourage the continuance of editorial and news competition. While preserving editorial diversity, we are making a very limited exemption to the antitrust laws.

S. 1520 provides that these joint operating arrangements—a commercial merger—be treated the same as a full merger. The newspapers involved would still be subject to the same prohibitions under the antitrust laws as are applied to one-owner situations. Moreover, the bill provides safeguards against predatory practices by joint operators. The exemption provided by S. 1520 is limited in scope, but is of tremendous importance in maintaining news and editorial competition.

The second area in which this bill affects the Supreme Court's decision by correcting the law is in the definition of what constitutes a failing newspaper.

In the Tucson decision, the court extended its judicially created "failing company" doctrine, generally applied to manufacturing concerns. The Court held that for a newspaper to be "failing," it had to meet all of the following: First, the paper had to be facing liquidation, not just consistently losing money over a sustained period of time; second, an attempt at reorganization through a receivership under the bankruptcy act must have been made; and third, an attempt must have been made to sell the paper to someone other than the local competitor.

These criteria were not made known to the publishers when they entered into their arrangements—some as long as 36 years ago—and would thus be ex post facto and inequitable for the existing joint operators.

A newspaper receives some 75 percent of its revenue from advertising, and the remaining 25 percent from circulation. When one paper obtains an edge in circulation, it will attract advertising from the other paper. That paper will then have to cut back on news and editorial features, with a resultant loss of circulation, which brings about further losses in advertising. This vicious cycle moves with increasing rapidity. Once the downward cycle has begun, there is no opportunity for corporate reorganizations, or to find a possible buyer.

A newspaper has no inventory or merchandise. Once an edition is printed, it has a very brief lifespan, and then the news and advertising it carries become obsolete. The qualities of an entire newspaper offered for sale are its circulation, which provides a base for advertisers, and its staff. A failing paper which

attempts to comply with the conditions established by the Supreme Court would soon see a desertion by both advertisers and staff, and, once a paper stops publishing, it has neither circulation, advertisers nor staff, and its only value in a sale would be its mechanical equipment.

Mr. President, it is less than reasonable to require a newspaper owner, whose paper is losing money, to continue to invest money in it until he, as well as the newspaper, is failing. We must recognize that the number of separate editorial voices in our major cities has been decreasing at a startling pace. Cities which had three, four, or five independent papers a few years ago are now lucky if there are one or two papers. There is no market for independent ownership of a failing newspaper, and, contrary to the hypotheses raised by some, there are no successful new entries of newspapers in these cities.

If as large and powerful an organization as Cowles could not make a go of it in a growing area like New York's Suffolk County, with the Suffolk Sun, there can be little doubt that the chances for new metropolitan daily newspapers being started are slim indeed.

Those are the reasons, Mr. President, why we must correct the situation created by the courts. These two changes in the law, allowing for a commercial merger, and providing a reasonable definition for a failing newspaper, are essential if we are to preserve our newspapers.

Today we have but 59 cities remaining in our Nation with more than a single news and editorial voice. Should this legislation fail to be enacted that number will soon be reduced to 37. With prior approval from the Department of Justice this legislation provides further the vehicle for the preservation of news and editorial competition in any of these remaining 37 where it cannot otherwise survive.

In 1945 there were 117 cities enjoying the benefits of fully competing daily newspapers. Twenty-five years earlier the residents in 550 of our cities were thus blessed. Should we now by our inaction reduce that number to 37? I hope not and urge my fellow Senators therefore to support this legislation—to permit our people in these 22 cities to continue to exercise a free choice and be exposed to competing views in their search for truth and knowledge.

Thomas Jefferson once remarked that if he had a choice between no newspapers and no government, he would choose the latter, since he felt that the flow of ideas in the newspapers would keep us on a stable course. I do not know if I would go quite that far, but I am convinced that our form of government receives its strength and vitality from the interplay of ideas.

I know that in Honolulu, we would be much the poorer if one of our two newspapers were to go out of business. The Advertiser and the Star Bulletin are both excellent papers, each with its own point of view. These two papers are in a daily competition in ideas, which is beneficial to the public and to the elected representatives of the public. Yet, prior to the present joint operating agreement, the Advertiser was failing. It could have gone out of business, or sold out to its competitor. Instead, the two papers entered into a joint operating arrangement in 1962 which has preserved both papers.

Mr. President, if this legislation, the Newspaper Preservation Act, is not enacted, one of our two papers will die. I am advised that the same will occur in 21 other cities, including other State capitals such as Madison, Wis.; Nashville, Tenn.; Columbus, Ohio, Salt Lake City, Utah; Lincoln, Neb.; and Charleston, W. Va. We would all be the poorer if this were to occur.

We in the Senate have a responsibility to do the best we can with the situation that confronts us. The Newspaper Preservation Act does this. It is in the public interest, is consistent with the first amendment to the Constitution, and does no harm to, but is also consistent with the antitrust laws by preserving essential competition—competition in thought and ideas.

I urge the Senate to enact S. 1520, the Newspaper Preservation Act.

Mr. TOWER. Mr. President, the distinguished junior Senator from Hawaii, the primary sponsor of this bill, has well stated the need for this legislation. I rise briefly to associate myself with his remarks. As members of opposing parties, he and I are in disagreement in several areas, but this legislation is matter which crosses party lines and in which we are in complete harmony.

I am a cosponsor to S. 1520, just as I was a cosponsor to the similar proposal offered in the previous Congress by our distinguished former President pro tempore Mr. Hayden, because I believe it is vital that we enable the continuation of dual and competitive newspaper editorial and reporting voices in every community possible.

The economic pressures of publishing a newspaper have been becoming greater for many years and there is no indication these pressures will lessen in the future. If this legislation can enable a dual editorial voice to continue in even a single city where such competition would not otherwise be possible, then it is worthwhile.

I will vote for passage of S. 1520 and I urge my colleagues to do the same.

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

The VICE PRESIDENT. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BENNETT. Mr. President, I believe the Newspaper Preservation Act recognizes the unique role of newspapers in our society and applies practical and reasonable criteria to preserve newspaper competition. I support the passage of this bill.

Historically, antitrust laws were originated and enforced to foster and encourage competition. Unique economic forces thrust upon the newspaper industry and the application to that industry of mechanistic and indiscriminate antitrust doctrine may serve to cause a substantial lessening of competition and a disastrous loss in our communities of distinct news reporting and separate editorial voices.

May I point out that the newspaper industry is different in this respect from an ordinary industry selling products or services. The newspapers supply not only a need for information about goods which are for sale but they also supply the daily information about happenings around the world. In addition, uniquely, they speak editorially to express opinions and to help form and guide public opinion.

If, under the theory of competition that exists in ordinary business, we in fact force a newspaper out of business, we not only create a monopoly in advertising—which is bad—but we also create an editorial monopoly, which is infinitely worse.

Our concept of freedom and our system of government is based on the need to have a choice and a need for an enlightened electorate. And since the newspapers in their editorial capacity can have great influence on public opinion, it would be tragic if we were to force many cities in this country to be in a position where they could hear only one editorial voice.

The Supreme Court of the United States, in the case of Citizen Publishing Co. against United States, ignored these economic forces and refused to apply and interpret the antitrust laws to foster this kind of competition in editorial viewpoints. Tied to mechanistic and inflexible rules the "failing company doctrine" developed under the antitrust laws was not deemed applicable to newspaper operating arrangements. The court failed to articulate a doctrine which recognized the fundamental importance of placing a failing newspaper on a sound financial basis in order to preserve these two voices before there is a grave possibility of failure; newspaper stability and continued life of a newspaper cannot be achieved by requiring an exhaustion of all available resources before the failing company doctrine is deemed applicable.

The Newspaper Preservation Act fairly meets these needs and makes the failing company doctrine applicable to joint newspaper operating arrangements under practical circumstances designed to recognize the difference between the role a newspaper has to play in the life of a community and that which may be played by a commercial enterprise.

The new test defines a "failing newspaper" as one "which, regardless of its ownership or affiliation, appears unlikely to remain or become a financially sound publication."

The factors which are to be considered by the courts in determining whether a newspaper is failing would vary with the particular circumstances of the newspaper involved. The language of the bill does make it clear that courts are not to adhere to the established antitrust "failing company doctrine" which requires that a company be virtually teetering on the brink of bankruptcy.

Because of the unique status of newspapers, the bill is designed specifically to reverse the Supreme Court in the Citizen Publishing Co. case and apply a more realistic test. Some of the factors a court of law would consider in determining whether a newspaper was failing are: First, net loss or declining net income; second, whether accounting ratios showing instability, including net income as a percentage of invested capital, net income as a percentage of gross revenue, gross income as a percentage of invested capital, current assets to current liability, long term indebtedness, and so forth.

In other words, the court should be able to recognize the trend toward failure and not be required to wait until it is irreversible. Third, declining circulation trends; fourth, increasing cost trends, including operational costs, circulation and subscription costs and solicitation costs; fifth, increasing advertising rates without corresponding increases in income; sixth, declining trends in the percentage of newspaper columns used for advertising purposes; seventh, factors showing strengthening of a competitor, including his increased circulation and advertising trends; eighth, price war conditions, promotional activities and premiums used as a means to maintain circulation or advertising, demonstrating inherent instability; ninth, instability and insecurity of personnel, including rapid increased employee turnover, loss of key personnel, and so forth; tenth, the extent of investments required in fixed assets, equipment, and machinery; eleventh, demands on capital apart from newspaper operations; twelfth, adverse legal developments; and thirteenth, basic instability shown by the necessity of reliance upon the financial strength of stockholders or the financial capacity and operations of parent companies or other related newspaper publications rather than on the inherent strength of the paper itself.

With respect to the last factor mentioned, the availability of capital from shareholders would not show that a newspaper was not failing. Rather, the fact that it had been necessary for shareholders to make additional capital available to a failing newspaper would indicate basic instability, in that the newspaper had to rely upon the financial strength of shareholders rather than upon the newspaper's own viability. In short, under the pending bill the court would consider those factors which would determine whether a newspaper could remain or become viable.

Thus, the Newspaper Preservation Act provides a realistic and practical test of failing—if you will, a businessman's test—because it is necessarily on business considerations that a publisher makes a decision as to the continuation of publication when the newspaper is no longer profitable.

Mr. President, the hearings on this bill fully document the need for the limited relief provided. The Senate should recognize the economic facts of newspaper publication and enact this legislation.

I represent the people of Utah in the Senate. Salt Lake City, which is Utah's capital, is vitally interested in this legislation because we have in Salt Lake City one of the 22 situations to which this law would apply and for which it is very greatly needed.

If the pending bill passes, it will be assurance to the people of Salt Lake City, and to the people served from Salt Lake City, of the continuation of our two daily newspapers, the Salt Lake Tribune and the Deseret News, both excellent newspapers. They compete effectively in news and editorial opinion. It will, therefore, provide the readers with the needed difference of opinion, difference of information, and difference of point of view which is necessary to maintain a choice.

It is this competition in ideas, so precious to this democracy, which will be preserved by the enactment of the pending bill.

And in my opinion this competition of ideas is so vital that it is worth reapplying.

The principle that underlies our antitrust laws is that for the newspaper industry this principle can be beneficial in the case of the situation where one newspaper is not as strong as the other, rather than have the effect which the application of the decision in the Citizens Publishing Co. case inevitably would have of speeding the day when the second editorial voice would have to disappear.

Mr. FONG. Mr. President, as a cosponsor of the pending bill, S. 1520, the Newspaper Preservation Act, I rise to urge passage of this measure on the ground it is essential to the preservation of an enlightened citizenry and our form of government.

It will help keep alive distinctive and differing editorial and news reporting competition in newspapers serving millions of Americans in at least 22 major metropolitan areas. Included in these areas are such State capitals as Honolulu, Hawaii; Madison, Wis.; Nashville, Tenn.; Columbus, Ohio; Salt Lake City, Utah; Lincoln, Nebr.; and Charleston, W. Va.

Indispensable to our democracy are the fullest possible reporting of news events and the widest possible dissemination of these reports, together with editorial comment and analyses. No industry is more important in these functions than the newspaper industry. Within our system of competitive enterprise, the newspaper's ability to perform these essential roles in our society depends not only on its journalistic excellence, but also on its ability to succeed as a commercial venture.

To assure the free flow of information and to assure public access to a variety of editorial voices, we must see to it that first amendment principles are rigorously adhered to. But, just as important, we must foster editorial competition and diversity as much as possible in every community.

NEWSPAPER FINANCIAL WOES LED TO JOINT OPERATIONS

For more than 3 decades, many metropolitan daily newspapers with fiercely competing newspapers have had financial difficulty. Many newspapers folded; others merged. Still others developed a plan whereby separate news and editorial staffs were maintained, while other operations, such as printing, advertising, and circulation—commercial operations—were performed jointly.

In January 1965, however, the Department of Justice sued publishers of two daily newspapers in Tucson, Ariz., for violations of section 1 of the Sherman Antitrust Act and for monopoly in violation of section 2. The district court in April that year ruled the joint agreement under which the two papers were operated constituted a per se violation of section 1.

In 1967, the Department of Justice interpreted Federal antitrust laws in such a way that where two or more newspapers are merged—and one of these newspapers is a failing newspaper—such mergers are clearly consistent with the antitrust laws and will be judged on their individual merit, on a case by case basis. But if two newspapers, one of which is failing, engage in a joint operating arrangement to preserve competing editorial voices, such an arrangement may be subject to prosecution under the antitrust laws.

Those of us supporting the Newspaper Preservation Act believe newspapers with joint operating arrangements that preserve competing editorial voices should be given the same consideration as newspapers which merge.

LEGALITY OF JOINT OPERATIONS QUESTIONED; LEGISLATION PROPOSAL

The Department of Justice position and the district court rulings raised serious questions of legality about joint operating agreements between newspaper publishers throughout the Nation.

As a result, on March 16, 1967, a remedial bill, S. 1312, was introduced by former Senator Hayden of Arizona and 14 other Senators, including myself. Actually, this was more than remedial legislation. It was survival legislation for newspapers which otherwise faced the grim alternatives of inevitable death or being swallowed up by a stronger newspaper.

Lengthy hearings were held by the Antitrust and Monopoly Subcommittee and in October 1968, the subcommittee amended and reported S. 1312 favorably to the full Judiciary Committee. Congress adjourned before the full committee could act.

In January 1968, in the Tucson case, the district court in its judgment and decree found violations of section 2 of the Sherman Antitrust Act and section 7 of the Clayton Act. On March 10, 1969, the Supreme Court affirmed the district court judgment and decree.

S. 1312 was reintroduced 2 days later as S. 1520, with 34 sponsors in the Senate including myself. Companion bills were sponsored by more than 100 Members of the House of Representatives. Additional hearings were held, as a result of which S. 1520 was amended as it is now pending before the Senate.

Bearing in mind that the purpose of this legislation is to keep alive differing editorial views and ideas for our major urban communities, the provisions of S. 1520 are understandable and reasonable. The very limited exemption from certain features of our antitrust laws is carefully circumscribed and restricted.

PROVISIONS OF S. 1520

In summary, S. 1520 provides as follows:

Section 2 sets forth a congressional declaration of policy:

In the public interest of maintaining the historic independence of the newspaper press 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 or may be entered into because of economic distress.

Section 3(1) defines "antitrust law."

Section 3(2) defines "joint newspaper operating arrangement" and states explicitly just what lawful conduct parties to a joint arrangement may engage in. The definition makes the creation of a valid joint operating arrangement dependent on establishing "joint or common production facilities." Establishment of a common plant is prerequisite to all other permissible action.

The limitation is to insure that this bill applies only to newspapers serving the same market area which are attempting to save money through combined facilities. The exemption from antitrust laws would not be available to two publishers who use different plants and seek only a price-fixing agreement.

Under the arrangements contemplated, publishers might be expected to print a morning paper, an evening paper, and either one or two Sunday papers. If the agreement between the publishers includes complete elimination of either the morning or afternoon newspaper when daily papers are involved, or all but one weekly paper in the case of weeklies, the bill would provide no exemption because the resulting arrangement could not preserve established editorial voices under separate corporate control.

Section 3(4) defines "newspaper publication" so as to exclude magazines and other "slick paper" publications as well as free circulation "shopping newspapers," and advertising circulars. Unless a reasonable portion of the publication eligible for exemption is devoted to news dissemination, the intent of the bill—to give financial stability to editorial voices—cannot be served.

Section 3(5) defines "failing newspaper" more broadly than the Supreme Court has defined failing business. As the committee report states:

In the International Shoe case, the (Supreme) Court reasoned that a merger between two competitors, one of which is failing, cannot have an adverse effect on competition because whether or not the merger occurred the failing company would disappear as a competitive factor. It is the committee's view that the reasoning of the Court is sound, but that the economics of the newspaper industry make it more likely for newspapers to fail when faced with competition than other businesses; that when a newspaper is failing it is harder to reverse the process and it is almost impossible to find an outside buyer. The Committee wishes to establish a less stringent test than that applied in the case of *Citizen Publishing Company* v. *U.S.* (394 U.S. 131 (1969)).

In applying this definition the Court should consider the impact of competition on newspapers as it determines whether a paper is likely to disappear as a competitive factor.

In determining whether a newspaper publication is "likely to remain or become financially sound" the Court may consider the operating results of the newspaper and other relevant factors such as return on invested capital, cost and income trends, circulation trends, advertising-news ratios and trends, competitive factors in the relevant market area, availability of personnel, availability of capital from shareholders, investments in fixed assets, population of the relevant market area, the population trends, and all other relevant economic evidence.

The bill also contains language intended to preclude artificial creation of "failing" newspapers by fancy bookkeeping devices.

Section 4(a) describes the antitrust exemption allowed under the bill. Under this section, one or more failing newspapers may enter an agreement with each other or with a financially sound newspaper. The agreement may only include a single successful newspaper. If the agreement would result in the suspension of the only morning or afternoon newspaper, then it is not exempted.

The purpose of this section is to provide that joint operating arrangements permitted by the bill shall not constitute a violation of the antitrust laws. This section would prevent the Department of Justice or any private party from suing under the antitrust laws. It would prohibit any department or regulatory agency of the U.S. Government from imposing sanctions or taking any other action on the ground that such a joint operating arrangement violates or is inconsistent with the antitrust laws or contrary to the public interest.

Section 4(c) is to protect the competitive position of newspapers which share the market with a joint operating arrangement. It provides that nothing in the bill should be construed to exempt any predatory pricing or any other predatory practice of conduct.

This section also provides that nothing in the bill should be construed to exempt any person or joint newspaper operating arrangement from the monopolize or attempt to monopolize prohibitions of section 2 of the Sherman Antitrust Act. It is the intention of this section that the antitrust exemption in no way changes the liability of the jointly operating parties—considered a single entity—for conduct affecting others under the antitrust laws.

HEARINGS DEVELOPED NEED FOR REMEDIAL LEGISLATION

Mr. President, these provisions evolved from a series of hearings on S. 1312 and S. 1520 in the 90th and 91st Congresses, conducted very ably by the distinguished Senator from Michigan (Mr. HART), as chairman of the Subcommittee on Antitrust and Monopoly. The hearings were thoroughgoing in the investigation of this very complex problem. Considerable evidence was presented showing 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 very large majority of American communities have already become one-newspaper communities.

In 1910, there were 2,202 English language dailies in the United States, an all-time high. By 1968, while the population more than doubled only 1,753 daily newspapers remained.

The number of one-newspaper towns had risen sharply by then, reflecting an important change in competitive conditions. Of the 1,500 cities served by a daily newspaper, 85.6 percent were one-newspaper towns. Although another 150 communities were served by two dailies, these dailies were under single ownership. Thus, in total, over 95 percent of the communities of the country at the beginning of 1968 had newspapers that were controlled by a single owner.

As of early 1968, only 45 of the 1,500 daily newspaper cities had two or more competing dailies. Editorial competition between different publishers has been maintained in 22 cities only by resort to joint operating arrangements. Thus, only by resort to these joint arrangements have separate editorial voices been preserved in the 22 communities, including Honolulu in my State.

The subcommittee hearings also revealed that this startling trend away from multiple-newspaper cities and the trend toward centralization of control of the printed news media have been produced by economic conditions which have made it increasingly difficult for many newspapers to coexist in the same community under conditions of all-out economic competition.

ECONOMIC PLIGHT OF NEWSPAPERS

One of the witnesses before the Senate Antitrust and Monopoly Subcommittee, on which I serve, described the plight of newspapers, which is peculiarly different from most other businesses. Mr. Thurston Twigg-Smith, publisher of the Honolulu Advertiser, told me in the 1967 hearings:

A newspaper's economic strength depends largely on its advertising revenues, which in turn depend on readership. Since readership depends on content, which includes advertising as well as news matter, the process is almost a vicious cycle; a drop in advertising dollars means a drop in money that can be spent for promotion and editorial content, which leads in turn to a drop in circulation, which leads to a further drop in advertising and so forth. Thus, if you examine the trend lines for an otherwise well-managed newspaper and find it to be on a descending curve in the key indicator areas of percentage of the field for advertising and circulation, you know it is going to be only a matter of time before the death knell sounds, unless of course the situation can be corrected with massive and continuing infusion of capital.

* * * * *

A newspaper, once dead, is really dead. There is nothing to revive, as you can easily see among the ashes in New York.

NEWSPAPER EFFORTS TO OVERCOME COST-PRICE SQUEEZE

In response to these economic pressures, the newspaper industry developed the joint newspaper operating arrangement in order to achieve two goals—one, to reduce costs and thus eliminate potential losses, and, two, to maintain editorial independence. In this way two newspapers, one of which was in a threatened economic condition, combined their production and business operations, thereby reducing expenses, yet maintained their editorial independence.

The joint arrangement permitted a substantial reduction in costs by eliminating duplicate equipment and manpower and especially by allowing more efficient use of expensive printing plant facilities.

Mr. President, the then dean of the U.S. Senate, Carl Hayden, the original sponsor of S. 1312, testified as the first witness on July 12, 1967. This excerpt is most pertinent at this point:

It should be made clear that for a quarter of a century these two newspapers (Tucson, Arizona) have published through a joint printing and business operation. It should be made equally clear that these two newspapers have remained editorially separate and distinct. Mr. Chairman, joint newspaper operations similar to that in Tucson exist in more than 20 cities and presumably the Department of Justice has long been aware of this fact. . . .

No reason has been given why the Department decided that the Tucson newspapers in particular were in violation of the antitrust laws.

I do not believe this is a healthy situation in our competitive society. It is the purpose of the antitrust laws to foster competition rather than stifle it.

Mr. President, I agree that the action of the Department of Justice stifles competition. I echo Senator Hayden's words and his statement that this bill is needed to remove the legal cloud that hangs over these 22 cities having joint newspaper agreements, especially since they have been permitted by our Government to so operate since 1933.

Many publishers relied on such precedents, one of which was Mr. Thurston Twigg-Smith, whose testimony is a perfect and succinct example of what causes a newspaper publisher to consider a joint operating agreement, not only in 1933, but as late as the 1960's. He told the subcommittee candidly that he had three choices: First, liquidation; second, sale to his competitor, the Star-Bulletin; or third, the formation of a joint operating arrangement.

In the 5 years prior to this decision he showed losses of $47,500 in 1957; $110,615 in 1960; and $72,395 in 1961. He stated that in 1958, a profit of $191,927 was due entirely to a drastic cutback in expenditures in view of the loss suffered in 1957, which, however, caused substantial deterioration in the advertising and circulation position of the Advertiser newspaper. He also noted that there was a profit of $56,981 in 1959, which was due almost entirely to the $56,171 profit made from a special statehood edition that year. He further noted that both advertising and circulation were on a down spiral—68 percent Star-Bulletin to 32 percent Honolulu Advertiser; that the Advertiser bank loans were on short term and that it was almost impossible to obtain a long-term loan. On top of this the Advertiser's equipment was antiquated and required a minimum of $1.5 million for replacement costs.

It should be noted that this same type of story was told by the publishers of the Tucson, Ariz., and Tulsa, Okla., newspapers in the early 1940's. There are 22 cities in the United States who have had two papers that have entered into joint arrangements. If this bill is not enacted or if the Justice Department does not change its position, which was upheld by the Federal Court in Tucson and the U.S. Supreme Court, these joint arrangements would be declared illegal and divestiture ordered, and at least one of the two papers would have to return to the precarious position that Mr. Twigg-Smith related in his testimony.

PRIOR EXEMPTIONS FROM ANTITRUST LAWS ENACTED BY CONGRESS

Mr. President, the Congress does not consider lightly exemptions from the antitrust laws. However, the Congress has, in the past, granted exemptions from the antitrust laws when it recognized a countervailing economic, political, or social value which justified the relaxation of certain antitrust prohibitions. We Senators and Congressmen who sponsor the Newspaper Preservation Act recognize such countervailing values, especially since the relief—that of continuing joint operating agreements—had been considered as legal and proper from 1933 to 1967.

Here are examples of previous exemptions granted by Congress:

First, Sherman Act exemption for vertical minimum resale price maintenance agreements covering brand names;

Second, section 7 of the Clayton Act covering mergers which exempts acquisitions of stock solely for investment, etc.;

Third, certain activities of labor organizations;

Fourth, agricultural cooperatives are exempted in supplemental Federal antitrust statutes;

Fifth, the Webb-Pomerene Export Trade Act grants exemptions under stated circumstances for associations engaged in export (foreign) trade;

Sixth, exemptions in the Small Business Acts of 1953 and 1958;

Seventh, exemptions in the Bank Merger Act of 1966;

Eighth, exemptions granted to professional baseball, football, basketball, and hockey leagues which pool their separate rights in TV sponsorship;

Ninth, exemption from antitrust laws permitting the American Football League and the National Football League to merge into one league; and

Tenth, exemptions under the Defense Production Act of 1950.

Mr. President, certainly the preservation of nepspapers in S. 1520 which would otherwise fail and cease publication is of as great, if not greater, economic, and social value as the exemptions above noted, thus requiring Congress to grant similar relief.

Having discussed other exemptions from the antitrust laws enacted by Congress, I should reemphasize that the exemption requested in S. 1520 is a limited exemption and all activities, other than the exempt act of combining for the specifically designated purpose, would be subject to the antitrust laws. All activities beyond those specifically approved by the bill would continue to be subject to the full force and effect of the antitrust laws.

PREDATORY PRACTICES NOT EXEMPT

It should be noted here, Mr. President, that the bill has been amended to explictly state that predatory practices shall not be exempted herein. This should eliminate fears expressed that the bill would help strong newspapers gobble up weaker ones.

NO NEW PAPERS IN CITY WHERE PAPERS FAILED

Mr. President, it was suggested at the hearings that it would be better to permit a failing newspaper to die than to enact the exemption because a new daily newspaper would enter the void created by the demise of that failing newspaper.

The fallacy of that argument is reflected by the hearing record, which reveals that there are no new entrants into a city where a failing newspaper had ceased operations. Let me cite from that record:

At page 274 of the printed hearings, (1967), on S. 1312:

Mr. CHAMBRIS. For example, let us say two newspapers wanted to get together and they were not able to consummate an agreement and for that reason one of the papers either failed or was taken over by a merger. What has been your experience of a new paper moving in under those circumstances?

Mr. HOWARD. (President of Scripps-Howard Newspapers). Well, we sold in Houston, Texas, and despite a lot of talk, nothing has happened in four years. No new paper has started. And in Indianapolis, Indiana, again, where we beat the business literally trying to find somebody who would buy the paper and . . . nobody wanted it, and nobody has started (a new one). In New York City . . . I do not think any outsider is going to come in. It does not happen.

At page 592 of the printed hearings, 1964, Mr. G. O. Markuson, executive vice president of Hearst Corporation, stated:

It has been suggested by some witnesses at these hearings that there are many new potential entrants anxious to establish newspapers in urban areas where existing newspapers are declining or failing. This is a myth. New publishers have neither earnestly nor actively sought entry into a distressed urban newspaper market, and, in the few instances where attempted, failure usually has resulted. A major metropolitan newspaper is not born solely of good wishes and fond expectations—in addition to able personnel, considerable financial resources are required. It is true that many investors are willing to buy an offset press and publish a suburban paper, but the metropolitan paper is a far different and more costly story. The recent demise of the New York World Journal Tribune confirms that would-be entrants are not attracted to a losing newspaper market.

Mr. President, there is more that I could say today in reviewing the testimony of 24 days of public hearings, in which I actively participated in the colloquies. However, as there will be other sponsors who will speak urging passage of this bill, in the interest of time I ask unanimous consent that the attached concise statement of Mr. Twigg-Smith and colloquies through questions by Chairman HART and me, as noted on pages 611 to 625, be printed at the conclusion of my remarks. Answers to key issues are clearly revealed as reasons why S. 1520 should be enacted into law.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. FONG. Mr. President, I can speak from firsthand knowledge of the results of a joint operating agreement such as would be permitted under S. 1520, for such an agreement has existed since June 1962 between the Honolulu Star-

Bulletin, an evening daily, and the Honolulu Advertiser, a morning daily. Both papers serve the entire State of Hawaii, not just Honolulu.

BENEFICIAL RESULTS FROM JOINT OPERATIONS IN HONOLULU

The operating economies permitted under the joint agreement have resulted in survival for the Advertiser, which could not have continued to publish in view of the large losses it had been sustaining. Not only has the joint agreement permitted the Advertiser to remain alive, but it also has resulted in profits instead of losses for this paper as well as for the Star-Bulletin.

According to Mr. Twigg-Smith:

Newspaper profits for the years of the plan, before taxes, were as follows: 1962: $43,912, all of it in the last 3 months incidentally; 1963: $53,066, and in that year we had a 44-day strike; 1964: $366,738; 1965: $300,123, the drop coming about because we adopted a double declining depreciation process on our machinery program; 1966: $398,479.

Economic strength means the Advertiser can provide jobs for reporters, delivery men, editorial writers, the whole staff. Had the Advertiser folded, these employees would have been out of work. Where would they have found jobs? As it is, the Advertiser has been able to hire more editorial people than before.

Economic strength means the Advertiser could attract high caliber reporters, even from well-regarded mainland newspapers—and it did.

Economic strength means national and international news coverage could be expanded by the Advertiser—and it did, by adding a second wire service to its basic UPI service.

Economic strength means an average of two additional pages of news daily in the Advertiser.

What is more, economic strength means there has been no diminution of competition in advertising or in editorial writing. There continues an aggressive scramble for advertising dollars among the Advertiser and Star-Bulletin, the small neighborhood newspapers, the many radio stations and television outlets.

Actually, economic strength fostered greater editorial independence. The two papers maintain very vigorous editorial positions, often differing sharply, as they constructively scrutinize government operations, business, and life in our island community, in our Nation, and in the world.

Competition shows up not only in the editorial columns but also in the news pages. For the Star-Bulletin and Advertiser journalists are keenly competitive. Competition keeps them on their toes and the result is better news coverage for the people of my State.

As Mr. Twigg-Smith told the Antitrust and Monopoly Subcommittee:

Where newspapers are stagnant, there you will usually find a stagnant community. Where newspapers are vibrant, their coverage fair-minded, and their editorial pages alive, they are vital factors in community advancement.

I can testify here today that Hawaii is a viable, dynamic, alert, progressive State, thanks in large measure to the invaluable services of our two Honolulu daily newspapers, who compete in everything but production, operation, advertising, and distribution.

I am convinced the people of Hawaii are better served by this arrangement than they would be by a monopoly of a single major newspaper.

Enactment of S. 1520 is essential to the progress and future of Hawaii, as well as other areas of the Nation.

Mr. President, the thrust of our antitrust laws is against monopoly and in favor of competition.

As presently construed by Department of Justice and the courts, however, these antitrust laws applied to joint operating arrangements promote monopoly in newspapers—an effect quite contrary to the basic intent of these laws.

S. 1520 PROMOTES COMPETITION IN IDEAS

On the other hand, the effect of S. 1520 is to promote vital competition, instead of monopoly. S. 1520 is thoroughly consistent with the purpose of the antitrust laws.

Mr. President, in closing I want to say this. Our complicated republican, representative form of government, with it delicate checks and balances and its precious freedoms for its citizens, is the most difficult form of government to operate. Its success depends upon an enlightened and informed citizenry.

In today's complex and technical society, no man is an expert on all subjects. To understand public issues, it is essential that citizens have ready access to different ideas, different analyses, and different points of view on these issues.

America is a pluralistic society. We believe in economic choice in the marketplace. We believe in political choice at the election polls. Freedom of choice is a hallmark of the American system.

By fostering differing news and editorial services, as would occur under S. 1520, we give our citizens a choice in the marketplace of ideas. I truly believe thereby we are strengthening our system of government.

I strongly urge my colleagues to support this measure and to pass it overwhelmingly.

EXHIBIT 1

THE FAILING NEWSPAPER ACT

The subcommittee met, pursuant to recess, at 10:10 a.m., in room 1114, New Senate Office Building, Senator Philip A. Hart (chairman) presiding.

Present: Senators Hart and Fong.

Also present: Senator Inouye.

Also present: S. Jerry Cohen, staff director and chief counsel; Jack Blum, assistant counsel; Peter N. Chumbris, chief counsel for the minority; James C. Schultz, counsel for the minority; Gladys E. Montier, clerk; and Patricio Bario, editorial director.

Senator HART. The committee will be in order.

We welcome our first witness who is better defended and presented than any other witness we have had in this whole series of hearings.

Senator FONG. Mr. Chairman, I wish to welcome warmly Mr. Thurston Twigg-Smith as a witness before this subcommittee, and to introduce this distinguished citizen of the State of Hawaii to you.

Mr. Twigg-Smith is the president and publisher of one of the two major daily newspapers in my State, the Honolulu Advertiser, a newspaper which is more than 100 years old. It was established in 1856. Mr. Twigg-Smith is a fifth generation descendant of one of the most eminent families of Hawaii who helped to build the foundations of our modern Hawaii. He is one of the most highly regarded leaders of my community.

His newspaper, the Honolulu Advertiser, has over the years achieved a position of great distinction in American journalism. Its news columns are unfailingly objective and fair in reporting all "news fit to print." Its coverage of all the newsworthy events is thorough and complete on the local, national, and international levels. Its independent editorial voice has been loud and clear, and always responsible.

In all respects the Honolulu Advertiser has established itself not only as a great newspaper but also as a leader in the State, whose viewpoint is one of the most highly respected and whose voice is always heard.

Mr. Twigg-Smith appears before the subcommittee this morning representing both his newspaper and the Hawaii Newspaper Agency, a joint operating arrangement between the Advertiser and the other great Honolulu daily, the Honolulu Star-Bulletin. This highly successful joint operation has existed since 1962.

Mr. Twigg-Smith, I am pleased and delighted to welcome you to these proceedings. We look forward to your testimony, which I am sure will be of significant assistance to the subcommittee in consideration of the important piece of legislation before us.

Mr. Chairman, I am also very happy that my colleague, Senator Inouye, is here, to give us moral support in this manner. I am quite sure that he would like to say something.

Senator HART. Senator Inouye.

Senator INOUYE. Senator, I wish to join my distinguished colleague to present to this subcommittee a very distinguished Hawaiian, Mr. Thurston Twigg-Smith. I, as a cosponsor of this measure, am especially pleased because Mr. Thurston Twigg-Smith is here in support of this measure and I do hope that this subcommittee will give this bill not only serious consideration but very favorable consideration. It is very important to Hawaii.

Thank you very much, sir.

Senator HART. Thank you, Senator.

If Senator Inouye is free to stay, we would be delighted to have him sit through. I know his schedule.

Senator FONG. Mr. Chairman, to show you how well regarded Mr. Twigg-Smith is, he has an audience here with him, Mr. and Mrs. Richard Thacker from Honolulu. Will you stand, Mr. Thacker and family?

STATEMENT OF THURSTON TWIGG-SMITH, PRESIDENT AND PUBLISHER OF THE HONOLULU ADVERTISER

Senator HART. Sir, we welcome you and having heard about you now, we await your testimony.

Mr. TWIGG-SMITH. I appreciate all the kind comments. Mr. Chairman and members of the subcommittee, my name is Thurston Twigg-Smith and I am the publisher of the Honolulu Advertiser. It is a privilege and a pleasure to appear before you and present my views on S. 1312. As my statement will show, I think this proposed legislation is the long-sought solution to the difficult problem of preserving independent, competitive newspaper voices in major American cities.

This statement will give some of the background that led the Advertiser into becoming one of the 44 newspapers now engaged in joint operating arrangements in 22 cities in America. It also will try to answer some of the questions that have been asked of us, and in summary will set forth some thoughts which have evolved to this writer in many years of worrying about survival and 5 years of living with such a joint operating arrangement.

The Advertiser was founded in 1856 and had survived as an independent voice

through several monarchies, a provisional government, a republic, a territorial government, and finally a State government, before I became its president in 1961. It had been losing money most of the years immediately prior to that time, and in terms of standing within the field, it had shown a continuous decline in percentage-of-the-field figures for advertising and circulation for the period 1929 up to the time that the joint operating arrangement was organized in June of 1962.

Parenthetically, percentage-of-the-field figures have always seemed to me a better clue in determining the economic health of a newspaper than mere financial figures. Trend lines are life and death lines to a newspaper. As other witnesses have developed for you, a newspaper's economic strength depends largely on its advertising revenues, which in turn depend on readership. Since readership depends on content, which includes advertising as well as news matter, the process is almost a vicious cycle: a drop in advertising dollars means a drop in money that can be spent for promotion and editorial content, which leads in turn to a drop in circulation, which leads to a further drop in advertising, and so forth. Thus, if you examine the trend lines for an otherwise well-managed newspaper and find it to be on a descending curve in the key indicator areas of percentage of the field for advertising and circulation, you know it is going to be only a matter of time before the death knell sounds, unless of course the situation can be corrected with massive and continuing infusions of capital.

In 1961 we were at the bottom in all categories. In only one other market in America where two independent newspapers then existed, was the second so far behind the first as we were behind the Honolulu Star-Bulletin.

Between 1950 and 1958 the Star-Bulletin had gained advertising lineage at 4 times the rate of the Advertiser. By 1958 the Advertiser was down to only 37 percent of the total advertising appearing in the two newspapers and to only 32 percent of the total circulation. The Star-Bulletin had more than twice as much circulation and nearly twice as much advertising.

The net profit or loss before taxes, to Advertiser Publishing Co., Ltd., from its newspaper operations for each of the 5 calendar years preceding the establishment of the joint arrangement was as follows:

1957 (loss)	$47,514.34
1958 (profit)	191,927.62
1959 (profit)	56,981.17
1960 (loss)	110,615.40
1961 (loss)	72,395.35

The profit shown in 1958 was due entirely to the drastic cutback in expenditures instituted by the then management of the Advertiser in view of the loss suffered in 1957. This cost cutting was so drastic that it caused substantial deterioration in the advertising and circulation position of the advertiser. As soon as the Advertiser began to spend the money necessary to keep up its circulation and advertising, which began in the latter part of 1959, substantial losses were incurred. This is illustrated by the large losses in 1960 and 1961 mentioned earlier. In 1959 the Advertiser published a special statehood edition which netted $56,171—almost exactly the amount of its entire profit for that year.

Commencing the latter part of 1959, the circulation of the Advertiser improved. This improvement was achieved only by engaging in heavy promotion expenditures and reducing advertising rates to get volume to attract readers. This inevitably resulted in the substantial newspaper losses in 1960 and 1961. The Advertiser could not afford to maintain the expenditures that were necessary to maintain, much less increase, the gains in advertising and circulation which it enjoyed in the latter part of 1959 and in 1960 and in 1961. In fact, the advertising lineage and circulation of the Advertiser dropped, both absolutely and as a percentage of the combined Advertiser-Star-Bulletin total, in the first part of 1962 because the Advertiser could no longer afford to keep its extensive promotional activities going. For example, by the spring of 1962 the morning circulation had fallen to 61,000 as compared with 70,000 in the fall of 1961. Even with 70,000 the Advertiser had been unable to get the advertising of two major local department stores, Gem and Wigwam. The Star-Bulletin's advertising lineage and circulation, on the other hand, increased slightly during the first 6 months of 1962. By May of 1962 the Advertiser's circulation and advertising were dropping alarmingly, and an early consummation of the contract with the Star-Bulletin was essential to the Advertiser's survival.

It should be noted that the longtime owners of the Star-Bulletin had sold the paper to a local group in 1961 and the new owners were saddled with the largest debt load of the purchase price and were faced with requirements for a new plant site and new equipment.

The Advertiser's equipment was antiquated, and it did not have the resources to make the necessary replacements. Its news press was more than 30 years old, and there was some kind of breakdown almost every week. Management had no equipment replacement program. The production manager in a letter to the board of directors of the Advertiser in March 1962, concerning the condition of equipment and the printing plant of the newspaper, concluded that $1,458,000 would be required to replace antiquated equipment.

When the Advertiser's circulation reached a 70,000 level, the newspaper was inviting production disaster every night. The equipment was simply being pushed beyond its capacity. The Star-Bulletin, on the other hand, had an adequate news press with a running speed of more than three times that of the Advertiser. In addition to the news press, the engraving equipment of the Advertiser was completely outmoded and noncompetitive with that of the Star-Bulletin.

The Advertiser could not expand and could only maintain its existing circulation if there were no serious equipment breakdowns. The possibility of obtaining financing to purchase new equipment was remote. Institutional lenders had refused to make long-term loans.

Another factor contributing to the decline of the Advertiser was the requirements of the labor unions. The Advertiser had been compelled to pay the same wages as those paid by the Star-Bulletin. During the negotiations with the unions in 1961, the union negotiators demanded that the Advertiser institute the same kind of pension program that the employees of the Star-Bulletin had enjoyed for many years. This program would have cost about $750,000 to fund. Of course, the Advertiser did not have the money to engage in any such funding program. As a consequence, it was compelled to agree during the union negotiations that the matter of pensions would be subject to continuing study, and in the meantime the Advertiser would continue to pay pensioners on its old informal basis. By the end of 1961, about $50,000 a year was required for pensions. At the next negotiations with the unions in 1963, this factor alone would have presented an insurmountable financial problem to the Advertiser.

This brief review of the major causes of the financial losses sustained by the Advertiser makes clear, I believe, why there was no sound reason to believe that the large, continuing losses suffered in 1960 and 1961 were merely a temporary phenomenon, capable of being reversed by sound operating economics or by an achievable increase in circulation or advertising. There was simply no money available at the Advertiser to purchase adequate presses, to continue to meet union demands for pensions, and so forth, to increase circulation and advertising revenue, or to withstand the mounting competition to the Sunday Advertiser from the relatively new Sunday Star-Bulletin. To do the job would have required millions of dollars to support an all-out fight against insurmountable odds presented by the Star-Bulletin which, we understood, had gross annual profits of around $1 million a year and a physical plant and equipment in far better condition to wage such a war.

By the end of 1960, it was clear to me and to a majority group of stockholders that the newspaper was headed for extinction. We effected a change in management in the spring of 1961. The situation then was this:

1. We were in our second year of operating losses.

2. We had paid no dividends for 2 years after 7 years of merely paying a token dividend.

3. We had a precarious position in the field: Both advertising and circulation were dependent on heavy, costly, continuing promotion.

4. Our bank loans were all short term and totaled some $200,000.

5. We had tried unsuccessfully to get long-term financing from two insurance companies, Prudential and Occidental, and had been turned down on the basis of too poor an operating picture; too low a cash flow.

6. We had no working capital and had been turned down by the banks for any further short-term advances.

7. Our equipment was antiquated and had been pushed to the limit in our circulation drives. We had frequent breakdowns and extra runs. In line with its cost-cutting, short-term approach to the facts of corporate life, the previous management had not replaced or funded for new equipment. Our needs there totaled $1.5 million.

Nevertheless, we decided to attempt to continue as we had been. We conducted another phone room campaign for circulation in May of 1961 that brought in over 6,000 new subscribers.

We brought in a new advertising director to begin a new sales approach.

But our losses by that time were running at the rate of about $25,000 a month. We could not continue the investment in promotion and the charts in 1962 showed we were headed down again. The gap between the two papers was simply too wide to close or even substantially narrow.

It appeared certain we had only three alternatives:

A. Liquidation.

B. Sale to the Star-Bulletin.

C. Formation of a joint operating arrangement.

The idea of sale to the Bulletin was abhorrent and liquidation was the easy way out. Our directors agreed to let me pursue the possibilities of a joint operating arrangement and I toured the mainland in early 1962 to learn more about such arrangement.

This kind of a program was the only kind that fitted our needs and philosophies. We had a dying newspaper on our hands but we wanted to keep its voice alive. I am a fifth-generation Hawaiian, I had always lived in the islands, and frankly, I wanted to stay there and stay in the newspaper business, which is the only line of work I have ever been in except for military duty. The Advertiser had survived several near-deaths in its earlier life and we were hopeful of keeping it as a strong constructive factor in Hawaii. We want it to continue that way and I am convinced that a joint operating arrangement is the only way in which we can have two daily newspapers in Honolulu.

The press in Honolulu has seen, and covered, the transition of these islands from monarchy to territory to State. It has written of the sailing ship and of the nuclear submarine; of the evening star on a velvet sky, and of the manmade satellites in orbit. It has reported and, journalistically, helped to ac-

celerate the growth of Honolulu from sleepy town to bustling city.

It has been said, and with considerable justification, that a city is no better than its press.

Where newspapers are stagnant, there you will usually find a stagnant community. Where the newspapers are vibrant, their coverage fair-minded, and their editorial pages alive, they are vital factors in community advancement.

The future of Hawaii and of our Nation, in a time of crisis whose end is beyond view, depends upon the ability of the citizenry to make intelligent judgments on vital issues and then to act on those judgments.

This requires a constant dialog, a constant flow of information covering the whole spectrum of ideas.

Mr. Justice Holmes once wrote in a famous dissent that the "ultimate good desired is better reached by free trade in ideas" that "the best test of truth is the power of the thought to get itself accepted in the competition of the market," and that "the truth is the only ground upon which men's wishes can safely be carried out."

In recent years, the forces of economics and technology have tended to narrow the competition of ideas in the newspapers of many cities.

In this book "America as a Civilization," Max Lerner writes:

"Since the newspaper to be popular must be kept cheap in price the burden of keeping it going under conditions of rising labor and newsprint costs falls on advertising revenue, which in turn depends on large circulation, which in turn depends on heavy investment both in plant and features and distribution and on the capacity to bear losses until circulation can be built.

"This gives the competitive advantage to the big corporation. It means also that the competition becomes intolerable to the weaker papers, and they drop out or are bought out."

What has been the result?

In many cities, some larger than Honolulu, newspapers have responded to the economic pressures of the time by going into single ownership.

But to us in Honolulu, this solution was unacceptable—unacceptable because it could have put an end to the diversity of viewpoint that had characterized our newspapers and is so sorely needed in our society today.

Putting together a joint operating agreement in our case was not an easy matter. The negotiations which finally resulted in the agreement were conducted in a series of meetings in March and April 1962. At times the negotiations became so disputatious they were on the verge of being abandoned. Finally, agreement was reached late in May 1962, and the arrangement went into effect June 1, 1962.

The resultant savings have turned the Advertiser from a dying entity into an increasingly healthy one under a program benefiting both readers and advertisers.

Newspaper profits for the years of the plan, before taxes, were as follows:

1962: $43,912, all of it in the last 3 months, incidentally.

1963: $53,066, and in that year we had a 44-day strike.

1964: $366,738.

1965: $300,123, the drop coming about because we adopted a double declining depreciation process on our machinery program.

1966: $398,479.

The story has not been without its problems, however. We have had to borrow $1.5 million to put into new equipment and building renovations, and it will be some 15 years before this borrowing is paid off.

The additional revenues have meant opportunities to improve editorial staff, both in number and quality. Our total editorial budget increased from $545,815 in 1958 to $1,048,263 in 1966. It will be considerably higher for 1967.

There has also been a marked increase in quality. New or recent employees have come from such places as the Kansas City and Dallas bureaus of UPI and from such highly regarded newspapers as the Milwaukee Journal, the Minneapolis Star, the Louisville Courier-Journal, the Los Angeles Times. Their interest in joining the Advertiser is in itself an endorsement of the paper's independent policy and meaningful standards of craftsmanship.

We have added to our basic UPI service the Washington Post-Los Angeles Times News Service to provide better national and international coverage. This contrasts with our inability to pay even a modest sum for the New York Times Services prior to the joint arrangement thereby losing the service to the afternoon newspaper.

We now have a part-time Washington bureau to assure better coverage of the Hawaii delegation. When economics permit, we would like to have full-time representation in Washington, with wiring of daily dispatches.

Last to be listed, but of obvious importance, we now carry an average of 16 more columns of news a day than we did before the joint operating agreement. This represents a 15-percent increase in the amount of news being received by the Advertiser's readers.

With all this, there has been no lessening of the competition for advertising dollars in Honolulu. The Scripps League maintains an aggressive number of small neighborhood newspapers whose circulation in the aggregate exceeds ours. They announce this loudly over many of the 19 radio stations that exist in our city. There are also four commercial television channels, two language dailies, four or five weeklies, and a growing number of direct mail companies.

While these media all offer competing outlets for the advertising dollar, none can match the editorial and news service provided by a major daily newspaper. The housewife may put her classified ad in her neighborhood weekly, but she wants the story of her daughter's wedding in the Sunday newspaper. And, of course, neighborhood papers do not bring her national and international news.

Nor has the joint arrangement decreased editorial competition between the two newspapers. It has increased it as any study would show. Economic strength breeds editorial independence in the best sense, and two competing editorial staffs lead to continuing constructive scrutiny of all agencies and departments of Government, of business, of life around a city.

As other witnesses have also undoubtedly stated to you, the problem to which S. 1312 is addressed is not an academic one. The Justice Department is apparently of the view that joint arrangements are per se illegal under the antitrust laws.

To the best of my knowledge, the Justice Department has never acted against the acquisition by a strong paper of a failing second paper. If the failing company doctrine permits a complete acquisition, involving a juncture of editorial, advertising, and circulation functions, why should it not permit something less than a complete acquisition? This paradoxical situation goes right to the heart of the matter, in my opinion.

Whatever the technical rationalization, a grave disservice will be done to the general welfare as well as to the papers of the 22 communities involved if joint operating arrangements are disallowed. Apparently the only sure way to prevent this is for the Congress to provide relief.

The problem in newspaper operations is complicated further, as you doubtless know, by the determination of "failing." If the criteria, as they are usually applied to industrial firms, are applied to newspapers, it is already too late. A newspaper, once dead, is really dead. There is nothing to revive, as you can easily see among the ashes in New York.

The important goal of this proposed legislation is continuance and strengthening of the historic independence of the press. In a world grown fantastically complex, major American cities need outlets for diverse written opinion. The public interest will not be served by any of us standing by while legal technicalities lead to the demise of 22 major American daily newspapers. These are now active, leading instruments for public good in more than a third of the few remaining American cities that still have independent, competitive, editorial voices. Nothing could take their place that could do anything comparable to the job they are doing every day in keeping millions of Americans informed.

Thank you again for the opportunity to give you my views on S. 1312.

This concludes the formal part of my statement but I was asked yesterday by Senator Fong if I would jot down a few of the editorial positions on which we have differed diametrically with the Star-Bulletin and I have made a few notes here that come to mind right off the bat. These are in no way critical of the philosophy of the Star-Bulletin. They have their philosophy and we have ours.

On fluoridation, for example, they adopted an attitude of wait and see. We came out swinging for it.

On political endorsements, as Senator Fong and Senator Inouye both know, we came out foursquare in support of candidates whose records, in our opinion, merit support, and it is a mark of our independence that of these two, one is a Democrat and one is a Republican, we supported both of them. The other paper does not endorse candidates at all.

The 1967 legislature produced a landmark bill in Hawaii, a land reform bill that is going to have far-reaching sociological changes. We endorsed this. The other paper did not.

We have a tidal wave warning system out there that frequently sends people scampering to the hills and the other paper has ridiculed the system because of the inconvenience to the people. We have supported it.

We have a "little thing" called Diamond Head out there that is a national symbol of Hawaii. The other paper would like to see apartment hotels built around the base of it. We strongly oppose this.

On politics, in general we have a moderately liberal attitude, they have a moderately conservative attitude, and readers thus get two clearly different points of view.

We are relatively active on national and international issues and they tend to devote themselves more to local issues editorially.

On reapportionment, we were in favor of a system of at-large elections for city councils; they proposed a combination of the two. And this sort of thing extends to news coverage, too. We both crusade to a degree. We tend to do more of it than they do, but I think the interaction stimulates the other paper into action.

Thank you.

Senator HART. Thank you, Mr. Twigg-Smith. Protocol requires that Senator Fong be first to make comments and ask questions.

Senator FONG. Thank you, Mr. Chairman.

I want to commend Mr. Twigg-Smith for a very, very frank and clear and detailed statement of his operations.

Now, I think this the frankest statement we have received yet in this committee of the operations of a newspaper and the problems that faced him before he went into this joint operation and for that I would like to commend Mr. Twigg-Smith because it gives us a very clear picture of what really happened and why his operating agreement went into effect.

With this statement, I think we now gather, we now have the very fine, very good and clear idea as to what forces a newspaper to get into a joint operation.

Now, Mr. Twigg-Smith, you have now been

in operation jointly for approximately 3 years?

Mr. TWIGG-SMITH. Five years, sir.

Senator FONG. Five years. If the Antitrust Division of the Justice Department says this is against antitrust laws and we do not pass such a bill and you are forced to go back to what you were before, what would your financial situation be?

Mr. TWIGG-SMITH. I do not think our financial situation is strong enough at this point to give any assurance that we would emerge as the successful paper. One paper or the other has got to fold under the relatively tough laws of newspaper economics in a city this size, in my opinion. So, I would have to say at this point that we probably would face, still face extinction.

Senator FONG. You would have to face extinction?

Mr. TWIGG-SMITH. Right.

Senator FONG. You are quite sure of that?

Mr. TWIGG-SMITH. Positive.

Senator FONG. And, you stated that prior to the time that you went into the joint operation you were losing tremendously large sums of money, and the Star-Bulletin was making over a million dollars a year.

Mr. TWIGG-SMITH. We were losing large sums for us; yes, and they were making money.

Senator FONG. How long could you have kept that up?

Mr. TWIGG-SMITH. Frankly, I think we had reached the end right then which is why we had to really push to get this thing into effect on June 1, 1962. I do not think we could have lasted through the end of that year. We had no resources to fall back on.

Senator FONG. And you could not borrow any more money?

Mr. TWIGG-SMITH. We could borrow no more money.

Senator FONG. And, your presses were used to such an extent that you just could not print more papers?

Mr. TWIGG-SMITH. The only way we could gain any strength would have been to increase our circulation and there was no feasible way to increase circulation with our existing equipment and we could not buy any new equipment with our existing resources, so we really were in a bind.

Senator FONG. Did you at that time, think seriously of liquidation?

Mr. TWIGG-SMITH. Not seriously, no.

Senator FONG. Because there was the alternative of this joint operation and alternative of selling; is that right?

Mr. TWIGG-SMITH. Right.

Senator FONG. Now, you stated here that there are other newspapers in the city. How are they doing? Has the joint agreement between you the the Honolulu Star-Bulletin interfered with the growth of the other papers?

Mr. TWIGG-SMITH. I do not believe so. As a matter of fact, the Scripps League, which is a pretty sophisticated group of newspapers, as you probably know, operating in the West mainly, well-financed and well-experienced in the field, bought into the area after this venture started. I forget the exact year they moved in there, but they bought an existing group of weeklies that a man by the name of Stewart Fern had started there. They bought these and also a neighboring island property so I would think they must be doing all right.

Senator FONG. You have daily newspapers on each island?

Mr. TWIGG-SMITH. There is a——

Senator FONG. The larger islands of the group?

Mr. TWIGG-SMITH. Right. Kauai and Maui are still in the twice-a-week stage, but I understand they are thinking about going daily. The Scripps League people are taking over Kauai and are planning to go daily in there. They are installing new offset presses and I understand they are thinking of going daily.

Senator FONG. On Kauai with a population of 30,000?

Mr. TWIGG-SMITH. Yes.

Senator FONG. How about on the island of Hawaii?

Mr. TWIGG-SMITH. There is a daily newspaper over there that was bought by a mainland owner from the Star-Bulletin which used to own it. It is a paper of about 11,000 or 12,000 circulation. That island has, as you know, about 60,000, 65,000 people.

Senator FONG. And on the island of Maui? With 35,000, twice weekly?

Mr. TWIGG-SMITH. Twice weekly, yes.

Senator FONG. How is the financial health of all these newspapers?

Mr. TWIGG-SMITH. As far as I know they are all in good shape.

Senator FONG. You stated that after the joint operating agreement, you added 16 columns to your newspaper.

Mr. TWIGG-SMITH. Yes. That is, two more pages of news.

Senator FONG. Would that mean that every day on an average you had 16 more columns?

Mr. TWIGG-SMITH. On the average we have about two more pages of news every day, yes.

Senator FONG. And what about the Sunday paper? Did that increase in size?

Mr. TWIGG-SMITH. That increased in news space also; yes.

Senator FONG. And what about the number of men that you now employ? Do you have more editorial people than you had prior to the joint operating agreement?

Mr. TWIGG-SMITH. Yes. I do not have the exact figures with me but they are somewhere in the range of—let us say we had 63 people before the thing started. We now have about 68 plus a number of part-time people. There has also been an increase in the salary scale paid to these people, so I would have to say they are of higher quality than before but I also would say we can afford this group now and we could not afford them before.

Senator FONG. And you say you were able to induce men from the Milwaukee Journal, the Minneapolis Star, the Louisville Courier-Journal, the Los Angeles Times, and other papers?

Mr. TWIGG-SMITH. Right.

Senator FONG. That means you have a better caliber of men now.

Mr. TWIGG-SMITH. Yes.

Senator FONG. I want to thank you for your additions, showing where you have differed with the Star-Bulletin in the matter of seeing things in the community and when you say that you did endorse one Democrat and one Republican for the U.S. Senate, I want to vouch for that, Mr. Chairman. I want to say that I was fortunate to get the endorsement of the Honolulu Advertiser, although it is supposed to be a very liberal paper.

Mr. TWIGG-SMITH. Certainly, more a tribute—

Senator HART. I do not want to get Senator Fong in trouble on how I regard him, but I think it is good endorsement.

Mr. TWIGG-SMITH. It is certainly more a tribute to his strength than our support that he got elected, but I like to think we helped him.

Senator FONG. I have no further questions, Mr. Chairman. I think the statement is very very complete and gives a very good idea as to what really transpired. We have a better picture of how to proceed on this bill.

Senator HART. I agree. The evolution of the fiscal problems that you describe is detailed and interesting as Senator Fong says, and helpful. But, as I read that statement, it seemed to describe a property that was suffering because of poor management. What is Congress' responsibility to protect a business which fails just because of sloppy management?

Mr. TWIGG-SMITH. I do not think that sloppy management is ever the sole factor in the problem. I think that nobody would condone poor management. I do not think the owners of a paper would sit by year after year and do this.

I think the main point I am making is that this sort of thing, the failing newspaper predicament, does not develop overnight. It takes a number of years, maybe a decade to develop, and certainly over that period of time if the owners are at all aware of that, the management is going to be improved. If the management was a problem at one point, it is not going to be a problem forever.

Senator FONG. I do not seem to find in this statement where Mr. Twigg-Smith talks about poor management prior to the time he got in; is that right?

Senator HART. Let me explain why I developed that feeling as I listened to the testimony. Mr. Twigg-Smith did not become the commanding general until 1960, was it?

Mr. TWIGG-SMITH. 1961.

Senator HART. I would have used more gentle words in my question if you had been there before. But, I raise it as bluntly as I do because implicit in this bill is a commitment that, notwithstanding inadequacy of management, because there is no reference to whose fault this is, we are going to make an exception in the antitrust laws. And, I think we ought to raise it bluntly; do you not?

Mr. TWIGG-SMITH. Yes, I do.

Senator HART. Because it raises a very basic question that the public has a very direct interest in. Editorials across the country are always lecturing Congress on our insistence on propping up the weak and this bill is a prop. At least it does not say anything about whose fault it is. I wanted to make this point and get a publisher's reaction to it.

Mr. TWIGG-SMITH. Well, I think of the bill more as a way of opening the way for survival rather than a prop for weakness. I do not think Congress has any responsibility for poor management and I do not think it should offer any support for poor management or condone it at all. But by opening——

Senator HART. But this does. If there is a property that is folding because of poor management, this bill says: "Well, we will make an exception."

Mr. TWIGG-SMITH. Well, I submit, sir, that the poor management is never the sole factor. Poor management may exist from time to time, but I would not single it out as being the sole factor for the failing condition of a newspaper. There have got to be other factors. If poor management is the only problem, the owners will have or should have taken care of that themselves. I do not think you can have a situation where poor management can exist for a long enough period to be the sole reason for a newspaper's being a failing newspaper.

Senator HART. Well, do you apply that to other businesses, too?

Mr. TWIGG-SMITH. I would believe so, yes. I do not think that anyone condones poor management, certainly not——

Senator HART. Do you suggest that failure is never wholly the result of poor management?

Mr. TWIGG-SMITH. That is what I am suggesting with respect to newspapers, yes.

Senator HART. And, you would extend that to other industries and businesses?

Mr. TWIGG-SMITH. I would not suggest any condoning of poor management.

Senator HART. No, but do you suggest that there is never a failure because of poor management alone?

Mr. TWIGG-SMITH. There may be an occasion failure when poor management might be the final factor, perhaps, but I do submit that poor management never is the single factor that leads to the problem and there is a difference, I believe, between newspapers and other industries. I think in the newspaper situation we have a kind of a built-in problem, a market problem. There are conditions that have become apparent over the

years that preclude two newspapers existing competitively in the current sense of the term in markets of certain sizes and I am talking about metropolitan newspapers that can bring to people the international news reports and other things that they need on which to make judgments and, I believe this is the basic problem facing us here, that the issue may be confused by existenoe occasionally of poor management but there have been some splendidly managed newspapers that have been failing newspapers.

Senator HART. We have been told that one of the unique features in this business is that a market area of x population can support only one newspaper, not two. We have reached no conclusion, but assuming it to be true, this bill would have the effect of saying that it shall be the fellow who is there rather than somebody who might come in afterward.

Mr. TWIGG-SMITH. I do not think that it necessarily does that because up until the time that the two newspapers are going to go into a joint operating venture, there can be a succession of owners who might believe they can make a change. There are always optimists who feel they can fight against the economic rules that eventually get to them, and this may occur in the cases of two newspapers. But, I do think that the problem we are wrestling with here is not who is going to operate the newspapers or whether some new newspaper can come in and enter the field. The problem is that without something of this type we are not going to have two newspapers to worry about because the problem will resolve itself in favor of a single ownership unless some law to permit these operating ventures is laid down by the Congress. Then, you have a single ownership situation where it is almost impossible for another owner to venture into the field. I do not know of any metropolitan areas in recent years that have been successfully invaded, if we can use the word, by some outside interest in the newspaper field. The economics just deny that sort of thing happening.

Senator HART. But, where joint ownership is permitted, you are right, the outside fellow is not going to come in. The new fellow will not. He cannot.

Mr. TWIGG-SMITH. The point I am trying to make is that he is not going to get in anyway, but by allowing a joint operating venture to set up, you do end up with two owners in the city. If you do not have a joint venture you end up with one owner and no opportunity for anyone else to get in anyway. So, at least under this system, if it is true that nobody else is going to get in, at least you have preserved what does exist, and dual ownerships are fast disappearing, as you well know.

Senator HART. You say if it is true. It is certainly truer that if you permit the two to stay, the arrival of a new one is much less likely.

Mr. TWIGG-SMITH. That is——

Senator HART. We can agree on that.

Mr. TWIGG-SMITH. I will finally submit it is also true that nobody is going to get in anyway, as history will show.

Senator HART. Your market area is in excess of 350,000?

Mr. TWIGG-SMITH. Oh, yes. Our city and county is now past the 600,000 mark, approaching 650,000. The city alone is 352,000.

Senator HART. And a 500,000 city could not support two well-managed newspapers?

Mr. TWIGG-SMITH. I do not believe so—I think the figure is somewhere between 650,000 and a million. I tend toward the million figure myself from what I have been able to observe.

Senator HART. I know what Senator Fong will say. It is going to reach a population of 2 million. There will be a day when you have more than 650,000 and a day when you have more than a million.

Senator FONG. In 1980 we are going to expect 6 million tourists a year.

Senator HART. 6 million tourists.

Senator FONG. Yes, just tourists alone, a year. By the next 5 years——

Senator HART. But they will not subscribe.

Senator FONG. The next 5 years we are going to expect the doubling of our hotel facilities, 2 million tourists a year. We now have 760,000 tourists. This figure is going to grow. But I would like to explore this particular thought that Mr. Twigg-Smith had. You said they are not coming in anyway, what do you mean? You mean it has been shown that in the big cities, even very big cities, newspapers have not been able to start, is that correct?

Mr. TWIGG-SMITH. I think it is important here to emphasize again that we are talking on the one hand about metropolitan types of newspapers that try to offer broad news coverage, international coverage, and all the other things that make up what we talk about when we talk about metropolitan newspapers, on the one hand, and suburban newspapers on the other. I can see many suburban newspapers moving into the Hawaiian Islands. They are doing this already. They are doing this in many other cities throughout America and they perform a neighborhood service but they do not offer the things that American people need to get the information on which to make judgments that are necessary in our daily activities. So, therefore, I would say against that background that nobody is moving into the metropolitan newspaper field. Nobody is coming into a big city; I do not see anyone coming into New York. I do not see people moving into the areas like Milwaukee, for example, among single ownerships, large areas like Atlanta, large areas like New Orleans. It just is not economically feasible to move into big cities with a metropolitan newspaper. There will be people coming in with small offset presses in suburban areas, fighting for the same advertising dollar and making things tough for the metrooplitan papers along with radio and TV but not serving the people in the same sense.

What this bill seeks to do, as I understand it, is to preserve these major metropolitan voices that are disappearing.

Senator FONG. What you are saying, and what we have heard from time to time from other people who have come here, is that where one paper leads in advertisement linage they continue to get stronger and the one way behind continues to get weaker?

Mr. TWIGG-SMITH. Absolutely.

Senator FONG. And it is not easy to start a metropolitan newspaper. There is the possibility of starting suburban papers but the starting of a metropolitan newspaper is a very different thing.

Mr. TWIGG-SMITH. Right. And, I think that the economic laws are such that if you are able to put large amounts of capital into what might be a failing newspaper at the moment or a paper tending toward failure, the end result would be that the other paper would fail. I do not think two newspapers can survive in these cities. So if you argue that all that is needed in one case is a little extra capital, what you are talking about is that if you put enough capital into that second paper, the then first paper will eventually become a second paper and fail. The thing is—unless you make some major change in the cycle, the cycle is self-defeating and the second paper gets worse and worse because as you know from previous discussions, it begins cutting costs, reducing its editorial news space, reducing the quality of its editorial people and then begins losing readers and then loses advertising and spirals downward.

If it tries to break that cycle by bringing in new capital, new money, and if it breaks through, then the other paper gets the downward trend. All this takes years, of course.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, to my mind there are strong reasons for granting limited exemption from the antitrust laws to newspapers which have entered into joint operating arrangements of the kind, and for the reasons, involved in the case of the Tucson Daily Citizen and the Arizona Daily Star.

As everyone knows by now, the measure before us arises out of the Federal Government's action challenging the joint operation that had been in existence in Tucson for 25 years. The Tucson example is typical of the manner in which competing newspapers are operated in 22 cities in 20 States, and for this reason the Government's move has a nationwide effect. Indeed it threatens to upset the working agreements in all of these cities, ranging from Honolulu to both coasts of the mainland.

Mr. President, I shall take only a few minutes of the Senate's time to review the situation which led to the creation of the Tucson joint operating agreement so that Senators can better see the need for, and equity in, the pending legislation.

Prior to 1940, as today, Tucson had two daily newspapers of general circulation—the Star and the Citizen. From 1932 to 1940, the Citizen had been operating at a substantial loss. For many consecutive years prior to 1940, the Citizen had been unable to pay a dividend.

In fact, the only way Citizen Publishing kept going at all was through sizable capital contributions made by its stockholders. This was true even though its publisher, William Small, Sr., worked without any salary at all.

By March of 1940, Citizen Publishing owed debts of more than $109,000. The Citizen was losing advertising and circulation to the Star and obviously was on the brink of collapse. Newspaper professionals who are familiar with the Tucson situation have sworn under oath that the Citizen was only salable on a distress basis.

On the other hand, the Star was thriving. It sold 50 percent more advertising space than the Citizen and had an annual profit averaging nearly $26,000—about the same figure as the Citizen's annual loss.

In this setting, one possibility loomed large; and this was merger, the complete consolidation of the Citizen with the Star. But this did not appeal to the owners of either paper. Both desired and believed that Tucson should continue to have two independent, locally owned newspapers in order to serve the community with the broadest contrast of opinion and range of news. Therefore, the papers entered into a special arrangement designed to preserve the identities of each but to share their costs jointly. The agreement achieved this by spe-

cifically providing that the news and editorial departments of each would remain separate, while the other operations of their business would be integrated. This meant a single typesetting room, a single proofroom, combined printing press facilities, one fleet of delivery trucks, and so forth. It has not, I wish to add, meant one crew. Two full crews of employees have been retained for different shifts of these operations.

Mr. President, the joint arrangement in Tucson has been successful. Both newspapers gained a sound financial footing. Costs to readers became lower per page than in 1940, when the agreement was made, and costs to advertisers became lower per number of readers than formerly. At the same time the Citizen and the Star retained separate news and editorial staffs and engaged in vigorous competition with each other in the presentation of news and editorial material.

Then in the mid-1960's, after a quarter century of operations under this arrangement, the Antitrust Division suddenly saw something about the procedure that they had never noticed before. Tucson was made the test case in a suit charging a violation of the antitrust laws. Please note, if you will, Mr. President, that by this time similar arrangements had been allowed in 21 other cities and had been in effect in six of these cities for more than 20 years.

As Senators are aware, the district court held that the arrangement did violate the law, and the Supreme Court sustained this decision.

Regardless of this ruling, however, I cannot believe that justice or fairness has prevailed. As the district court stated during the proceedings in this case, if the papers had merged into one paper, and printed morning and evening editions, the Government would not have thought of attacking that arrangement. But because they left the news and editorial departments separate, the newspaper ran into the new rules thrown up by the Government.

Therefore, I believe the bill which is before us today is a fair bill. It treats fairly the newspapers that are already operating under this type of arrangement. It treats the communities fairly by assuring them of receiving separate editorial voices and news presentation.

In my opinion, this bill is a better bill than the one that was before the Senate in the 90th Congress. The provision in section 4(b) which expressly prevents the bill from being used to allow discriminatory practices is an especially wise addition.

Mr. President, speaking as one of the sponsors of S. 1520, I can assure the Senate that we who support the measure have tried to sharpen its terms so that it would apply only to a strictly defined situation. We did not want it to be suspectible of having application to unintended, unforeseen conditions. For my part, I am well aware that the granting of an exemption from the antitrust laws, in any industry, must be carefully limited.

Caution is particularly necessary when the exemption applies to the news media. A free press with free entry into the field is a basic principle which must not be abused. But where, as here, the choice plainly narrows down to the survival of independent, competing news voices operating under a joint agreement, or a single viewpoint, single owner situation, then I must opt for the joint agreement.

Mr. President, there are only 59 cities where separately owned newspapers exist. Twenty-two of these are joint operating cities. If we allow the demise of one competing paper in each of these cities—which is an unquestionable risk should S. 1520 not be passed—we shall truly have caused a severe impediment to the free flow of challenging, competing viewpoints.

If the first amendment rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the public welfare, then surely it is necessary that we pass the pending bill.

It will go no further than to treat the joint operating newspaper on an equal basis with newspapers that are permitted to merge into a single entity. It will prevent the unnecessary demise of failing papers and will preserve separate editorial voices and news sources in communities which would otherwise be unable to support two commercially competing papers.

Mr. President, I urge that the Senate give its approval to this legislation.

Mr. BAKER. Mr. President, there appears to me a very basic proposition in the Newspaper Preservation Act. That proposition is whether Congress will keep available to the general public of this country a diversity of printed news and editorial opinion, or whether it will help silence half of that voice in several major cities.

History clearly shows that year by year there are fewer independent newspapers in this country. The record shows that there has been a steady increase in the number of newspapers being absorbed by other newspapers and in the single ownership of all newspapers in a community.

The Newspaper Preservation Act affects 44 dailies in 22 cities, involving morning and afternoon editions. The act permits them to combine certain mechanical and business operations as a means of saving money. There was a testimony that of the 44 newspapers involved in such a contractual arrangement, virtually half of them would now be out of businss without such agreements.

While I am familiar with most of the 44 joint operations, I know first hand what these arrangements have meant in Tennessee. In Tennessee the citizens of three of the State's largest cities have the benefit of a wide variety of competitive opinion as a result of joint operations.

Even casual observers of newspapers in Nashville, Knoxville, and Bristol recognize and freely admit that while the operations are joint, the political philosophies, the editorial opinions, and the competitive voices are as far apart as California and New York.

The question then is whether the citizenry of these three metropolitan centers will have the benefit of these diversified views or whether the editorial voice of the printed media will be controlled by a single individual or group in each city.

We are debating the possible survival of only 22 independent voices among the country's great newspapers. I ask Senators to compare this figure with the 155 to 160 cities which now have newspapers owned by one individual or company. I do not suggest that this is not in the public interest, for I am an advocate of a citizenry that is as well informed as possible. The point is that completely within the legal structure are joint operations in between 155 and 160 cities of this country which produce some 300 newspapers, while there is some legal question involving the joint operations of 44 other newspapers.

There has been considerable discussion about these 44 newspapers requiring advertisers to use both publications or none and that they, because of this so-called exclusive printing and distribution privilege, can and do set rates higher than they should.

It should be known that in the 155 or 160 cities where both newspapers are individually owned, the advertising rates can be changed every morning and every evening. The profits from these operations can be divided any time and any way.

What has this diversity of views meant in Tennessee? It has assured that Democrat, Republican, and independent philosophies and Democrat, Republican, and independent candidates for office have had their day on the editorial pages. It has also guaranteed that every candidate has had his point of view extensively distributed through the news columns.

And the result, in my judgment, has been better government in Tennessee. There was a time in Tennessee when one party was in complete control of the State election machinery. There was absolutely no hope for the election of a Governor, a U.S. Senator, or of a candidate in any other statewide race from the other party.

Today in Tennessee there is a Democrat U.S. Senator and a Republican U.S. Senator. There are five Democrat Members of the House of Representatives and four Republicans. The Tennessee Senate is controlled by the Democrat Party and the Tennessee House is controlled by the Republican Party.

There will be a Governor's race in Tennessee this year, and in my judgment out of a bevy of possible candidates on both sides, Tennesseans will select the best possible man for the job. It is the first time in my memory that the primary in one party was not tantamount to election to the Governor's chair.

I am positive that Senators will agree with me that this is a healthy condition. I hope that they will agree that the diversified views of the newspapers in Tennessee were a major factor in bringing this about.

I cannot agree 100 percent with Thomas Jefferson's statement:

> Were it left to me to decide whether we should have a government without newspapers or newspapers without government, I should not hesitate a moment to prefer the latter.

But I think his point is well taken, for, in my judgment, without newspapers this country would not be where it is today. The benefits we derive from the newspapers are too many to set down here, now, but I personally believe in more communication, not less.

Significant too, in my judgment, is the history of the total number of daily newspapers in this country. In 1930 there were 2,248 dailies; in 1940 there were 2,015; in 1950 there were 1,894; in 1960 there were 1,854, and in 1969 there were 1,833. There has been a steady decline in the number of daily newspapers. The prospects are for this decline to continue.

If this bill will help stop that trend; if it will keep just one more voice alive; if it will help to continue the circulation of different views and philosophies; if it will help to motivate the people; if it will help to improve government and if it will bring us all closer together, it is worth it. I believe it will do those things.

Mr. HART. Mr. President, first I apologize for my absence from the floor when the pending business was called up, and for my delay in getting here. The Committee on the Judiciary has been in session considering the nomination of Judge Carswell to the Supreme Court, and I was delayed for that reason.

I apologize to my colleagues who addressed themselves to the pending business in my absence, and assure them that I will carefully read the RECORD.

I rise to suggest, Mr. President, that the wisest course that the Senate could now take would be to recommit S. 1520, the failing newspaper bill, to the Committee on the Judiciary. That committee should undertake to determine whether the court-approved joint operating agreement in the Tucson case will permit savings sufficient to insure survival of both those newspapers. Very briefly, Mr. President, the bill that is now before us was introduced because of a suit that had been filed in Tucson and which was pending against the newspapers in Tucson. It was a suit filed by the United States against the Citizens Publishing Co., Star Publishing Co., Tucson Newspapers, Inc., Arden Publishing Co., and William W. Small, Jr., as defendants in an antitrust action. That case was appealed to the Supreme Court.

The Supreme Court ruled that a newspaper joint operating agreement in Tucson violated the law because it included price fixing, profit pooling, and market division. All these, of course, are traditionally antitrust violations. The Supreme Court went to great length to say that it was not, however, condemning all forms of joint newspaper operating agreements.

That decision of the Supreme Court did not end the case. Rather, the case was remanded to the District Court in Tucson so that the parties could work out a joint agreement which would conform to the Supreme Court order. That Supreme Court order was issued March 10 of last year. Since then, the parties have been at work intensively on a settlement plan and have reached agreement.

On January 23, the judge of the district court in Tucson heard the proposals and issued his ruling. As of today, reflecting that ruling, the Department of Justice and the newspapers have agreed that two newspapers jointly may do the following things—five in number—and be within the law:

First, they may use jointly all mechanical facilities, including typesetting equipment, composing room equipment, presses, warehouses, buildings, trucks, and other machinery.

Second, they may share a joint circulation system, including a single staff, down to the carrier-boy level; share the use of trucks and racks and other facilities for distribution. The Justice Department asked, and the parties agreed, that each paper maintain its own circulation, sales, and promotion staff personnel.

Third, permitted is the publication of a joint Sunday newspaper, the profits of which would be divided between the papers to the agreement, the two papers in question.

Fourth, they may share a single business department with common bookkeeping and common billing.

Fifth, they may set up a joint rate structure which would permit the sales force on both papers to offer a cost justified combination rate.

Mr. President, the only major issue on which the parties were in disagreement was whether there would be a single joint advertising sales force or whether each paper should have its own. The Justice Department argued that unless each paper has its own salesmen, there can be no real competition. Putting it conversely, if the salesmen work for both, how are you going to have competition? This was resolved in favor of the newspapers, and a joint advertising sales department nonetheless was allowed.

These legal joint activities should provide the publishers in Tucson with very substantial savings. As a matter of fact, the savings should permit the continued survival of both newspapers, with handsome profits to their owners.

But if these activities are not sufficient, other avenues may be open to the publisher—avenues not requiring legislation. The parties will have 90 days from the date of the order, which is January 23, to implement the final plan. Because both parties in Tucson are under common ownership, implementing the plan will mean modification of internal operations. The owner will then have 18 months to divest himself of one of the two papers. If at any point prior to divestiture it becomes apparent that the plan will not work, he may return to the court and seek whatever modifications may be necessary.

In effect, the new joint agreement will have a trial period, giving the parties, the court, and, importantly, Congress the opportunity to study its operation. The Department of Justice has assured the Subcommittee on Antitrust and Monopoly Legislation that it will not undertake suit, will not file suit, will not proceed against any other joint operating newspaper until a reasonable time has elapsed and the issue of survival of the papers is resolved. In addition, no private suits which seek equitable relief could come to trial for a matter of 2 years.

Mr. President, relaxing the antitrust laws to permit newspapers the right to fix prices, to pool profits, and to divide markets is a serious departure from our basic principle as it reflects a competitive enterprise system. The case for this departure, the argument in justification for it, rests on the proposition that without this change in the law, disaster for some papers is imminent; that 44 papers in 22 cities will be driven to bankruptcy at the insistence of the Department of Justice.

It is my feeling that this is not the case. It seems to me, rather, that we should wait to see whether, under existing law, the joint agreement worked out by the Tucson court will permit the survival of the papers and will retain our traditional marketplace approach to business questions. When the results of the test run are in, we will then have opportunity to consider and experience on which to base our judgment as to whether there is any need for legislation of a character such as that which is pending. If there is need, we will be able to act before anyone has been injured, before a single editorial voice has been lost.

Mr. President, the order of the court in the Tucson case, which was filed on January 23, with an amendment to that order filed January 26, should be made a part of the RECORD, and I ask unanimous consent that it be printed at this point in the RECORD.

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

[In the U.S. District Court for the District of Arizona, No. Civil–1969 Tuc.]

(United States of America, Plaintiff, v. Citizen Publishing Company, Star Publishing Company, Tucson Newspapers, Incorporated, Arden Publishing Company, and William A. Small, Jr., Defendants)

AMENDED ORDER FOR MODIFICATION OF OPERATING AGREEMENT AND DECREE OF DIVESTITURE

PRELIMINARY STATEMENT

This cause came on for trial before this Court on April 5, 1966. The Court filed its findings of fact and conclusions of law, and entered its judgment and decree herein, on January 31, 1968.

The Court's judgment and decree ordered defendants Arden Publishing Company and William A. Small, Jr., to divest themselves of The Arizona Daily Star, either by defendant Arden Publishing Company selling the assets acquired by it from Star Publishing Company or by defendant William A. Small, Jr., selling and disposing of all of the stock of Arden Publishing Company.

The judgment and decree further ordered defendants, other than Star Publishing Company, to lodge with the Court and serve upon plaintiff a plan which would provide for such divestiture and for the continuation of The Arizona Daily Star under ownership wholly free from any interests of or control by said defendants, or any of them. The Court further ordered that such plan should provide, as well, for the modification of the "Operating Agreement" so as to eliminate those provisions found to constitute price fixing, market allocations, and profit pooling.

Enforcement of the aforesaid judgment and decree was stayed by this Court, pend-

ing an appeal by defendants to the Supreme Court. On March 10, 1969, the Supreme Court affirmed said judgment and decree, and remanded the case for further proceedings.

Thereafter, pursuant to the judgment and decree of this Court, defendants submitted successive plans for modification of the operating agreement. They also submitted a tentative plan for divestiture, and a proposed form of "Order for Modification of Operating Agreement and Decree of Divestiture." Plaintiff opposed certain aspects of defendants' plans for modification of the operating agreement; it also filed a plan for divestiture and a proposed form of order and decree.

On October 28–29, 1969, this Court held a hearing, at which it heard testimony and received documentary evidence on the proposals for modification of the operating agreement. The Court received in evidence a Third Revised Operating Plan submitted by defendants. This plan eliminated all traces of price fixing, profit pooling, and market allocation. During the hearing, certain changes were made in the plan, dealing with matters apart from elimination of the per se restraints.

After the hearing, the parties submitted briefs on the proposed modification of the operating agreement. Defendants also filed, on December 10, 1969, updated copies of their Third Revised Operating Plan and proposed order and decree, which incorporated the above-noted changes made at the hearing. Thereafter, this Court heard argument by plaintiff and defendants on modification of the operating agreement and on divestiture.

Now, therefore, after consideration of such argument and of the aforesaid testimony and documentary evidence, and of all prior proceedings—all being considered in light of the decision of the Supreme Court herein, it is hereby further

ORDERED, ADJUDGED, AND DECREED

I. Definitions

As used in this order and decree:

A. "Arden" means defendant Arden Publishing Company, a corporation organized and existing under the laws of the State of Arizona, with its principal place of business in Tucson, Arizona, and the publisher of a newspaper of general circulation known as "The Arizona Daily Star" (hereinafter "Star").

B. "Citizen Publishing" means defendant Citizen Publishing Company, a corporation organized and existing under the laws of the State of Arizona, with its principal place of business in Tucson, Arizona, and the publisher of a newspaper of general circulation known as "The Tucson Daily Citizen" (hereinafter "Citizen").

C. The "joint Sunday newspaper" means a Sunday newspaper of general circulation published by Arden and Citizen Publishing pursuant to an agreement approved by this order.

D. "TNI" means defendant Tucson Newspapers Incorporated, a corporation organized and existing under the laws of the State of Arizona, with its principal place of business in Tucson, Arizona, which under the provisions of this order will be engaged in the business of (a) conducting all operations in connection with the production and distribution of Star, Citizen and the joint Sunday newspaper, and (b) acting as agent for Arden and Citizen Publishing for the sale of combination advertising, and as agent for the joint Sunday newspaper for the sale of all advertising.

E. "Combination Advertising" means identical advertising which (a) appears in Star and Citizen, or in either of such newspapers and the joint Sunday newspaper, and (b) is reproduced in each newspaper by use of the same type, plate, or other device.

II. Persons bound

The provisions of the Judgment and Decree entered January 31, 1968, and the provisions of this Order applicable to the defendants shall also apply to each of their officers, agents, servants, employees, subsidiaries, successors and assigns, and to those persons in active concert or participation with any of them who receive actual notice of the Judgment and Decree or of this Order by personal service or otherwise.

III. Injunctive provisions

A. Effective upon divestiture of the Arizona Daily Star as hereinafter ordered, the defendants are enjoined and restrained from:

(1) Offering to sell or selling advertising space in the Star and the Citizen, or in either of them and a joint Sunday newspaper, at a combination rate, unless said combination rate is optional and is calculated by adding the individual rates of the newspapers and subtracting from the total the actual cost savings;

(2) Charging or allocating the expenses of common or shared facilities, equipment or personnel on any basis or formula which does not result in Star, Citizen and the joint Sunday newspaper each paying only those expenses that it is responsible for; provided, however, that

(a) the discount resulting from the sale of a combination advertisement may be charged in equal shares to the newspapers in which it appears; and (b) property taxes and interest on real property assessments, fire and casualty and all other general insurance, and utilities other than electrical power may be charged equally to Star and Citizen;

(3) Distributing operating revenues on any basis which does not result in Star, Citizen, and the joint Sunday newspaper each receiving only those revenues which are derived from its individual operations.

B. Neither Arden nor Citizen Publishing shall prohibit or attempt to prohibit the joint Sunday newspaper from publishing combination advertising with their respective weekly editions.

IV. Approval of agreements and by-laws

The Third Revised Operating Plan for Star, Citizen and Tucson Newspapers, Incorporated, attached hereto and made a part hereof, together with all acts of the defendants necessary or appropriate for the preformance of said Operating Plan, are hereby approved. Said Operating Plan shall be put into effect not later than ninety (90) days from the date of this Order.

V. Divestiture

A. In accordance with the Court's Judgment and Decree of January 31, 1968, defendants Arden Publishing Company and William A. Small, Jr., are directed to divest themselves of the Star within Twenty-One (21) months from the date of this Order, either by defendant Arden Publishing Company selling the assets acquired by it from Star Publishing Company or by defendant William A. Small, Jr. selling and disposing of all of the stock of Arden Publishing Company. Such divestitures shall be to a person who will continue publication of the Star, and shall result in total separation of the ownership of Star and Citizen.

B. Defendants shall make generally known the availability of the Star for sale and shall furnish to bona fide prospective purchasers all appropriate information regarding the Star, the joint Sunday newspaper and T.N.I. and shall permit them to make such inspection of the facilities and operations of the Star, of the joint Sunday newspaper and T.N.I., as is reasonably necessary for a prospective purchaser to properly advise himself.

C. At least sixty (60) days in advance of the closing date in any agreement for the sale of the Star, defendants shall supply plaintiff with the name and address of the prospective purchaser, and with a copy of such agreement. At the same time, defendants shall make known to plaintiff the names and addresses of all other persons, corporations, or other legal entities that have made an offer of purchase, together with a general description of the terms and conditions thereof. Plaintiff must make known to the defendants and to the Court any objection it may have to such sale within thirty (30) days following receipt of the aforesaid information. Within said period, defendants will furnish any additional pertinent information requested by plaintiff. If plaintiff does not file with the Court a notice of objections within said 30-day period, such sale may be accomplished without further proceedings herein.

D. Any contract of sale pursuant to this Order shall require the purchaser to file with the Court its representation that it intends to continue publication of the Star and at the same time to submit to the jurisdiction of the Court and to be bound by the applicable terms of this Order and of the Judgment and Decree of this Court entered on January 31, 1968.

VI. Right of visitation

For the purpose of determining or securing compliance with this Order and for no other purpose:

A. Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its or to his principal office, be permitted, subject to any legally recognized privilege:

(1) Access during the office hours of any defendant to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession, custody or control of any defendant which relate to any matters contained in this Order; and

(2) Subject to the reasonable convenience of any defendant, but without restraint or interference from it, to interview officers, directors, agents or employees of any defendant, who may have counsel present, regarding any such matters.

B. Upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, defendants shall submit such reports in writing with respect to the matters contained in this Order as may from time to time be reasonably requested; provided, however, that no information obtained by the means provided in this Section VI shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings in which the Department of Justice is a party for the purpose of securing compliance with this Order, or as otherwise required by law.

VII. Continuing jurisdiction

Jurisdiction of this cause is retained by this Court for the purpose of enabling any party to this Order to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the modification, construction, or carrying out of the provisions of this Order and for the enforcement of compliance therewith and the punishment of violations thereof.

JAMES A. WALSH,
Judge, U.S. District Court.

Dated: January 26, 1970.

THIRD REVISED OPERATING PLAN FOR STAR, CITIZEN, AND TUCSON NEWSPAPERS, INC.

1. Agreement between Star and TNI providing for printing and distribution of newspapers by TNI, and for sales of combination advertising.

2. Agreement between Citizen and TNI

providing for printing and distribution of newspapers by TNI, and for sales of combination advertising.

3. Joint venture agreement for joint and Sunday newspaper.

4. Revised by-laws of TNI.

AGREEMENT

This agreement by and between Arden Publishing Company, a corporation, publisher of the Arizona Daily Star and Tucson Newspapers, Inc., a corporation;

Witnesseth that: Whereas Arden Publishing Company, hereinafter called "Star," is the publisher of The Arizona Daily Star and desires to provide for the daily printing and distribution of The Arizona Daily Star Monday through Saturday commencing with the effective date hereof by Tucson Newspapers, Inc., hereinafter called "TNI"; and

Whereas Citizen Publishing Company, hereinafter called "Citizen," is the publisher of the Tucson Daily Citizen; and

Whereas Citizen and Star intend to publish a joint Sunday newspaper; and

Whereas Star is the owner of an undivided one-half interest in all of the equipment, machinery, vehicles and other properties necessary to print and distribute The Arizona Daily Star and has heretofore placed TNI in possession of said property; and

Whereas Star desires to employ TNI to print The Arizona Daily Star, to sell advertising space for Star in combination with the sale of advertising space for Citizen and/or the joint Sunday newspaper owned by Star and Citizen (hereinafter referred to as the sale of "combination advertising"), and to distribute The Arizona Daily Star;

Now, therefore, for and in consideration of the mutual promises of the parties, it is agreed as follows:

I

TNI is hereby given the right to possession of all Star's Equipment, machinery and properties necessary to print The Arizona Daily Star, to sell combination advertising for Star, to distribute The Arizona Daily Star, and to operate business and accounting functions for Star necessary to the performance of such services. TNI shall determine the gross revenue allocable to Star from advertising and circulation sales made on behalf of Star as follows:

a. TNI shall determine and allocate to Star the gross revenue from national, local display and classified advertising sold on behalf of Star.

b. TNI shall determine and allocate to Star its gross revenue from the sale and circulation of The Arizona Daily Star.

c. The total of subparagraphs a and b, together with any other revenue from any sources derived by TNI on behalf of Star shall constitute the total revenue allocable to Star by TNI.

TNI after deducting its expenses allocable to Star shall pay over to Star the net revenue allocable to Star and any other revenue from any source derived by TNI on behalf of Star.

II

TNI shall perform the following functions on behalf of Star:

a. TNI shall act as combination advertising sales agent and as agent for the distribution of The Arizona Daily Star. All advertising and subscription rates shall be established by Star. TNI shall furnish Star such cost and accounting data as may be necessary or appropriate to enable Star to establish such rates. TNI shall offer each purchaser of combination advertising a discount rate which reflects the cost savings resulting from the composition of advertising material previously used or to be used by Citizen and/or the joint Sunday newspaper owned by Star and Citizen. The discount used as the basis for determining the combined advertising rates billed by TNI shall be accumulated by TNI and periodically charged equally against the revenues of the newspapers participating in the combination advertising, that is, Star and Citizen or Star and the joint Sunday. The discount rate shall reflect direct and indirect cost savings arising from combination advertising and shall be determined from time to time by a national accounting firm in accordance with generally accepted principles of accounting.

b. Star alone shall sell its single paper advertising and shall have the right to obtain orders for combination advertising directly (referring all such orders to TNI for processing) and shall be responsible for the promotion of the advertising and circulation of Star. Star is entitled to make sales of subscriptions and sell newspapers separately from the carriers under contract to TNI.

c. TNI shall independently determine the expenses to be charged to Star in the manner hereinafter set forth in Article IV.

III. PRODUCTION AND DISTRIBUTION OPERATIONS OF TNI

TNI shall perform the following operations as printing company for Star:

a. Purchase its supplies and all equipment required for replacement and shall print Star's newspapers and distribute them.

b. Carry on the general business affairs for the commercial functions of TNI and Star.

c. Keep all machinery and equipment in repair.

d. Bill and collect all accounts receivable of Star.

IV. ALLOCATION OF PRODUCTION AND DISTRIBUTION EXPENSES

TNI in its operations shall allocate the production and distribution expenses of all of its operations as follows:

a. Except for the expense items set forth on Exhibit A, TNI shall allocate to Star in accordance with generally accepted principles of cost accounting the actual expenses incurred by TNI in acting as combination advertising sales agent, distribution agent and as printing company for Star.

b. TNI shall allocate as additional expense to Star the actual cost of newsprint used by Star and an amount which will reflect costs in excess of production norms as shall be established from time to time by TNI.

c. In addition to the above set forth specific surcharge items, TNI shall charge the actual costs of any unusual expense caused by and incurred on behalf of Star.

d. TNI shall furnish its accountants with all information necessary to produce where feasible a factor or factors which may be used to reflect the additional costs giving rise to any of the foregoing surcharges and which may be used by TNI in charging said extra expenses to Star.

e. TNI shall keep sufficiently detailed records of all of its activities in order that the same may be verified as conforming to the terms and principles of this Agreement by periodic audits by such national certified public accounting firm.

V. SEPARATE ACCOUNTINGS

Inasmuch as TNI will be acting as an independent agent in connection with the performance of printing, distribution and other services for Star and Citizen, TNI shall maintain an independent and separate accounting of its activities on behalf of Star.

VI. TERMINATION

This Agreement shall terminate June 1, 1990; provided, however, that this Agreement shall automatically extend for additional periods of twenty-five (25) years unless Star gives to TNI written notice of its intention not to renew this Agreement, which written notice shall be given by registered mail not less than two (2) years prior to the termination of the original term of this Agreement or not less than two (2) years prior to the expiration of any renewal period hereof.

VII. MISCELLANEOUS

The parties to this Agreement each agree with the other to take any corporate or other action that may be necessary at any time to carry out and give full force and effect to the provisions of this Agreement, including renewal of its corporate charter as may hereafter become necessary during the term of this Agreement.

The provisions of this Agreement shall be binding upon and inure to the benefit of the parties to this Agreement, their successors and assigns, whether individual or corporate, including, but not limited to, any assigns hereafter created by virtue of any reorganization, merger, or other transactions.

In witness whereof, the parties have hereunto executed these presents this — day of ———, 1969.

ARDEN PUBLISHING COMPANY.
TUCSON NEWSPAPERS, INC.

EXHIBIT A

Expenses to be allocated equally between Star and Citizen:

1. Real and personal property taxes and interest on real property assessments.

2. Fire and casualty and all other general insurance.

3. Utilities including water and gas but excepting electrical power (which is primarily attributable to press use and shall be allocated proportionately between users).

AGREEMENT

This agreement by and between Citizen Publishing Company, a corporation, publisher of the Tucson Daily Citizen, and Tucson Newspaper, Inc., a corporation;

Witnesseth that: Whereas Citizen Publishing Company, hereinafter called "Citizen," is the publisher of the Tucson Daily Citizen and desires to provide for the daily printing and distribution of the Tucson Daily Citizen Monday through Saturday commencing with the effective date hereof by Tucson Newspapers, Inc., hereinafter called "TNI"; and

Whereas Arden Publishing Company, hereinafter called "Star," is the publisher of The Arizona Daily Star; and

Whereas Citizen and Star intend to publish a joint Sunday newspaper; and

Whereas Citizen is the owner of an undivided one-half interest in all of the equipment, machinery, vehicles and other properties necessary to print and distribute the Tucson Daily Citizen and has heretofore placed TNI in possession of said property; and

Whereas Citizen desires to employ TNI to print the Tucson Daily Citizen, to sell advertising space for Citizen in combination with the sale of advertising space for Star and/or the joint Sunday newspaper owned by Citizen and Star (hereinafter referred to as the sale of "combination advertising"), and to distribute the Tucson Daily Citizen.

Now, therefore, for and in consideration of the mutual promises of the parties, it is agreed as follows:

I

TNI is hereby given the right to possession of all Citizen's equipment, machinery and properties necessary to print the Tucson Daily Citizen, to sell combination advertising for Citizen, to distribute the Tucson Daily Citizen, and to operate business and accounting functions for Citizen necessary to the performance of such services. TNI shall determine the gross revenue allocable to Citizen from advertising and circulation sales made on behalf of Citizen as follows:

a. TNI shall determine and allocate to Citizen the gross revenue from national, local display and classified advertising sold on behalf of Citizen.

b. TNI shall determine and allocate to Citizen its gross revenue from the sale and circulation of the Tucson Daily Citizen.

c. The total of subparagraphs a and b, together with any other revenue from any sources derived by TNI on behalf of Citizen shall constitute the total revenue allocable to Citizen by TNI.

TNI after deducting its expenses allocable to Citizen shall pay over to Citizen the net revenue allocable to Citizen and any other revenue from any source derived by TNI on behalf of Citizen.

II

TNI shall perform the following functions on behalf of Citizen:

a. TNI shall act as combination advertising sales agent and as agent for the distribution of the Tucson Daily Citizen. All advertising and subscription rates shall be established by Citizen. TNI shall furnish Citizen such cost and accounting data as may be necessary or appropriate to enable Citizen to establish such rates. TNI shall offer each purchaser of combination advertising a discount rate which reflects the cost savings resulting from the composition of advertising material previously used or to be used by Star and/or the joint Sunday newspaper owned by Citizen and Star. The discount used as the basis for determining the combined advertising rates billed by TNI shall be accumulated by TNI and periodically charged equally against the revenues of the newspapers participating in the combination advertising, that is, Citizen and Star or Citizen and the joint Sunday. The discount rate shall reflect direct and indirect cost savings arising from combination advertising and shall be determined from time to time by a national accounting firm in accordance with generally accepted principles of accounting.

b. Citizen alone shall sell its single paper advertising and shall have the right to obtain orders for combination advertising directly (referring all such orders to TNI for processing) and shall be responsible for the promotion of the advertising and circulation of Citizen. Citizen is entitled to make sales of subscriptions and sell newspapers separately from the carriers under contract to TNI.

c. TNI shall independently determine the expenses to be charged to Citizen in the manner hereinafter set forth in Article IV.

III. PRODUCTION AND DISTRIBUTION OPERATIONS OF TNI

TNI shall perform the following operations as printing company for Citizen:

a. Purchase its supplies and all equipment required for replacement and shall print Citizen's newspapers and distribute them.

b. Carry on the general business affairs for the commercial functions of TNI and Citizen.

c. Keep all machinery and equipment in repair.

d. Bill and collect all accounts receivable of Citizen.

IV. ALLOCATION OF PRODUCTION AND DISTRIBUTION EXPENSES

TNI in its operations shall allocate the production and distribution expenses of all of its operations as follows:

a. Except for the expense items set forth on Exhibit A, TNI shall allocate to Citizen in accordance with generally accepted principles of cost accounting the actual expenses incurred by TNI in acting as advertising sales agent, distribution agent and as printing company for Citizen.

b. TNI shall allocate as additional expense to Citizen the actual cost of newsprint used by Citizen and an amount which will reflect costs in excess of production norms as shall be established from time to time by TNI.

c. In addition to the above set forth specific surcharge items, TNI shall charge the actual costs of any unusual expenses caused by and incurred on behalf of Citizen.

d. TNI shall furnish its accountants with all information necessary to produce where feasible a factor or factors which may be used to reflect the additional costs giving rise to any of the foregoing surcharges and which may be used by TNI in charging said extra expenses to Citizen.

e. TNI shall keep sufficiently detailed records of all of its activities in order that the same may be verified as conforming to the terms and principles of this Agreement by periodic audits by such national certified public accounting firm.

V. SEPARATE ACCOUNTINGS

Inasmuch as TNI will be acting as an independent agent in connection with the performance of printing, distribution and other services for Citizen and Star, TNI shall maintain an independent and separate accounting of its activities on behalf of Citizen.

VI. TERMINATION

This Agreement shall terminate June 1, 1990; provided, however, that this Agreement shall automatically extend for additional periods of twenty-five (25) years unless Citizen gives to TNI written notice of its intention not to renew this Agreement, which written notice shall be given by registered mail not less than two (2) years prior to the termination of the original term of this Agreement or not less than two (2) years prior to the expiration of any renewal period hereof.

VII. MISCELLANEOUS

The parties to this Agreement each agree with the other to take any corporate or other action that may be necessary at any time to carry out and give full force and effect to the provisions of this Agreement, including renewal of its corporate charter as may hereafter become necessary during the term of this Agreement.

The provisions of this Agreement shall be binding upon and inure to the benefit of the parties to this Agreement, their successors and assigns, whether individual or corporate, including, but not limited to, any assigns hereafter created by virtue of any reorganization, merger, or other transactions.

In witness whereof, the parties have hereunto executed these presents this — day of ———, 1969.

CITIZEN PUBLISHING COMPANY.
TUCSON NEWSPAPERS, INC.

EXHIBIT A

Expenses to be allocated equally between Citizen and Star:

1. Real and personal property taxes and interest on real property assessments.

2. Fire and casualty and all other general insurance.

3. Utilities including water and gas but excepting electrical power (which is primarily attributable to press use and shall be allocated proportionately between users).

———

JOINT VENTURE AGREEMENT

This agreement by and between Arden Publishing Company, a corporation, publisher of The Arizona Daily Star, hereinafter referred to as "Star," and Citizen Publishing Company, a corporation, publisher of the Tucson Daily Citizen, hereinafter referred to as "Citizen," and Tucson Newspapers, Inc., a corporation hereinafter referred to as "TNI";

Witnesseth that:

I

TNI shall print and perform all other commercial operations for a Sunday newspaper as a joint venture on behalf of Star and Citizen and shall keep a separate account of all of its activities with respect to the joint Sunday newspaper.

II

TNI shall keep a record of and charge the joint venture with the direct costs incurred by TNI in connection with the joint Sunday paper and in addition shall charge a factor thereof fairly representing direct costs that cannot be separately accounted for and a factor fairly representing indirect expense of operating TNI in connection with the joint Sunday newspaper. The foregoing factors shall be determined by a national accounting firm and filed with the Secretary of TNI.

III

The net revenues from the joint Sunday operation shall be determined by TNI and verified by a national accounting firm and paid in equal shares to Star and Citizen.

IV. EDITORIAL MANAGEMENT OF THE SUNDAY NEWSPAPER

A. All live news, sports content and feature sections shall be under the direction of a Sunday editor who shall be appointed jointly by Star and Citizen, which shall provide such staff assistance as they may mutually determine.

B. The comic sections shall consist of all comic sections provided by Star and Citizen.

C. The editorial pages of the joint Sunday newspaper shall be under the direction of the Sunday Editor and Star and Citizen shall have the right to equal space for editorial comment.

V

Each joint venturer shall keep an accurate record of its payroll expense and any other direct expense it incurs in the production of the joint Sunday newspapers. A national accounting firm shall determine factors for Star and Citizen to reflect their respective indirect expense in producing the Sunday newspaper, which factors shall be filed with the Secretary of TNI. The direct and indirect expense of the Star shall be reimbursed to Star from the gross Sunday revenues and, in like manner, the direct and indirect expenses of Citizen shall be reimbursed to Citizen by TNI from the gross Sunday revenues.

VI

All expenses for syndicated columnists, syndicated news magazines, and any other expense customarily incurred in connection with a Sunday issue shall be paid by TNI from Sunday revenues.

VII

This Agreement shall terminate June 1, 1990; provided, however, that this Agreement shall automatically extend for additional periods of twenty-five (25) years unless either Star or Citizen gives to the other written notice of its intention not to renew this Agreement, which written notice shall be given by registered mail not less than two (2) years prior to the termination of the original term of this Agreement or not less than two (2) years prior to the expiration of any renewal period hereof.

VIII

The provisions of this Agreement shall be binding upon and inure to the benefit of the parties to this Agreement, their successors and assigns, whether individual or corporate, including, but not limited to, any assigns hereafter created by virtue of any reorganization, merger, or other transactions. By way of explanation and not by way of limitation, it is agreed that this Agreement shall bind the stockholders of Star and Citizen, any successor organization of those corporations and the stockholders of such successor organization.

In witness whereof, the parties have hereunto executed these presents this — day of ———, 1969.

ARDEN PUBLISHING COMPANY.
CITIZEN PUBLISHING COMPANY.
TUCSON NEWSPAPERS, INC.

REVISED BYLAWS—TUCSON NEWSPAPERS, INC.

ARTICLE I. NAME AND LOCATION OF CORPORATION

The name of this corporation is Tucson Newspapers, Inc. Its principal office is located in Tucson, Pima County, Arizona.

ARTICLE II. PURPOSES OF THE CORPORATION

The purposes of Tucson Newspapers, Inc., are:

1. To act as agent for conducting the business affairs and for the printing and distribution of newspapers for each of its principals, Arden Publishing Company (hereafter "Star") and Citizen Publishing Company (hereafter "Citizen"), which publish separate newspapers on a daily basis, Monday through Saturday of each week, and a joint Sunday newspaper.

2. To act as agent for the sale of combination advertising for Star and Citizen.

3. To print, distribute and to make advertising and circulation sales for a Sunday newspaper published pursuant to a joint venture agreement among Star, Citizen and Tucson Newspapers, Inc.

ARTICLE III. CAPITAL STRUCTURE

1. Tucson Newspapers, Inc., shall have such capital as its stockholders shall contribute to it, provided, however, that such contributions of cash or property to Tucson Newspapers, Inc., shall be in proportion to stockholdings.

2. Tucson Newspapers, Inc., shall rent from its stockholders at prevailing commercial rental rates all machinery and equipment, office furniture, furnishings and other properties necessary to perform the printing, advertising, circulation, business and accounting services pursuant to separate contracts with Star and Citizen.

3. Tucson Newspapers, Inc., shall rent the real property used in its operation from its stockholders at a rental which shall not exceed a percentage of the appraised value of each principal's interest in said real property as heretofore appraised by Coats and Burchard and as may hereafter be appraised from time to time, which percentage shall not exceed one and one-half times the prime interest rate charged by New York banks from time to time.

ARTICLE IV. ALLOCATION OF EXPENSES AND DISTRIBUTION OF REVENUES TO PRINCIPALS

Tucson Newspapers, Inc., shall allocate its receipts and expenses between its principals, as provided in its agreements with Star and Citizen.

ARTICLE V. STOCKHOLDERS

1. *Stockholders.*—The stockholders of this corporation shall be the holders of one or more shares of the capital stock entitled to vote as shown by entry on the books of the corporation.

2. *Annual Meeting.*—The annual meeting of the stockholders of the corporation shall be held at the office of the corporation, or other designated place, in the City of Tucson, Arizona, at two o'clock in the afternoon of the first Tuesday after the first Monday in February of each year, commencing 1970, if not a legal holiday, and if such day is a legal holiday, then on the next succeeding day that is not a legal holiday.

3. *Special Meetings.*—Special meetings of the stockholders may be called at any time by the President, or by the Board of Directors, or by a majority of the stockholders. Special meetings shall be held on the date and at the time and place specified in the notice thereof.

4. *Notice of Meetings.*—It shall be the duty of the Secretary to cause notice of each annual and special meeting of the stockholders to be mailed to each stockholder of the corporation entitled to vote at such meeting. Notice of each regular meeting shall be given at least ten (10) days before such meeting and notice of each special meeting shall be given at least five (5) days before such meeting. Notice shall be given by ordinary mail, directed to the last known address of said stockholder as the same appears on the records of the corporation; and in computing said notice, the date of mailing shall be considered as the first day of the period. The notice shall specify the place, day and hour of the meeting. Notice of any meeting may be waived.

5. *Quorum.*—The majority of the issued and outstanding stock of the corporation must be represented in person or by proxy to constitute a quorum. Only those shall be entitled to vote who appear as stockholders upon the books of the corporation. Those who attend a meeting where a quorum cannot be obtained may adjourn from time to time until the meeting shall be regularly constituted.

6. *Organization.*—At each annual meeting the stockholders shall elect directors who shall hold office until the next annual meeting, but in any event until their successors are elected and qualified. The President and Secretary of this corporation shall act as Chairman and Secretary of each stockholders' meeting, unless the holders of a majority of the issued and outstanding shares of stock shall elect some other stockholders to act in their place and stead.

7. *Voting.*—At such meeting all questions with the exception of the election of directors shall be determined by a majority vote of the stockholders present in person or by proxy, each stockholder being entitled to one vote for each share of stock in his or its name as it appears upon the records of the corporation. In all elections for directors of the corporation, each stockholder shall have the right to cast as many votes in the aggregate as he owns shares of stock appearing upon the books of the corporation multiplied by the number of directors to be elected at such election, which shall be four in number unless otherwise provided by the By-Laws.

ARTICLE VI. BOARD OF DIRECTORS

1. *General Powers.*—The property and affairs and business of the corporation shall be managed by the Board of Directors. The directors need not be stockholders. They shall be elected at the annual meeting of the stockholders, and each director shall be elected to serve until his successor shall be elected and qualified.

2. *Number, Qualifications and Term of Office.*—The number of directors shall be five, four of whom shall be elected by the stockholders. The fifth director shall be elected by the other directors and the fifth director shall be Chairman of the Board and President of the corporation. The directors shall be elected annually in the manner provided herein and each director shall hold office until the annual meeting held next after his election or until his successor shall have been elected and qualified or until he shall resign or until his death. At each meeting of the stockholders for the election of directors at which a quorum is present, the persons receiving the greatest number of votes shall be the directors.

3. *Quorum.*—Except as otherwise provided by statute or by these By-Laws, not less than the four directors elected by the stockholders shall constitute a quorum for the transaction of business at any meeting, and the act of the majority of the directors present at any meeting at which a quorum is present shall be the act of the Board of Directors, except as provided in Section 10 hereafter of this Article VI. In the absence of a quorum, the directors present may adjourn any meeting from time to time until the meeting shall be regularly constituted as hereinabove required. Notice of any adjourned meeting need not be given. The directors shall act only as a Board and the individual directors shall have no power except with respect to Actions by Resolution as provided in Section 11 hereinafter.

4. *Place of Meeting.*—The Board of Directors may hold its meeting and keep the books and records of the corporation at such place or places within or without the State of Arizona as the Board from time to time may determine, or as shall be specified or fixed in the respective notices or waivers of notice thereof.

5. *Regular Meeting.*—A regular meeting of the Board of Directors shall be held immediately after each annual meeting of stockholders, for the election of officers and the transaction of other business, and other meetings of said Board shall be held at such times and places as said Board shall from time to time determine. No notice shall be required for any regular meeting of the Board of Directors.

6. *Special Meetings.*—Special meetings of the Board of Directors may be called at any time by the President or by any two directors. The Secretary shall give notice of the time and place of each special meeting by mailing a written notice of the same to each director at his last known post office address at least two days before the meeting, or by causing the same to be delivered personally, or to be transmitted by telegraph at least twenty-four hours before the meeting, or meetings may be had without notice if such notice is waived by all of the Directors.

7. *Organization.*—At each meeting of the Board of Directors, the President, or in his absence, the Vice President, or, in the absence of both the President and Vice President, a director chosen by a majority of the directors present shall act as Chairman. The Secretary, or in his absence any person appointed by the Chairman, shall act as Secretary of the meeting.

8. *Resignation.*—Any director of the corporation may resign at any time by giving written notice to the Board of Directors, or to the President, or to the Secretary of the corporation. The resignation of any director shall take effect at any time specified therein; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

9. *Vacancy.*—In the case of any vacancy in the Board of Directors caused by death, resignation or any other cause as concerns any director elected by the stockholders, then the stockholders who elected the director whose office became vacant shall have the power to fill that vacancy by written notice thereof to the Board of Directors. In the case of a vacancy in the office of the Chairman of the Board (who is elected by the four directors elected by the stockholders) that vacancy shall be filled by a special election held by all of the four remaining directors (who have been elected by the stockholders).

10. *Controversy.*—In the event of a controversy arising pertaining to the affairs of the corporation, wherein the members of the Board of Directors representing Star and the members of the Board of Directors representing Citizen are evenly divided, then:

A. A special meeting of the stockholders of Tucson Newspapers, Inc., shall be called for the purpose of determining such controversy, and if at such meeting the stockholders shall also be evenly divided on the matter or matters involved, it is agreed that the stockholders shall mutually appoint one disinterested third person, hereinafter called Commissioner, to resolve the dispute, who shall render his decision in writing within the time period hereinafter set forth. The decision of said Commissoner shall be final and shall be binding upon the stockholders and Tucson Newspapers, Inc.

B. If the stockholders of Tucson Newspapers, Inc., are unable to agree upon a Commissioner, then said stockholders shall pro-

vide for the appointment of a Commission of three persons to resolve the dispute: Star shall select a disinterested Commissioner and submit his name to Citizen for its written approval and, in like manner, Citizen shall nominate a disinterested Commissioner and submit his name to Star for its written approval. The Commissioners so nominated by Star and Citizen shall be persons of personal and business integrity; they need not be from the community of Tucson or from the State of Arizona, but preferably should have experience in the problem involved. The two Commissioners so appointed shall appoint a third Commissioner, who shall be a disinterested person who has been an active newspaper publisher or manager and preferably who operates or who has had experience in joint managements of newspapers. In the event that the two Commissioners so appointed are unable to agree upon a third Commissioner, then said Commissioners shall each prepare a list of three persons who possess the qualifications above required for the third Commissioner, and from the list of six names so submitted by the parties, the presiding Judge for the United States District Court for the District of Arizona, or if he refuses then such Federal Judge as he shall designate, shall be requested to choose a third Commissioner from the list of six names so submitted. The decision of a majority of the Commissioners shall be final and shall be binding upon the stockholders and Tucson Newspapers, Inc.

"Disinterested person," as used herein, means a person who is not related by affinity to stockholders or directors of Star or Citizen, and who has no business relationship, directly or indirectly, with Star, Citizen, or their respective stockholders or directors.

C. In the event said three party Commission is not appointed within the time limits hereinafter required, either because Star or Citizen or both fail to approve the nominee of the other, or for any other reason, then the issue shall be resolved by a single Commissioner, who shall be appointed in the following manner: Three persons shall be nominated by Star and three persons shall be nominated by Citizen. Each nominee shall be an individual of personal and business integrity in the community wherein he resides. The Commissioner to be selected from said panel of six names shall be determined by lot, and his decision shall be final and shall be binding upon the stockholders and Tucson Newspapers, Inc.

D. The appointment, nomination, or approval of any Commissioner shall be made in writing by the appropriate party within fifteen days after the event requiring such appointment, nomination, or approval. The decision of a Commissioner when only one is acting shall be rendered in writing within thirty days after his appointment, and where three Commissioners are acting said decision shall be rendered in writing within thirty days after the appointment of the third Commissioner; provided, however, if for good cause the circumstances involved require delay beyond said thirty-day period, such additional time to render a decision may be taken by said Commission or Commissioner as is reasonably necessary under the circumstances. All expenses incurred in connection with any decision to be rendered by a Commissioner or Commission shall be paid by Tucson Newspapers, Inc.

11. *Action by Resolution.*—The Board of Directors shall, except as otherwise provided by law, have the power to act in the following manner: A resolution in writing, signed by all members of the Board of Directors, shall be deemed to be action by such Board to the effect therein expressed, with the same force and effect as if the same had been duly passed by the same vote at a duly convened meeting, and it shall be the duty of the Secretary of the corporation to record such resolution in the minute book of the corporation under its proper date.

ARTICLE VII. OFFICERS

1. *Officers.*—The executive officers of the corporation shall consist of a President, Vice President, Secretary and Treasurer, all of whom shall be elected by the Board of Directors. The offices of Vice President and Treasurer may be held by one and the same person. Assistants to each of said offices may also be elected by the Board. No officer need be a director.

The Board of Directors may appoint such business and department managers as they may deem necessary, and such managers shall have authority to perform and shall perform such duties as from time to time shall be provided by the Board of Directors.

2. *Powers and Duties of the President and Vice President.*—

A. The President shall preside at all meetings of the Board of Directors. He shall submit to them at the regular meetings of the Board a comprehensive report of the business matters of the corporation, and he shall have general management and control of the business affairs of the corporation, subject at all times to the direction and approval of the Board of Directors. He shall have power to employ and discharge such employees as he deems to be for the best interests of the corporation, except that he shall not have the power to remove an executive officer of the corporation who is elected by the Board, or any other employee specifically hired by the Board.

B. The Vice President shall assume all of the duties of the President in the event of the absence of the President, his incapacitation, death or whatever cause may make it impossible for him to carry on and perform his executive duties.

3. *Powers and Duties of the Treasurer.*—The Treasurer shall have the custody of all the funds and securities of the corporation which shall come into his hands. When necessary or proper, he shall endorse on behalf of the corporation for collection, checks, notes and other obligations, and shall deposit the same to the credit of the corporation, in such bank or depositories as the Board of Directors may designate. He shall sign receipts and vouchers for payment made to the corporation and shall perform all other duties usually incident to the office of Treasurer, or that may be required of him by the Board of Directors. All checks, orders, drafts, notes, etc., of this corporation shall be signed by the person or persons thereunto authorized by the Board of Directors.

4. *Powers and Duties of the Secretary.*—The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all stockholders' meetings in books to be provided for that purpose. He shall attend to the giving and serving of all notices of the corporation. He may, jointly with the President, sign the name of the corporation to all contracts authorized by the corporation. Jointly with the President or, in his absence, the Vice President, he shall sign all certificates of the shares of the capital stock of the corporation. He shall have charge of the certificate books, transfer books and stock ledgers, and such other books and papers as the Board of Directors may direct, all of which at all reasonable times shall be open to the examination of any director, upon application at the office of the corporation during business hours, and he shall, in general, perform all of the duties incident to the office of Secretary.

5. *Salaries.*—The Board of Directors, by a majority vote, may set the salaries of all officers and such other employees as are hired by the Board.

ARTICLE VIII. CAPITAL STOCK

1. The certificate of stock may be transferred, sold, assigned, or pledged by an endorsement to the proper effect in writing on the back of the certificate, and delivery of such certificate by the transferor to the transferee; provided, however, that until notice given of such transfer to the Secretary of the corporation, and the surrender of the certificate of stock for cancellation, and the issuance of a new certificate in lieu of that surrendered, this corporation may regard and treat the transferor as being still the owner of the stock.

2. All surrendered certificates shall be marked "cancelled," with the date of cancellation, by the Secretary and shall be immediately pasted into the book opposite memorandum of their issue.

3. All certificates of stock shall be signed by the President or Vice President, and the Secretary or Treasurer, and attested by the corporate seal, if available.

4. A duplicate certificate of stock may be issued for such as may have been lost or destroyed upon the applicant's furnishing affidavit that he is the owner of such certificate and that the same has been lost or destroyed, together with bond of indemnity, with satisfactory security to the corporation conditioned upon loss in consequence of issue of said duplicate certificate.

ARTICLE IX. AMENDMENTS

These By-Laws may be amended, added to, or altered by a majority vote of the stockholders at any annual meeting or any special meeting called for that purpose. The Board of Directors on the unanimous vote of all of the directors shall also have the power to adopt and amend the By-Laws for the government of this corporation.

ARTICLE X. DISSOLUTION OF TUCSON NEWSPAPERS, INC.

1. In the event of the termination of Star's agreement with Tucson Newspapers, Inc., or in the event of the termination of Citizen's agreement with Tucson Newspapers, Inc., which agreements were executed concurrently with the adoption of these By-Laws, then Tucson Newspapers, Inc., shall be dissolved. In the event of the dissolution of Tucson Newspapers, Inc., except as hereinafter provided, such dissolution shall be effected in accordance with the laws of the State of Arizona. The cost and expenses of the dissolution shall be paid from such funds as Tucson Newspapers, Inc., shall have on hand or, in the absence of such funds, at the equal expense of the stockholders. Any property other than cash or accounts or notes receivable which may be in the custody of Tucson Newspapers, Inc., shall be delivered to the stockholder or stockholders which is or are the owner or owners of such property if delivery is necessary. Any property owned by Tucson Newspapers, Inc., shall be divided or sold and property or proceeds, as applicable, distributed among the stockholders in accordance with their stock interests. Any remaining cash on hand not required for the payment of accounts or obligations owing by Tucson Newspapers, Inc., or required to be set aside for liquidation of commitments shall be distributed to the stockholders in accordance with their stock interests. All accounts receivable shall be collected by an agent to be appointed by the stockholders and the cash received therefrom distributed in accordance with the respective contract commitments of Tucson Newspapers, Inc., with Arden Publishing Company and Citizens Publishing Company.

Mr. HART. This order was actually not available until yesterday.

Is it not the wise course, given the existence of the issuance of this order, with its very broad grant of authority to these newspapers, to return the bill to the committee, permitting the committee to have the benefit now of what we did not have at the time this bill moved

through—the decision of the court, the reflection of this opinion, the position of the Department of Justice and the identification of those areas where common activity is clearly to be permitted? Mind you, Mr. President, joint mechanical facilities in the whole range of facilities, including presses, warehouses, buildings, trucking, and other machinery and typesetting equipment, clear authority covers the joint circulation system with a single staff down even to the boy peddling the papers on the corner and sharing the rack.

The publication of a joint Sunday paper pooling the profits from that, authorization that a single business department with common bookkeeping and billing is permitted and, finally, establishment of a joint rate structure which will permit a sales force on both papers to offer a cost justified combination rate is legal.

We know now what we did not know when the bill was moving through, that these activities are permissible. Let us find out, in the months that will follow, the extent to which, with these authorized activities whether a successful operation, a successful joint agreement is possible.

It is for this reason, Mr. President, that my motion, which I now make, is to recommit the bill to the Committee on the Judiciary with instructions to the committee to determine the effect in this area where the problem is alleged to exist of new guidelines established by a court agreement.

I would hope, Mr. President, that we could agree that this is the responsible, wise, and thoughtful course for the Senate to take.

Mr. HRUSKA. What is the proposal of the Senator? Because of the reasoning in which he has just indulged and expressed, what is the next parliamentary step?

Mr. HART. A vote on the motion to recommit the bill.

Mr. HRUSKA. Mr. President, as I understand it, the Senator from Michigan makes a motion to recommit the bill primarily upon the proposition that the Supreme Court, or the court in the Tucson case, has spoken as recently as last Friday in the Tucson case.

I do not conceive and I think no other Senator can conceive of this as a bill which is just trying to dispose of the destiny of the Tucson case. This is a bill which applies to the newspaper industry. It applies to about 44 newspapers.

Mr. President, it is regrettable that the Tucson case is in the background here, and that the San Francisco case is also here; but they are only proof positive of the uncertainty and the lack of any orderly procedure that governs the future destinies of 44 newspapers in the 22 cities involved.

For the life of me, I cannot understand why it is that we would hold up something just because the court might do something further, maybe, in the Tucson case.

There is not a newspaper in this land that is involved in any of these arrangements but what is confronted with this situation. They do not know whether they will have to go out of business or not. They do not know whether the arrangements will be tossed out of the window. They do not know whether they will face suits which may number in the hundreds. They have presses which have to be renewed and replaced with new equipment. They have other equipment. They have other items of capital investment, such as additions to buildings, that they must make to keep their newspapers going. They have had other worries since former Senator Hayden of Arizona, in March of 1967, first introduced a bill on this subject.

Now, we are asked, just because a court has made another order in an individual case, to say, "Let us not legislate now. Let us seek further light."

Mr. President, it does not make any sense to me. It was agreed to take up the bill. Here we are. We are a continuing body. We are in business here. I would suggest that the way to consider the bill and vote on it, if anyone thinks there is a scarcity or a paucity of material, is to look at the five volumes I hold in my hand. There is a lot of reading material here. There is a great deal of wisdom, and a great deal of expert testimony. These volumes are a result of a series of protracted hearings. Yet now we are being asked to recommit the bill so that we can await the further pleasure of a segment of an independent, coequal branch of government.

Mr. President, I say, let us go ahead and legislate.

Mr. FONG. Mr. President, if the Senator from Nebraska will yield, is it not a fact that this problem has been before the American public for the past 20 to 30 years?

Mr. HRUSKA. That is right.

Mr. FONG. Is it not a fact that we have debated and debated and debated this subject? It is about time we stopped talking about it and tackled the problem, is it not?

Mr. HRUSKA. I would certainly think it is about time.

Mr. FONG. Does not the Senator believe that the newspaper industry is faced with tremendous losses of newspapers in the cities and therefore should be given the opportunity to have two editorial voices rather than one, because we all know that just one editorial voice merely creates a monopoly in that city.

Mr. HRUSKA. What the Senator says is true, but more important than that, as he knows—perhaps I am anticipating—but the public also has a right.

Mr. FONG. Is it not a further fact that this delay will affect not only Honolulu, but also Salt Lake City, and other cities which have joint operating agreements?

Mr. HRUSKA. What will be decided in the Tucson case by the court will be the facts and the law pertaining to the particular set of circumstances which prevail in the Tucson agreement and the Tucson arrangement. But a recommital will affect Salt Lake City, Utah, Lincoln, Nebr., or Honolulu, Hawaii, or any of the other situations. We will gain nothing.

Mr. FONG. The Antitrust Subcommittee has already delayed this legislation to allow time to work out the Tucson case, has it not.

Mr. HRUSKA. That is right.

Mr. President, unless there is any further discussion at this time, I would propose to make a motion to lay the motion to recommit on the table. I shall not do it now, out of fairness to anyone who wants to speak further on the subject; but if there are no other speakers, I would propose to make that motion.

Mr. HART. Mr. President, my strong feeling is that when history gets around to this, it will establish the fact, as I suggest, that this bill is a reaction to the problem in Tucson. Of that judgment of history, I am rather sure.

The Senator from Nebraska says that merely resolving the Tucson problem does not ease the pain in Hawaii, Utah, or Tennessee.

Mr. President, the order that is now in hand and available to those publications makes clear the broad reach of the joint activity which they would be permitted to engage in. This, they always argue, they were unsure of. But now it is in black and white and the Department of Justice has made clear, indeed—I shall not use the word entreat—but has been seeking to encourage these joint publications to come in, even before the court order was at hand, to develop and plan the joint operation which would be permitted and which would assure economic success.

Now we have a clear indication of the area in which a joint agreement may be permitted to operate. Let those other papers now go to the Department of Justice and establish ground rules. It is my feeling that the reach permitted, the sweep of authority, if you will, Mr. President, the exemptions from antitrust principles that this court order would permit, exceeds substantially the authority which publishers and their counsel ever felt would be permitted. But it is at hand now. Why not, before mailing in an exemption to the antitrust laws—and not for the weakest members of our society—let us try to take a position which will enable the committee to evaluate what is possible under the order and permit publishers, knowing what is possible and permissible, to develop a plan which will have immunity, not under an exemption from the antitrust law, but under an agreement with the Department of Justice within the reach of this court order.

That is the reason I think the delivery of the order makes rational a responsible return of the bill to the committee. It will enable them—for this not altogether impoverished corporate situation—to attempt to incorporate the order in their consideration.

Interestingly, the public figures on some of these joint agreements show rates of returns and profits which would be the envy of a great many people who would never dare suggest that they should be given special treatment under the antitrust laws.

Mr. HRUSKA. Mr. President, it has been suggested that the pending legislation is a reaction to the Tucson case. If it is, it is only by way of a catalyst.

The determination of the Tucson case will not determine the standing of other cases. It will be established in other

places which may or may not be applicable to any of the antitrust cases that the Antitrust Division will bring.

The Tucson case was filed in January 1965, only 5 years ago. Last Friday another order of the court—not by the Supreme Court, but by the trial court in Arizona—was entered.

It is an appealable order. It is not final. It is not determined. We cannot put this in a state of limbo. This question that has been with us all this time affects not a legal situation, it is much more broad than that. It is a political thing in the major sense. It relates to the fashion in which the media of this country will be allowed to function. It is that big a problem.

The suggestion is made that we should let the Tucson case establish ground rules. I submit that the place to make ground rules for a matter as big as this is in the Congress. If there is a request inherent to have the antitrust laws exempt the 22 cities involved, that is a part of the situation. There is no other way to get to it. We have done it for others. This is of sufficient national interest and has sufficient impact upon national policy and is in the national and public interest that they should get public treatment. Special circumstances prevail, and they are entitled to special treatment.

In due time, I want to make a motion to table the motion of the Senator from Michigan.

Mr. BENNETT. Mr. President, I shall take about 3 minutes to put some figures into the RECORD.

Mr. President, when I learned that the Federal district court in Tucson had issued its order regarding the joint newspaper operating arrangement in that city, I endeavored to determine just how that arrangement would affect the other 21 joint operating arrangements, including Salt Lake City. It is now my understanding that the order in Tucson has no chance of preserving two editorial voices in Salt Lake City or the remaining cities with joint operating arrangements. Moreover, the order will probably reduce the Tucson newspapers to a weakened financial state where they must necessarily cut back on expenditures for news and features.

The order issued by the court in Tucson replaces a single advertising sales force with no less than three sales staffs, one for each paper, and a special one for the Sunday edition. Similarly, one circulation department will be replaced by three circulation departments. Obviously, this will not reduce costs, but will make advertising and subscription rates increase. Such an inflationary trend does not benefit the public in any imaginable way.

To be sure, the order does allow the two papers, or the three advertising staffs, to sell advertising under combination rates—allowing a reasonable discount for repeating the same ad in the morning and evening papers. The order has just increased the cost of doing business. I might note that much of the opposition to the Newspaper Preservation Act came from weekly newspapers who objected to combination rates, and yet the court considers such discounted rates to be proper.

The court's order also contains one rather novel twist—while outlawing the existing joint operating arrangement 6 days a week, it prescribes just such an arrangement on Sundays. This hypocrisy would be humorous if it were not for the fact that it will—unless we enact S. 1520—put over 20 newspapers out of business.

It is interesting that in reverse of the usual point of view, it permits sin on Sunday, but denies it for the other 6 days of the week.

The only reason why the court's order has any chance of succeeding in Tucson is because the two newspapers in Tucson have almost identical circulation figures. The morning paper has a circulation of 45,000. The afternoon paper has a circulation of 49,000. Thus, they can just about split costs and profits down the middle. But, in Salt Lake City and just about every other city where there are joint operating arrangements, there is a vast difference in the circulation figures of the two papers.

In Salt Lake City the morning paper has a circulation of 107,000, and the afternoon paper has a circulation of 84,000.

There are scme that are much more divergent. In California, the San Francisco morning paper has a morning circulation more than twice as large as the circulation of the afternoon paper. The dominant paper, with the greater circulation, would benefit from the Tucson formula, but the paper with lower circulation would immediately incur operating losses.

Mr. President, while some may suggest waiting to see the results in Tucson of the court's order, I consider this to be totally irrelevant. Even if it might work in Tucson, it cannot work in Salt Lake City. Moreover, the court's formula is not in the public interest. It is bound to increase costs without benefitting the product. It is hypocritical by requiring on Sundays what the court has already held to be illegal every other day of the week.

Mr. President, we believe a solution to the problem lies in the passage of the Newspaper Preservation Act.

I shall vote to table the suggestion of the Senator from Michigan.

Mr. FONG. Mr. President, the distinguished Senator from Michigan asks for a recommittal of the bill so that we might have more time. More time will not clarify the issue. We have granted exemptions from the antitrust laws in many instances. As I have stated in my prepared statement, we have done it in about 10 cases. We have done it for labor unions, securities, basketball, baseball, hockey, and football setups, as well as for cooperatives.

We are asking for an antitrust exemption for newspapers because we feel it is necessary for the preservation of two editorial voices in a community. We know this is a big problem that is facing the newspaper industry because it cannot survive competition if it does not get into a joint agreement.

Mr. HART. Mr. President, the Senator from Utah used a phrase that can work both ways. He is appalled that we would permit sin on Sunday. I suggest that what the bill does is to make sin permissible every day of the week.

What occurs to me is that this discussion has indicated the value not of a legislative, across-the-board, universal treatment by way of exemption from the antitrust laws for these publications, but it is indicated there may be differing circumstances in each of these communities. It is better that we not legislate with specificity broad exemptions for all 22 cities—but rather, as the Tucson order reflects, permit an agreement to be developed between the Department of Justice and the 22 joint publications within the range that is outlined here. It would be a much more flexible method of operation. It would be this kind of experience that would be permitted if we returned the bill to the committee to see what the reactions of development, opportunity, and possibility are, now that we have enhanced, in the last few days, the reach of the authorization that is reflected in the Tucson order.

Mr. President, as far as I know none of the joint operating agreements are at the moment to be labeled "weak sisters" economically. The subcommittee received in confidence operating figures covering most of the joint operating agreements. I think it is permitted that I report, not by name any one set of figures, that in all cases rates of return after taxes at the moment seem to make them very attractive investments. That is the kind of enterprise we are now proposing to exempt from the antitrust laws.

This would also be the only exemption from the antitrust laws, if we take this action, of an industry that also has a constitutional exemption. The first amendment gives these enterprises a "leg up" to begin with, and by reason of that special treatment—a treatment with which I do not quarrel; their right freely to express themselves—we should assure against granting an exemption at least until the committee has had the opportunity to evaluate the 22 situations in light of the ground rules here presented.

Further, it is my understanding that the Department does not intend to appeal the order. Given the reach of the authorization contained in it, I have my serious doubts that the Tucson publisher would be in the business of offering.

Incidentally, while it would not be correct to print in the RECORD the financial figures furnished the subcommittee in confidence, from public figures, the SEC prospectus, there are some figures that are available. For example, in the case of Lee Enterprises, Inc., where the Journal Star Printing Co., the Madison Newspapers, and the chain of Lee Enterprises were involved in connection with a stock offering, the prospectus reflects their current financial condition. The 1968 rate of return on stockholders' equity was $3 million, net income $500,000, rate of return after taxes in Lincoln, Nebr., 16.4 percent. That is not a discouraging undertaking or effort. There was a rate of return after taxes of the joint agreement in Madison, Wis., of 22 percent.

Mr. President, I ask unanimous consent that the prospectus figures be printed in the RECORD.

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

JOURNAL-STAR PRINTING CO.—BALANCE SHEETS

	Sept. 30, 1968	Dec. 31, 1968 (unaudited)
ASSETS		
Current assets:		
Cash	$211,008	$212,114
Trade receivables, less allowance for discounts and doubtful accounts Sept. 30, 1968 $25,000; Dec. 31, 1968 $25,630	492,413	537,603
Inventories, at lower of cost or market [1]	162,273	132,343
Prepaid expenses	42,565	44,580
Deferred income tax charges [1]	22,650	16,163
Total current assets	930,909	942,803
Investments:		
Stock of KFAB Broadcasting Company, at cost [1]	273,896	273,896
Cash value of life insurance	11,492	11,492
Total	285,388	285,388
Property and equipment, at cost: [1]		
Land and land improvements	217,274	217,274
Buildings	1,776,578	1,777,034
Equipment	2,167,724	2,178,501
Total	4,161,576	4,172,809
Less accumulated depreciation	1,170,826	1,214,629
	2,990,750	2,958,180
	4,207,047	4,186,371

	Sept. 30, 1968	Dec. 31, 1968 (unaudited)
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Note payable, bank, unsecured	$100,000	$100,000
Accounts payable	197,584	122,113
Compensation and other accruals	168,091	169,783
Dividends payable	151,080	85,681
Federal and state income taxes	130,500	182,524
Unearned subscription income	93,053	96,775
Total current liabilities	840,308	756,876
Deferred items [1]:		
Income tax credits	127,830	148,382
Investment credit	102,146	100,988
Total	229,976	249,370
Stockholders' equity:		
Capital stock, common, $100 par value authorized and issued 6,000 shares at par	600,000	600,000
Additional paid-in capital, no change during the periods	353,354	353,354
Retained earnings	2,183,409	2,226,771
Total	3,136,763	3,180,125
Commitments and contingent liabilities [1]	4,207,047	4,186,371

[1] The notes to financial statements are an integral part of this statement.

JOURNAL-STAR PRINTING CO.—STATEMENTS OF INCOME

	Year ended Sept. 30					3 months ended Dec. 31 (unaudited)	
	1964	1965	1966	1967	1968	1967	1968
Operating revenues:							
Newspaper advertising	$3,560,913	$3,790,328	$3,978,385	$4,057,411	$4,193,158	$1,138,750	$1,149,178
Newspaper circulation	1,310,296	1,364,865	1,410,863	1,464,923	1,567,561	393,126	405,327
Other revenue	291,627	283,499	292,046	302,917	302,876	88,515	81,116
Total	5,162,836	5,438,692	5,681,294	5,825,251	6,063,595	1,620,391	1,635,621
Operating expenses:							
Payroll costs	2,162,291	2,246,696	2,340,997	2,520,837	2,715,522	674,597	706,620
Newsprint and ink	806,410	848,863	874,302	898,146	904,002	242,407	239,248
Depreciation [1]	108,411	113,446	130,628	170,193	175,422	42,525	43,803
Other operating expenses	1,225,580	1,262,792	1,308,814	1,348,705	1,407,032	359,126	373,541
Total	4,302,692	4,471,797	4,654,741	4,937,881	5,201,978	1,318,655	1,363,122
Operating income	860,144	966,895	1,026,553	887,370	861,617	301,736	272,499
Other income (expense):							
Dividend income, KFAB Broadcasting Co. [1]	49,170	98,340	49,170	98,340	98,340		
Interest income	17,686	19,505	20,811				
Interest expense				(17,580)	(20,970)	(7,028)	(1,597)
Total	66,856	117,845	69,981	80,760	77,370	(7,028)	(1,597)
Income before taxes on income	927,000	1,084,740	1,096,534	968,130	938,987	294,708	270,902
Federal and state income taxes [1]:							
Provision on currently taxable income	405,950	422,196	456,925	248,286	295,160	108,817	115,978
Net increase (decrease) in deferred investment credit				107,500	(5,354)	(1,388)	(1,158)
Net increase in deferred income tax (charges) credits, net	41,500	46,400	43,800	69,480	129,600	31,481	27,039
Total	447,450	468,596	500,725	425,266	419,406	138,960	141,859
Income before extraordinary item	479,550	616,144	595,809	542,864	519,581	155,748	129,043
Extraordinary charge, net of applicable income tax of $170,600 [1]	159,500						
Net income	320,050	616,144	595,809	542,864	519,581	155,748	129,043
Per share of common stock:							
Income before extraordinary charge	79.92	102.69	99.30	90.48	86.60	25.96	21.51
Extraordinary charge	26.58						
Net income	53.34	102.69	99.30	90.48	86.60	25.96	21.51

[1] The notes to financial statements are an integral part of this statement.

JOURNAL-STAR PRINTING CO.—STATEMENTS OF RETAINED EARNINGS

	Year ended Sept. 30—					3 months ended Dec. 31, (unaudited)—	
	1964	1965	1966	1967	1968	1967	1968
Balance, beginning	$1,788,621	$1,582,111	$1,770,455	$1,953,404	$2,038,348	$2,038,348	$2,183,409
Add net income	320,050	616,144	595,809	542,864	519,581	155,748	129,043
Deduct cash dividends on common stock $87.76, $71.30, $68.81, $76.32, $62.42, $17.57 and $14.28 for the years ended Sept. 30, 1964, 1965, 1966, 1967 and 1968 and the 3 months ended Dec. 31, 1967 and 1968	(526,560)	(427,800)	(412,860)	(457,920)	(374,520)	(105,443)	(85,681)
Balance, ending	1,582,111	1,770,455	1,953,404	2,308,348	2,183,409	2,088,653	2,226,771

Note: The notes to financial statements are an integral part of this statement.

JOURNAL-STAR PRINTING CO., NOTES TO FINANCIAL STATEMENTS FOR THE 3 YEARS ENDED SEPT. 30, 1968 AND (UNAUDITED) 3 MONTHS ENDED DEC. 31, 1968

NOTE 1. INVENTORIES

[Inventories are summarized below. Newsprint was priced at cost, determined on the last-in, first-out method. Supplies were priced at current cost, not in excess of replacement market]

	Sept. 30—				Dec. 31, 1968
	1965	1966	1967	1968	
Newsprint	$137,098	$113,106	$118,914	$151,633	$121,716
Supplies	9,734	8,723	11,011	10,640	10,627
Total	146,832	121,829	129,925	162,273	123,343

NOTE 2. INVESTMENT IN KFAB BROADCASTING COMPANY

The Company owns 48.86% of the outstanding capital stock of KFAB Broadcasting Company. The cost of the Company's investment in KFAB Broadcasting Company exceeded its equity in net assets by $100,982 (audited) at September 30, 1968 and $71,770 (unaudited) at December 31, 1968. The Companys' equity in the net income of KFAB Broadcasting Company was $24,426, $(12,439), $(4,242) and $29,212 more (less) than the dividends received as shown in the statements of income and retained earnings for the fiscal years 1966 through 1968 and the three months ended December 31, 1968, respectively.

NOTE 3. PROPERTY AND EQUIPMENT

Property and equipment are stated at cost. It is the policy of the Company to provide for depreciation of depreciable properties at rates to write off the cost of the properties on a straight line method over their estimated useful lives. A summary of rates in use follows:

	Percent
Land improvements	5–10
Buildings	2–10
Equipment	5–25

Upon retirement of property and equipment, the items are removed from the asset accounts and appropriate adjustments to reserves for depreciation are made to cover the depreciation written off on the properties retired and any loss or gain realized upon sale or other disposition is charged or credited to profit and loss. Maintenance, repairs and renewals are charged to profit and loss. The cost of additions and betterments to property is charged to property accounts.

A new press and building was completed in 1967 at a total cost of approximately $2,000,000. Nonrecurring depreciation of approximately $52,000 was recorded in the year ended September 30, 1967, to reduce the carrying value of the replaced press equipment to realizable values.

NOTE 4. INCOME TAXES

On October 1, 1966 the Company adopted the policy of deferring the investment credit allowance and amortizing it over the productive lives of the related facilities. Prior to that time the investment credit allowance was immaterial. The amortization of the deferred investment credit allowance has not had a material effect on net income.

The deferred income tax charges and credits arise from the differences between the periods in which depreciation and pension costs affect taxable income and the periods in which they enter into the determination of accounting income.

NOTE 5. PENSION PLAN

The Company's Retirement Plan is a noncontributory, funded, trusteed plan and covers substantially all full time employees. The plan provides for normal retirement and early retirement under certain circumstances.

The Company made no provision for pension costs in years ended September 30, 1966 and 1967, however, costs paid or accrued of $38,800 for the year ended September 30, 1968 and $9,700 for the three months ended December 31, 1968, include the actuarily computed current normal cost plus interest on the unfunded prior service cost. The latest actuarial valuation, October 1, 1967, indicated that the pension fund exceeded the actuarily computed value of vested benefits by approximately $235,000.

NOTE 6. CONTINGENT LIABILITIES

The Company is defendant in litigation involving alleged libelous statements published by Journal-Star. In the opinion of counsel, the plaintiff's suit is without merit.

The Company has agreements with affiliated companies to furnish it with certain editorial services. The amounts paid for these services are stated in Note 8.

See "Litigation" elsewhere in this prospectus.

NOTE 7. EXTRAORDINARY CHARGE

Effective September 1, 1964, the pension plan was amended to double the benefits payable to retired employees. Prior to the amendment, the pension plan, including all past service costs, was fully funded. During the year ended September 30, 1964, the Company contributed $358,534 to cover the actuarially determined current year's normal cost and a portion of the past service cost of the amended pension plans. Of this amount, $28,534 was charged to operating expense as representing the normal cost of the plans for the year, and $330,100 net of the $170,600 of related deferred income tax expense has been treated as an extraordinary charge in the income statement.

NOTE 8. SUPPLEMENTAL PROFIT AND LOSS INFORMATION

	Year ended Sept. 30—			3 months ended Dec. 31, 1968
	1966	1967	1968	
Maintenance and repairs, charged to other operating expenses	$41,084	$37,118	$33,438	$10,206
Depreciation	130,628	170,193	175,422	43,803
Property taxes, charged to other operating expenses	53,179	61,897	79,074	21,000
Payroll taxes, charged to payroll costs	58,494	80,228	83,929	17,162
Other taxes, charged to other operating expenses		513	4,034	821
Editorial service fees paid to affiliated companies:				
Charged to payroll costs	447,033	481,957	505,748	132,008
Charged to other operating expenses	395,236	422,835	433,581	115,298

Note: Rents paid in the above periods were not material.

MADISON NEWSPAPERS, INC.—BALANCE SHEET

	Sept. 30, 1968	Dec. 31, 1968 (unaudited)
ASSETS		
Current assets:		
Cash	$172,755	$810,025
Certificates of deposit and savings and loan accounts	110,000	110,000
Marketable securities, U.S. Treasury bills, at cost plus accrued interest (approximates market)	1,575,483	1,377,918
Trade receivables, less allowance for discounts and doubtful accounts (Sept. 30, 1968—$72,723; Dec. 31, 1968—$60,143)	767,927	877,899
Inventories, at lower of cost or market (Note 1)	335,139	319,427
Prepaid expenses	25,882	21,183
Total current assets	2,987,186	3,516,452
Property and equipment, at cost: [1]		
Land	102,761	145,363
Buildings	1,371,489	1,371,489
Equipment	2,360,552	2,415,856
Total	3,834,802	3,932,708
Less accumulated depreciation	2,176,747	2,233,746
	1,658,055	1,698,962
	4,645,241	5,215,414

	Sept. 30, 1968	Dec. 31, 1968 (unaudited)
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$257,457	$352,371
Compensation and other accruals	238,104	281,200
Dividends payable	85,000	70,000
Federal and state income taxes [1]	191,972	409,873
Unearned subscription income	170,663	170,663
Deferred income tax credits [1]	175,199	192,172
Total current liabilities	1,118,395	1,476,279
Commitments and contigent liabilities: [1]		
Stockholders' equity:		
Capital stock, common, no par value, authorized and issued; class one, 2,500 shares; class two, 2,500 shares [1]	500,000	500,000
Retained earnings	3,026,846	3,239,135
	3,526,846	3,739,135
	4,645,241	5,215,414

[1] The notes to the financial statements are ani ntegral part oft his: tatement .

MADISON NEWSPAPERS, INC., STATEMENT OF INCOME

	Year ended Sept. 30					3 months ended Dec. 31, (unaudited)—	
	1964	1965	1966	1967	1968	1967	1968
Revenue:							
Newspaper advertising	$4,985,924	$5,533,059	$6,086,714	$6,546,930	$6,995,227	$1,821,451	$2,000,120
Newspaper circulation	1,879,389	1,902,178	1,934,737	2,393,344	2,633,131	674,662	778,146
Other income—net	39,362	42,474	52,216	56,116	65,351	20,924	20,949
Total	6,904,675	7,477,711	8,073,667	9,996,390	9,693,709	2,517,037	2,799,215
Operating expenses:							
Payroll costs	2,831,821	3,052,226	3,267,034	3,517,908	3,967,240	947,265	1,060,530
Newsprint and ink	1,491,470	1,609,773	1,755,263	1,838,729	1,946,680	561,544	531,962
Depreciation [1]	228,234	193,323	219,306	204,194	221,053	8,000	57,000
Other operating expenses	1,619,184	1,631,516	1,783,948	1,972,633	1,999,859	521,296	520,325
Total	6,170,709	6,486,838	7,025,551	7,533,464	8,134,832	2,033,105	2,169,817
Operating income	733,966	990,873	1,048,116	1,462,926	1,558,877	483,932	629,398
Financial income (expense):							
Interest income	19,421	38,366	49,271	60,837	84,000	16,030	18,886
Interest expense	(3,123)	(1,847)	(1,214)	(4,423)	(2,700)		
Total	16,298	36,519	48,057	56,414	81,300	16,030	18,886
Income before taxes on income	750,264	1,027,392	1,096,173	1,519,340	1,640,177	499,962	648,284
Federal and State income taxes: [1]							
Provision on current taxable income	392,700	494,664	534,179	762,624	831,970	207,934	349,022
Increase in deferred income taxes	15,290	31,107	12,240	9,666	33,980	32,606	16,973
Total	407,990	525,771	546,419	772,290	865,950	240,540	365,995
Net income	342,274	501,621	549,754	747,050	774,227	259,422	282,289
Net income per share	68.46	100.32	109.95	149.41	154.84	51.88	56.46

[1] The notes to the financial statements are an integral part of this statement.

MADISON NEWSPAPERS, INC., STATEMENT OF RETAINED EARNINGS

	Year ended Sept. 30—					3 months ended Dec. 31 (unaudited)—	
	1964	1965	1966	1967	1968	1967	1968
Balance, beginning	$1,541,920	$1,734,194	$2,035,815	$2,305,569	$2,702,619	$2,702,619	$3,026,846
Add net income	342,274	501,621	549,754	747,050	774,227	259,422	282,289
Deduct cash dividends on common stock: $30, $40, $56, $70, $90, $14, and $14 for the years ended Sept. 30, 1964, 1965, 1966, 1967, and 1968 and the 3 months ended Dec. 31, 1967 and 1968	(150,000)	(200,000)	(280,000)	(350,000)	(450,000)	(70,000)	(70,000)
Balance, ending	1,734,194	2,035,815	2,305,569	2,702,619	3,026,846	2,892,041	3,239,135

Note: The notes to the financial statements are an integral part of this statement.

MADISON NEWSPAPERS, INC. NOTES TO THE FINANCIAL STATEMENTS FOR THE 3 YEARS ENDED SEPT. 30, 1968 (AUDITED) AND 3 MONTHS ENDED DEC. 31, 1968 (UNAUDITED)

NOTE 1. INVENTORIES

[Inventories are summarized below. Newsprint was priced at cost, determined on the last-in, first-out method. Supplies were priced at current cost, not in excess of replacement market]

	September 30—				Dec. 31, 1968
	1965	1966	1967	1968	
Newsprint	$127,083	$220,003	$289,457	$334,019	$318,551
Supplies	733	609	1,024	1,120	876
Total	127,816	220,612	290,481	335,139	319,427

NOTE 2. PROPERTY AND EQUIPMENT

Property and equipment are stated at cost. It is the policy of the company to provide for depreciation at rates which are estimated to write off the cost of the buildings principally on the sum of digits method and the cost of the equipment mainly on the double declining balance method over the estimated useful lives. A summary of rates in use follows:

	Percent
Buildings and improvements	5 to 10
Publishing and other equipment	6⅔ to 18⅙

Upon retirement of property and equipment, the items are removed from the asset accounts and appropriate adjustments to reserves for depreciation are made to cover the depreciation written off on the properties retired and any loss or gain realized upon sale or other disposition is charged or credited to profit and loss. Maintenance, repairs and renewals are charged to profit and loss. The cost of additions and betterments to property is charged to the property accounts.

NOTE 3. INCOME TAXES AND CHANGE IN ACCOUNTING

During the year ended September 30, 1968, the Company accrued certain newspaper revenue which had previously been recorded both for financial and tax purposes on the basis of cash receipts. The financial statements have retroactivity been adjusted for this change and provision has been made for the resulting deferred income taxes. As a result of this change, the balance in retained earnings at October 1, 1963 was increased in the amount of $48,782. The effect on net income during the period was not material.

Investment credits, which were not material, were applied as a reduction of the federal income tax provisions.

NOTE 4. PENSION PLAN

The company has a noncontributory, funded and trusteed pension plan that covers all regular full-time employes. It provides for normal retirement at age 65, automatic retirement at age 70, and early retirement at age 60 if retirement results from disability. The pension plan expense of $37,500, $37,500, $33,959 and $7,500 for the years ended September 30, 1966, 1967 and 1968 and the three months ended December 31, 1968 is being funded and includes amortization of past service costs over approximately 10 years. The unfunded past service costs at September 30, 1968 and December 31, 1968 was approximately $98,500.

NOTE 5. CONTINGENT LIABILITIES

At September 30, 1968 and December 31, 1968, contract negotiations were in progress with certain union representatives. The provision for possible retroactive pay adjustments included in the accompanying financial statements is considered adequate by the management.

The company has agreements with affiliated companies to furnish it with certain editorial services. The amounts paid for these services are stated in Note 7.

See "Litigation" elsewhere in this prospectus.

NOTE 6. CAPITAL STOCK

Both classes of the common capital stock have equal rights in all respects. 50% of the stock, or 2,500 shares, are each held by Capital-Times Company and Wisconsin State Journal, a division of Lee Enterprises, Incorporated. There are no shares reserved for options, warrants, or other rights for officers, employes or others.

NOTE 7. SUPPLEMENTAL PROFIT AND LOSS INFORMATION

	For the year ended September 30—			For the 8 months ended Dec. 31, 1968
	1966	1967	1968	
Charged to operating expenses:				
Maintenance and repairs	$88,191	$78,966	$60,934	$15,315
Depreciation	219,306	204,194	221,053	57,000
Property taxes	58,001	83,434	83,000	21,000
Payroll taxes	78,121	95,619	110,094	17,877
Editorial service fees paid to affiliated companies	1,507,423	1,666,114	1,828,802	449,253
Equipment rentals	16,200	16,603	23,021	10,010
Royalties	1,233	1,260	1,515	391

Mr. McINTYRE. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mr. McINTYRE. I would like to ask a question based on something the Senator said awhile ago. What other areas do we exempt from the effect of our antitrust laws?

Mr. HART. The Senator from Hawaii, in my absence—and I have already apologized for not being present in the Chamber—included in his presentation 10 instances, I believe.

Mr. FONG. At least 10 instances.

Mr. McINTYRE. One of those would be the insurance industry; another would be the transportation industry.

Mr. HART. Certain agriculture co-ops, labor unions.

Mr. FONG. Baseball and football.

Mr. McINTYRE. I would like to ask the Senator a question with respect to the important areas of transportation and insurance. Those industries are exempt from the effects of the antitrust laws. Are they in any way regulated?

Mr. HART. Indeed, they are. As the Senator from New Hampshire so well knows, the transportation industry is subject to regulation by agencies at the Federal level and at the State level. Included in their authority is the right to insure against combination activities which affect the public interest. Certainly, the insurance industry is exempt from the antitrust laws. I think the record shows that those which are exempt are subject to regulation at the State level.

Indeed, if we get into the business of granting immunity from antitrust laws to newspapers, the day may come when the logic of the point made in the question of the Senator from New Hampshire could come back to haunt the publishers. If they were exempt from antitrust laws and an agency we were to designate was to ride herd on them, they would say the first amendment would prevent that. It is a consequence all of us would hope to be able to avoid.

Mr. McINTYRE. The Senator has anticipated the point very well because it is my understanding that proponents of the bill want to write into the law an exemption from the effect of antitrust laws. If an exemption from the effect of antitrust laws were written into the law concerning newspapers, could the newspapers be regulated, such as is true in the case of transportation or insurance, to which the Senator referred?

Mr. HART. Well, I think we would be kidding ourselves; I think I would be kidding myself. I know what the answer eventually would be. In the event we gave antitrust immunity and then, because of abuses, foreseen and perhaps unforeseen, the request developed that there be a regulation, the situation would be quite different. There is a fairness doctrine argument that has some applicability. Perhaps the first amendment would require creating a fairness doctrine for newspapers because we would be inhibiting new entry. I am not prepared to state what the court eventually would do if the request to regulate were made.

Mr. McINTYRE. I may suggest that if we attempted in the Halls of Congress to regulate newspapers there might be a slight uproar.

Mr. HART. Unless the regulation was to be unregulated of antitrust laws, I am sure the uproar would be very great.

Mr. McINTYRE. One last question. It seems to me if the proponents of the bill have their way, what they would be creating would be an unregulated public utility.

I thank the Senator.

Mr. HART. With really more long-term influence on our society than the utility that provides gas or electricity or bus service. It is a source of ideas. It is a profession on which the course of a society such as ours is based. I agree with the Senator from New Hampshire.

Mr. McINTYRE. Could the Senator from Michigan enlighten me as to what is the position of the administration with respect to this bill?

Mr. HART. Well, we have what is, not a silent majority; it is a conflicting response. The Department of Justice testified against or in opposition to the bill. The Department of Commerce later testified in support of it. The Federal Trade Commission—not the administration in that sense—opposes it. The Bureau of the Budget cleared the responses of all three.

An intriguing doctoral paper, I am sure, would be what wheels within wheels produced that chaff.

I think, of course, that the Department of Justice understands perhaps more fully the implications of tinkering with the antitrust laws than does the Department of Commerce. But that is the best answer I can make.

Mr. McINTYRE. I thank the Senator.

Mr. GORE. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mr. GORE. The able Senator has seen fit to refer to the profitable operations of certain joint publication enterprises. I do not think the enterprise should be condemned because it is profitable. Indeed, without profitable undertaking by our free enterprise system, the system itself would fail.

What I wish to suggest to the Senator and what I wish to call to the attention of the Senate is a different kind of result from a different kind of undertaking. I have the honor in part to represent a State that has both examples. Though I have not seen their tax returns, I take it that the two daily publications in Nashville, Tenn., that have a joint economic publishing enterprise, operate profitably. Indeed, I believe the publishers of both newspapers so testified.

In another Tennessee city, two newspapers dissolved a joint publishing enterprise with the result—I believe it to be of common knowledge—that both newspapers are losing heavily. This is at Chattanooga, Tenn.

If the choice is between a losing proposition and a profitable proposition, it seems to me, I may suggest, that the profitable operation commends itself rather strongly to sympathetic consideration.

I believe it was testified before the committee so ably chaired by the distinguished senior Senator from Michigan that without such a joint publishing enterprise in Nashville, Tenn., the capital city of my State would now have one newspaper, as may soon be the result in Chattanooga, Tenn.

I submit that the joint publishing enterprise need not—and indeed, as anyone who passes through Nashville almost any day in the year and buys both newspapers will testify—mean a common editorial policy or the espousal of a joint political view.

The publishing of a paper, the printing, the purchase of newsprint, the distribution, the sale of advertising are not political matters. That is a business undertaking. It should be permitted and should be encouraged to achieve the maximum of efficiency.

I do not wish to ask the Senator to yield long enough for me to make a speech upon the principles involved, but I felt justified in asking him to yield to make these statements in view of the references the Senator made to the profitable joint enterprises.

Mr. HART. Mr. President, the Senator from Tennessee suggests that there are aspects of the newspaper industry which are business and that they should be allowed maximum efficiency in their operations. That argument could be used to justify antitrust exemption for every business, because nothing is more efficient than the sitting down with one's competitor and figuring out how he will spread his profits. We do not allow that even in the manufacture of automobiles. While automobiles kill more people than newspapers, they certainly do not affect the judgments of as many people as newspapers do.

The conclusion is reached also that if one of two newspapers now in joint operation failed as a result of being denied the joint opportunity, the people of that community would be left with only one

newspaper. There are instances when failure is a reflection of third generation ownership which is not as aggressive or alert or imaginative or even as energetic as the grandfather. But so long as that second newspaper is permitted to survive under joint operation, no new entrant with the same vigor as the grandfather is going to be able to get in. This is another aspect that all of us are concerned about.

Mr. GORE. Mr. President, will the Senator yield?

Mr. HART. I yield.

Mr. GORE. The able Senator, in drawing his comparison between the automobile and the publishing of a newspaper, asserted that automobiles do not affect the judgment of citizens; newspapers do. But it is the editorial policy, it is the policy of news display and portrayal, not the purchase of the paper, the printing of the paper, the distribution of the paper, or the sale of advertising that affect judgments of opinions of people.

I submit to the able Senator that it is not realistic to compare a newspaper with an automobile. We are dealing here not particularly with a theory, though theories are involved, but with a circumstance.

On yesterday we found a compromise. On the one hand, there was the rigid, deeply held principle of freedom, that a man's home is his castle and into his home he can repair and be free from fright and free from intimidation and free from forcible or unwanted entry.

On the other hand, we had the public necessity for controlling the sale, the pushing, the addiction to narcotics. The Senate finally found a compromise by leaving to the decision of a judge of a court of record whether to issue a permit for an officer to enter without knocking.

Maybe none of us was happy that we found it necessary to compromise, but in the course of a free society, what is a right for one may be a trespass of another, and what is a trespass by one may be an intrusion upon the right of another.

Here we have a necessity drawn out of the practical economics of our technological age, because it is just more economical, more efficient, and more reasonable to permit one printing press to be used twice a day than to have two printing presses each used once a day.

That may oversimplify the issue, but I am mindful that in my State there is an example of two newspapers in a city which once faced the possibility of having only one newspaper, now operating with a mutual enterprise for publishing, with the two newspapers fiercely competitive in editorial policy and political points of view, and vigorously espousing their respective identities, while, on the other hand, in another city two newspapers going their separate ways are in a fight to the death, perhaps with the untoward prospect of soon having only one newspaper in that city.

Mr. HART. Mr. President, I appreciate the comments of the Senator from Tennessee, and I agree that the compromise we reached yesterday may be analogous to the proposition I am raising now.

Yesterday we decided we would leave it to the judge to determine, under the specific circumstances of the case, how it ought to be handled.

That is what happened in Tucson. That is what I suggest we should anticipate to be the most prudent and effective way to respond to the problem of these newspapers. Let the court decide. Let us not, by a sweep of antitrust immunity, treat all as the same.

It is for that reason, Mr. President, that I urge the Senate to recommit this bill, to permit the committee to analyze it in the light of the Tucson case and what the facts revealed.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HRUSKA. Mr. President, I rise for the purpose of making a motion.

Mr. JAVITS. I know. I just wanted to make a comment before the Senator does that.

Mr. HRUSKA. We have been a long time in reaching this point, and if the Senator will forgive me, I would like to proceed to that step now.

Mr. JAVITS. I will, of course, abide by what the Senator from Nebraska does. He has the right to move.

Mr. HRUSKA. Mr. President, I move to lay on the table the motion of the Senator from Michigan to recommit the bill.

Mr. BYRD of West Virginia. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nebraska to lay on the table the motion to recommit of the Senator from Michigan (Mr. HART). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the affirmative). On this vote I have a pair with the distinguished Senator from Connecticut (Mr. RIBICOFF). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withdraw my vote.

Mr. KENNEDY. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Utah (Mr. Moss), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that, if present and voting the Senator from Indiana (Mr. BAYH), and the Senator from Utah (Mr. Moss) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Nebraska (Mr. CURTIS), the Senator from Florida (Mr. GURNEY), the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from Vermont (Mr. PROUTY) are necessarily absent.

The Senator from Maryland (Mr. MATHIAS) and the Senator from Oregon (Mr. PACKWOOD) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from Nebraska (Mr. CURTIS), the Senator from Florida (Mr. GURNEY), the Senator from South Dakota (Mr. MUNDT) would each vote "yea."

The result was announced—yeas 67, nays 18, as follows:

[No. 22 Leg.]

YEAS—67

Aiken	Fannin	Pastore
Allen	Fong	Pearson
Anderson	Goldwater	Proxmire
Baker	Goodell	Randolph
Bellmon	Gore	Russell
Bennett	Griffin	Saxbe
Bible	Hansen	Scott
Boggs	Harris	Smith, Maine
Brooke	Hatfield	Smith, Ill.
Byrd, Va.	Holland	Sparkman
Cannon	Hollings	Spong
Case	Hruska	Stennis
Church	Inouye	Stevens
Cook	Jackson	Symington
Cooper	Jordan, N.C.	Talmadge
Cranston	Jordan, Idaho	Thurmond
Dodd	Long	Tower
Dole	Magnuson	Williams, N.J.
Dominick	McClellan	Williams, Del.
Eagleton	McGee	Young, N. Dak.
Eastland	Miller	Young, Ohio
Ellender	Montoya	
Ervin	Murphy	

NAYS—18

Burdick	Javits	Mondale
Byrd, W. Va.	Kennedy	Muskie
Cotton	McCarthy	Nelson
Fulbright	McGovern	Pell
Hart	McIntyre	Percy
Hughes	Metcalf	Yarborough

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, for.

NOT VOTING—14

Allott	Hartke	Prouty
Bayh	Mathias	Ribicoff
Curtis	Moss	Schweiker
Gravel	Mundt	Tydings
Gurney	Packwood	

So the motion to table was agreed to.

Mr. RANDOLPH. Mr. President, Kipling once listed his six honest servingmen: What, why, when, how, where, and who. Now five of those are seldom troublesome. But the sixth—why—is the very core of evalution and interpretation.

Without it, one has merely the bare bones of fact, unfleshed with the context of motivation that makes the facts meaningful. But in asking why, we too often drive the facts out of the bright light of reason, and into the deceiving shadows of subjectivity.

People are often prouder of their deeds than of their motives.

Over the past few years, in our consideration of Senator INOUYE's bill and its predecessor, first introduced by Senator Hayden in 1967, we have been given hundreds of facts for evaluation. In the lengthy hearings on this bill, hundreds of thousands of emotion-charged words have been spread on the record.

We must, above all else, ask ourselves: Why?

On the face of the record, we are asked to believe that—in 22 of our great American cities—there exist monopolistic combines which have conspired to choke off debate, stifle competition, constrict the individual freedoms of our citizenry.

These are, we are asked to believe, greedy giants of the media who have

gaily thumbed their noses at the law for three decades or more. Opponents of this measure would have us believe, too, that its approval by this body would mean the very end of freedom.

The newspaper is one of the oldest forms of mass communication. It is the most powerful force in public opinion today. It is the only medium which talks directly to each reader in terms of himself, his family and his community. It is the only medium which remakes its product every day.

Hence, the newspaper is always in focus—always in direct, immediate and intimate touch with both the people and the changing times. This is what gives newspapers their tremendous influence and efficiency. True, competitors have come into being and found their place. But the newspaper's preeminence as an influence remains.

In the testimony on this measure opponents have charged that the newspapers which have combined their production and marketing facilities stand alone as examples of perfidious purveyors of shabby products.

Mr. President, as a former active newspaperman myself, on daily and weekly publications, I can testify that over the years, the news fraternity itself has consistently voted the newspapers in these very cities under consideration as being among the best in the business. Ask any newspaperman his opinion of the papers in such combination arrangements in St. Louis, San Francisco, and Milwaukee.

I represent a State in which one of the newspaper combinations is located. The Charleston Gazette and the Charleston Daily Mail have, since 1958, operated under just such a working arrangement as we have been discussing. The necessity of this arrangement was created by the economic upheaval in the coal industry during the 1950's. Faced with a dwindling population and sagging circulation, these two newspapers had no other choice for survival but to combine their facilities to effect economies and to increase efficiencies.

These two newspapers were the victims of a technological revolution just as surely as the great coal industry in West Virginia suffered in the transition from shovel to machine.

But now these two newspapers are told that they should not have fought back, yes, that they should not have battled back in the way they did, that they should not have struggled to maintain their individual identities which they had cherished for 100 years, and that they should have sold out and gone under.

They did not do that. They were realistic. They were creative. They were resourceful. They acted affirmatively. They did not fold. They kept the presses rolling.

Total average circulation of the morning Gazette is a little more than 61,000 daily, and the evening Mail is about 58,500.

I ask you, Mr. President, and Members of the Senate, is this the monopolistic monster that some would have us believe enters into the discussion of this proposal?

What about editorial independence, the separability of opinions of these two not big giants but little giants?

Mr. President, I tell you from personal experience that this economic marriage does not insure political harmony.

Mr. PASTORE. Mr. President, may we have order in the Senate? This is a very interesting speech and I should like to hear every word of it.

The PRESIDING OFFICER. The Senate will please be in order.

Mr. RANDOLPH. I am very grateful to my colleague from Rhode Island.

Mr. GOLDWATER. Mr. President, will the Senator yield at that point?

The PRESIDING OFFICER (Mr. CRANSTON in the chair). Does the Senator from West Virginia yield to the Senator from Arizona?

Mr. RANDOLPH. I yield to the Senator from Arizona.

Mr. GOLDWATER. It might be interesting, in view of the point the Senator is making——

Mr. PASTORE. Will the Senator please speak a little louder?

Mr. GOLDWATER. I think it would be interesting, in view of the point that the Senator from West Virginia is making, to invite attention to the fact regarding the stars of this show, the Tucson papers, that one is a morning paper which backs the Democrats, and the other is the evening paper which backs the Republicans.

That has been the form, historically, their independence has taken, and those newspapers have been run independently insofar as editorial comment goes.

Mr. HART. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. HART. And they both back the newspaper antitrust immunity.

Mr. GOLDWATER. Quite naturally.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. PASTORE. Mr. President, all of us realize that the pending bill is rather unusual. Possibly it could be characterized as being unprecedented. But I compliment the distinguished Senator from West Virginia (Mr. RANDOLPH) for the splendid philosophical manner in which he is developing his argument in defense of the pending bill.

As a matter of fact, the rapid extinction of industrial newspapers in this country has been of grave concern to me. And this has become a national problem. And woe be the day to America when the newspaper begins to lose its primacy in the world of communication.

That is fast happening. And we are now approaching the low level where, unless someone is dedicated enough and possesses wealth enough to undertake this sort of adventure and financial risk, these newspapers will finally fail. They are failing and going out of business today.

We have to realize that there has been a tremendous evolution in communication media in our time which, in large measure, accounts for this situation. That is the advent of television and radio. There is no question about that. Today, one turns on his radio or television set and receives the news. He might not receive it in the same depth that he would from a newspaper. But it is good news. It is instant news and it is welcome news.

The result has been that because of these new instrumentalities, the newspapers of this country have become hard pressed to stay in business. This must be taken into account.

I think the times require that while we may be indulging in something that may be characterized sincerely as being revolutionary, we must be pragmatic, we must be practical enough to realize that unless we take some salutary action, if we do not do something to preserve the newspaper industry in this country, we will end up without newspapers altogether. And that will be a disastrous day in American history.

Mr. RANDOLPH. Mr. President, I agree with the observations and deductions which the able Senator from Rhode Island makes in a moving manner.

Mr. INOUYE. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. INOUYE. I am sure that the distinguished Senator will wish to know that in 1920 there were 520 cities with two editorial voices. In 1925 it was reduced to 117. And today, in 1970, there are just 59 remaining cities with two or more voices. And if the pending bill is not passed, we will have only 37 remaining.

As the Senator from West Virginia (Mr. RANDOLPH) has eloquently and effectively set forth in his remarks today, we want two or more voices to be heard.

Mr. RANDOLPH. Mr. President, I thank the Senator.

I wish for Senators to indulge me a moment of memory. The first newspaper I took the responsibility of publishing was called the Message. That was in my hometown of Salem, W. Va. And I placed at the masthead, "Published now and then when occasion demands."

My colleagues, very frankly that was when I could corral sufficient money to publish. There has always been a cost problem in publishing a newspaper.

I tell the Senators from personal experience with the Charleston Gazette and the Charleston Daily Mail that no economic marriage within newspapers insures what we call political harmony. I assure Senators from personal experience, that the editorial viewpoints of these two newspapers are widely divergent. This is good for the community. I believe that the Senator from Michigan (Mr. HART) will agree with that statement.

I, and other members of the West Virginia congressional delegation, are alternately praised and damned by these two newspapers almost every day, depending on our viewpoints, our actions, our work here on the Hill. But, without two such vigorous opposition views in the capital city of West Virginia, the citizens of the State will suffer, not a member of our delegation, but the citizens of the State. And without the efficiencies of an operating agreement such

as now exists, one or the other of these vital newspapers will cease to exist.

My colleague, Edmund Burke. Excuse me. He was not my colleague.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. PASTORE. The Senator from West Virginia is eloquent enough to have been his colleague.

Mr. RANDOLPH. Mr. President, I am grateful to the Senator.

Yes, the truly great English statesman, Edmund Burke, was quoted as saying that there are three estates in Parliament—the church, the peerage, and the commoner. And Thomas Carlyle, looking at the reporters' gallery yonder and pointing to the press gallery, added slowly, "But in the reporters' gallery, there sat a fourth estate, more important far than they all."

When Carlyle spoke these words more than a century ago, he was looking shrewdly into the future. He could see despotism on the march in countries with newspapers and the news media under the thumb of government. Make no mistake about it. He could see freedom on the march, where the press was free. Make no mistake about it.

He could, perhaps, even see ahead to this day, when we stand as spectators at the Colosseum, our fists thrust forward, with the power to destroy—or let live—those gallant gladiators who stand waiting on our decision.

I beseech the Senate to allow these two newspapers, of which I speak, and others, to live with their voices always vital and virile.

Mr. COOK. Mr. President, will the Senator yield?

Mr. RANDOLPH. I yield.

Mr. COOK. Mr. President, I associate myself with the remarks of the Senator from West Virginia. I point out to the Senator from Michigan that in many respects I would have liked to vote with him.

I appreciate hearing from Members of the Senate who have two newspapers in their community that have divergent views, because that day has long since gone in the major community in my State. We have had the same morning and evening publications in my community for many years.

It has been a long time ago since there has been another editorial voice in a community of 700,000 people.

Let me say with all fairness that I have great respect for both of those newspapers. However, I think when a community finds itself, for instance, in a position with, let us say, the industrial and political conditions such that the same editorial appears in the morning newspaper as in the evening newspaper, word for word, picture for picture, and paragraph for paragraph, then I am concerned.

There are many weekly newsapers in my State that are very much opposed to it. And I think they may very well have some merit. But for those cities attempting to hang on to two voices, I can only say to them, "I come from a community that had one voice for a long time." When the distinguished Senator from Vermont first came into the Chamber he was attacking the greatness of organizations that included major newspapers, television stations, and radio stations. This argument fell in the same category as the group in my community. But I could not be for that. I could not be for that because of the divergent political views of those newspapers in my home community. It would almost be, in my state of mind, retribution to try to break up something that has been built on soundness, with an eye to investing a great deal of money, and creating something that has been good and progressive. To say, by reason of this greatness and consolidation, that this effort, enthusiasm, and capability to see the future of the community and make that investment, somehow or other should be broken up, I could not favor that.

But I say this in all fairness. One voice in a community is pretty tough. One voice to a majority of a State is pretty tough. In the city of Lexington, for instance, we have a newspaper that comes out in the morning and a newspaper that comes out in the evening. Those newspapers have designated themselves as political opposites. The newspaper that is published for subscribers in the morning has an editor who is the president of the Young Democrats in the State of Kentucky, and the editor of the afternoon paper has been a member of the Republican State Central Committee of Kentucky for many years. Obviously, they disagree with each other editorially, but in a large community with large circulation there is no disagreement between morning and evening. There is no disagreement between the endorsement of candidates. For those communities that still have an opportunity to have that disagreement, for those communities that still have that opportunity to make up their minds and evaluate between morning and evening and weigh that decision, I say, "I hope you take the opportunity to hang onto it."

The papers that, in a way, I am being critical of are extremely fine papers and they probably feel themselves they would be hypocrites to make that distinction between a morning and evening newspaper.

The president of that corporation thinks it would be the wrong thing to do that and I must respect his wishes. Bu I say this does not upset the balance in my community because it will continue to have one voice. However, for those communities where there are two voices I would only suggest you do your best to hang on to them.

Mr. McINTYRE. Mr. President, will the Senator yield?

Mr. COOK. I yield.

Mr. McINTYRE. Mr. President, the Senator from Kentucky states wistfully and longingly that the voice of the past has disappeared and now the Senator hears only one editorial voice in the morning and one in the afternoon. I wish to say, as wistful as the Senator is, nevertheless, he is supporting this bill.

Mr. COOK. Yes, I am.

Mr. McINTYRE. Then, the Senator is making it less and less possible that some enterprising new newspaper may find its place in the Senator's hometown. It is the purpose of this bill, to create immunity from the antitrust laws, and bring into being a comfortable and profitable setup, where two newsapers share the profits, fix prices, and manage the markets to which they can sell, and get fatter and fatter. It is the opinion of those who oppose the bill that the editorial voice which the Senator now proclaims, which echoes through Charleston, W. Va., and other cities, will be eroded away. We will have a situation so strong, from a financial standpoint, that the entrepreneur who enters into that city will never succeed because the opposition will be controlling and much too difficult to overcome.

Mr. COOK. That day has already been reached in my community where all profits are divided down the middle, where all the billing is done from the same office, where all the things the Senator talks about have occurred, and it is in existence.

I say with respect to that enterprising individual who may want to create a newspaper in that community in opposition, and everything is so tied up, where it is impossible for him to do so, when he finds himself in a position where there is no need to be enterprising because the enterprising efforts would be useless, I say if there is a community, even if the newspapers come out of the same building, that they represent divergent views for the people of that community. The newspaper that can give the individual the right to make up his own mind on issues is already established, and if someone else wants to come in, I think with the political system in this country, he would have to side himself with either the morning or the evening newspaper. I suggest for those communities where there is that one institution that deals in both morning and evening newspapers, if a new enterprising individual wants to come in and establish a newspaper, the first thing he better do is make up his mind that he is going to have a morning newspaper and an evening newspaper, and not just one, because the advertising rates made available by the monopolized price in the major cities of this country will make it impossible for that individual to make a dime unless he comes out with both competing morning and evening newspapers, so he will be out of business before he starts.

Mr. McINTYRE. My good friend from Kentucky has lived through this and I can imagine his dismay at the situation. But the point remains that by contributing a vote for this bill he would be starting many other communities down the road; many of the communities that are proclaiming two voices; and the Senator would be placing them in the dismal situation he faces in his hometown.

The thing to do is to oppose this legislation and start on a different road to keep as many diverse voices and as many media publishing as possible.

Mr. COOK. I am not sure I am happy with this bill but I am also not sure what other road we can take to preserve the two voice system in this country.

Mr. HRUSKA. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk proceeded to read the amendment.

Mr. HRUSKA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 5, beginning with line 24, strike out all through line 4, page 6 and in lieu thereof insert the following:

"5(c) The provisions of Section 4 shall have no application to any action for the recovery of damages brought before November 4, 1969 by any party other than the United States upon a cause of action arising under any of the antitrust laws which accrued before such date, provided that this Subsection (c) shall apply to the recovery of damages only by the named parties plaintiff who filed or intervened in such action by such date, and not by any other members of any class on behalf of whom such action purports to be filed who have not so filed or intervened by such date."

Mr. HRUSKA. Mr. President, section 5(c) of the bill excludes from the application of the act actions for damages brought by private parties prior to the date of enactment. As I understand it, the addition of section 5(c) was motivated by two concerns: First, that it was inequitable to cut off rights of action from private litigants who had prosecuted claims; and second, that the U.S. Constitution would not permit such a limitation on presently existing suits.

As I have made clear in my individual views to the committee report, I strongly disagree with both these concerns. Nevertheless, the amendment I offer today does not go so far as to strike out section 5(c). Rather, it offers a sensible compromise upon which both proponents and opponents of that section can agree.

As it stands, section 5(c) does more than simply protect the rights of existing party plaintiffs in treble damage cases. First, the section offers an open invitation to other persons to bring new actions in every city where a joint operating agreement exists between now and the effective date of the act. Surely there is no equitable reason to protect those who have not yet prosecuted their claim. Second, wholly apart from any future actions, several of the existing treble damage suits are in the nature of class actions, which purport to be brought on behalf of large classes of persons who themselves have not chosen to sue. Under such class actions, damage claims can be asserted on behalf of large numbers of persons at any time before final judgment. There is no limitation on the number of claims that may eventually be asserted or the amounts of damages which may eventually be sought. Once again, there surely is no equitable reason to protect unnamed persons who have not yet seen fit to prosecute their claim, but who may seek at some subsequent date to benefit from those plaintiffs who have brought suit.

My amendment would correct these deficiencies in 5(c). Despite my misgivings, it would permit treble damage actions brought prior to the date the bill was reported from committee to be maintained. However, it would limit those who may recover damages to named parties plaintiff who filed or intervened before that date, and would exclude other members of a "class" who have not so filed or intervened.

Mr. INOUYE. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. INOUYE. If the amendment of the Senator from Nebraska were not adopted, would it not be true that the bill, if enacted into law, might be an open invitation for a whole series of harassing suits?

Mr. HRUSKA. Yes.

Mr. INOUYE. Mr. President, I want the RECORD to show that I wholeheartedly support the amendment, and I hope my colleagues will do likewise.

Mr. HRUSKA. Mr. President, I yield the floor.

Mr. HART. Mr. President, the Senator from Nebraska has accurately described the evolution of the language and the action that was finally taken by the Committee on the Judiciary.

I hope very much the action of the committee will be supported and that the amendment will be rejected.

Except in one city, all of the pending civil suits are against the joint agreement parties in San Francisco. That agreement was made several months after the Department of Justice had filed suit in Tucson. The San Francisco papers were on notice that what they were doing would be subject to antitrust attack.

The Antitrust and Monopoly Subcommittee was told specifically by the Deputy Attorney General in charge of antitrust that no clearance had been given to the San Francisco agreement by the Department of Justice. In fact, the exchange between the Assistant Attorney General and the chairman of the subcommittee at that time went as follows:

Senator HART. There were several joint agreements that the Department of Justice cleared after the Tucson action was filed, as I understand it, San Francisco and Miami. What was the rationale for that action?

Mr. TURNER. I will first say, Mr. Chairman, that those arrangements were not cleared. The parties in both cases were told that whereas we would not take action to enjoin their proposed arrangements at that time, that the whole matter would be left open pending a study of the whole situation, and specifically pending the outcome of litigation.

Senator HART. I see. Well, my question was based on the testimony that we had received earlier from one or both of those parties.

Mr. TURNER. I could, if you care, Mr. Chairman, read to you the talking statement of the Department of Justice which was issued in response to questions from the press with regard to the San Francisco arrangement.

Here is what the Department of Justice cautioned these newspapers prior to the execution of the joint agreement, which is the basis for all but one of the civil actions now pending:

The Department of Justice decided not to institute antitrust action at this time to prevent the execution of the Hearst-San Francisco Chronicle joint production agreement because of the large operating losses incurred by the Hearst papers in San Francisco, and other factors peculiar to that case.

The Department of Justice is carefully reviewing the difficult antitrust problems involved in joint newspaper production agreements. The legality of one such agreement is now the subject of litigation, and others may well come before the courts in the future.

Attorneys for the papers involved in the San Francisco joint production agreement have been advised that the Department's decision not to sue is subject to reconsideration in the light of future court decisions and the Department's continuing review of such arrangements.

That concludes the statement of the Department of Justice. The private suits were filed after the Government failed to act, but before the decision of the Supreme Court.

The injured parties should have the opportunity to recover their damages. They were injured by the conscious act of publishers who were on notice that they were violating the law.

There is an argument that Congress constitutionally can end pending private causes of action.

I have my doubts. All the cases that are cited involve suits by individuals against the Government. I am not aware of any case in which Congress has cut off the private right of one person against another retroactively. Even if it could constitutionally be done, it is not good policy.

I think that the action of the committee in this case was soundly taken. I hope that the amendment will be rejected.

Mr. President, I ask for the yeas and nays.

The yeas and nays were not ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska.

Mr. HART. Mr. President, I suggest the absence of a quorum, in the hope that we may be able to find sufficient support for the yeas and nays; and this will be the final vote today as far as I am concerned.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska (Mr. HRUSKA). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. HUGHES (after having voted in the affirmative). Mr. President, on this vote I have a pair with the senior Senator from Massachusetts (Mr. KENNEDY). If he were present and voting, he would

vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withdraw my vote.

Mr. BYRD of West Virginia (after having voted in the negative). Mr. President, on this vote I have a pair with the senior Senator from Connecticut (Mr. DODD). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Connecticut (Mr. DODD), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Utah (Mr. Moss), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that the Senator from Montana (Mr. METCALF) is absent on official business.

I further announce that, if present and voting, the Senator from Utah (Mr. Moss) would vote "yea."

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), and the Senator from Vermont (Mr. PROUTY) are necessarily absent.

The Senator from Maryland (Mr. MATHIAS), and the Senator from Oregon (Mr. PACKWOOD) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), and the Senator from South Dakota (Mr. MUNDT) would each vote "yea."

The result was announced—yeas 62, nays 20, as follows:

[No. 23 Leg.]

YEAS—62

Aiken	Goldwater	Percy
Allen	Gore	Proxmire
Anderson	Griffin	Randolph
Baker	Gurney	Russell
Bellmon	Hansen	Schweiker
Bennett	Harris	Scott
Bible	Hatfield	Smith, Maine
Boggs	Holland	Smith, Ill.
Byrd, Va.	Hollings	Sparkman
Cannon	Hruska	Spong
Church	Inouye	Stennis
Cooper	Jordan, N.C.	Stevens
Cotton	Jordan, Idaho	Symington
Cranston	Long	Talmadge
Dominick	Mansfield	Thurmond
Eagleton	McClellan	Tower
Eastland	McGee	Williams, N.J.
Ellender	Miller	Williams, Del.
Ervin	Montoya	Young, N. Dak.
Fannin	Murphy	Young, Ohio
Fong	Pearson	

NAYS—20

Brooke	Jackson	Muskie
Burdick	Javits	Nelson
Case	Magnuson	Pastore
Cook	McCarthy	Pell
Fulbright	McGovern	Saxbe
Goodell	McIntyre	Yarborough
Hart	Mondale	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Byrd of West Virginia, against.
Hughes, for.

NOT VOTING—16

Allott	Hartke	Packwood
Bayh	Kennedy	Prouty
Curtis	Mathias	Ribicoff
Dodd	Metcalf	Tydings
Dole	Moss	
Gravel	Mundt	

So Mr. HRUSKA's amendment was agreed to.

Mr. HRUSKA. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

Mr. MURPHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed, without amendment, the joint resolution (S.J. Res. 131) to welcome to the United States Olympic delegations authorized by the International Olympic Committee.

The message also announced that the House insisted upon its amendment to the bill (S. 2523) to amend the Community Mental Health Centers Act to extend and improve the program of assistance under that act for community mental health centers and facilities for the treatment of alcoholics and narcotic addicts, to establish programs for mental health of children, and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. STAGGERS, Mr. JARMAN, Mr. ROGERS of Florida, Mr. SATTERFIELD, Mr. SPRINGER, Mr. NELSEN, and Mr. CARTER were appointed managers on the part of the House at the conference.

The message further announced that the House insisted upon its amendment to the bill (S. 2809) to amend the Public Health Service Act so as to extend for an additional period the authority to make formula grants to schools of public health, protect grants for graduate training in public health and traineeships for professional public health personnel, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. STAGGERS, Mr. JARMAN, Mr. ROGERS of Florida, Mr. SATTERFIELD, Mr. SPRINGER, Mr. NELSEN, and Mr. CARTER were appointed managers on the part of the House at the conference.

The message also announced that the House disagreed to the amendments of the Senate to the bill (H.R. 6543) to extend public health protection with respect to cigarette smoking, and for other purposes, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. STAGGERS, Mr. JARMAN, Mr. ROGERS of Florida, Mr. SATTERFIELD, Mr. KYROS, Mr. PREYER of North Carolina, Mr. SPRINGER, Mr. NELSEN, Mr. CARTER, Mr. SKUBITZ, and Mr. HASTINGS, were appointed managers on the part of the House at the conference.

The message further announced that the House disagreed to the amendments of the Senate to the bill (H.R. 14733) to amend the Public Health Service Act to extend the program of assistance for health services for domestic migrant agricultural workers and for other purposes, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. STAGGERS, Mr. JARMAN, Mr. ROGERS of Florida, Mr. SATTERFIELD, Mr. SPRINGER, Mr. NELSEN, and Mr. CARTER were appointed managers on the part of the House at the conference.

NEWSPAPER PRESERVATION ACT

The Senate resumed the consideration of the bill (S. 1520) to exempt from the antitrust laws certain combinations and arrangements necessary for the survival of failing newspapers.

Mr. MURPHY. Mr. President, may I ask the leadership what the status of the bill is at the moment—if there are other amendments and how many, what expectation we may have about a vote on final passage, and whether or not we can get to it today?

Mr. INOUYE. Mr. President, if I may be so bold as to speak for the leadership, we have an understanding that this will be the last vote on this measure this afternoon.

Mr. MURPHY. Mr. President, will the distinguished Senator yield for a question?

Mr. INOUYE. I yield.

Mr. MURPHY. Are there further amendments?

Mr. INOUYE. The Senator from New Hampshire (Mr. MCINTYRE) has an amendment to present. He will call it up now, and it will be ready for a vote tomorrow.

Mr. MURPHY. I thank the distinguished Senator.

Mr. INOUYE. I have been advised that the Senate will meet at 12 noon tomorrow, and I believe that after the morning hour we should be able to proceed expeditiously to vote on the McIntyre amendment.

Mr. JAVITS. Mr. President, I have arranged with the Senator from New Hampshire (Mr. MCINTYRE) that I may speak for a few minutes before he starts, and I understand it is agreeable to him.

Mr. President, I rise in respect to this bill because I think it epitomizes a very deep problem in the country: that is that the antitrust laws of the United States are almost completely out of date. Unquestionably, this bill in some form will pass, and it will thus become a part of the patchwork we have been creating for years.

It has been half to three-quarters of a century since our basic antitrust laws were enacted. In that period of time, Congress has never undertaken a complete review of these laws to ascertain how will they serve our modern economic system. I, for one, have already expressed my belief that the vast changes which have taken place in the past 75 years have made our antitrust laws antiquated in many respects. This is true with respect to newspapers, it is true with respect to many other lines of business in our country, and it is true in respect of

competition between foreign corporations and our own all over the world.

For some time now, a number of us, including the late, lamented Senator Dirksen of Illinois, have sponsored a measure to establish a commission to review the antitrust laws of the United States.

I rise to invite the Senate's attention to the bill, S. 1478 which is sponsored by myself, and was sponsored by former Senator Dirksen, and also by the Senator from Maryland (Mr. MATHIAS), the Senator from Kentucky (Mr. COOPER), and the Senator from Indiana (Mr. HARTKE).

Mr. President, I ask unanimous consent to have the bill printed in the RECORD, together with a speech I made supporting it.

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

S. 1478

A bill for the establishment of a Commission on Revision of the Anitrust Laws of the United States

Whereas the antitrust statutes of the United States are, in certain major areas of their application, in need of revision; and

Whereas there exist under the antitrust statutes of the United States conflicts in policy as to the proper standards of conduct required to be observed by American business; and

Whereas a thorough examination is essential in order to determine the impact of such statutes upon the productivity and long-range economic growth of the United States and upon United States foreign trade, investment, and economic policy: Therefore

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established a Commission on Revision of the Antitrust Laws of the United States (hereinafter referred to as the "Commission") constituted in the manner hereinafter provided.

PURPOSE OF THE COMMISSION

SEC. 2. The purpose of the Commission shall be to study the effect upon competition (including competition between American business and foreign business), price levels, employment, profits, production, consumption, foreign trade, economic growth, and the capability of the economy to best sustain the Nation at home and abroad of—

(1) existing antitrust statutes (including enforcement proceedings thereunder), as interpreted by judicial, executive, and administrative decisions;

(2) existing price systems and pricing policies of trade and industry in the United States; and

(3) the extent and causes of concentration of economic power and financial control.

MEMBERSHIP OF THE COMMISSION

SEC. 3. (a) NUMBER AND APPOINTMENT.—The Commission shall be composed of twenty-four members, as follows:

(1) Eight appointed by the President of the United States, four from the executive branch of the Government and four from private life.

(2) Eight appointed by the President of the Senate, four from the Senate and four from private life.

(3) Eight appointed by the Speaker of the House of Representatives, four from the House of Representatives and four from private life.

(b) POLITICAL AFFILIATION.—Of each class of four members mentioned in subsection (a), not more than two members shall be from each of the two major political parties.

(c) VACANCIES.—Vacancies in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

ORGANIZATION OF THE COMMISSION

SEC. 4. The Commission shall elect a Chairman and a Vice Chairman from among its members.

QUORUM

SEC. 5. Thirteen members of the Commission shall constitute a quorum.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 6. (a) MEMBERS OF CONGRESS.—Members of Congress, who are members of the Commission, shall serve without compensation in addition to that received for their services as Members of Congress, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(b) MEMBERS FROM THE EXECUTIVE BRANCH.—Notwithstanding section 5533 of title 5, United States Code, any member of the Commission who is in the executive branch of the Government shall receive the compensation which he would receive if he were not a member of the Commission, plus such additional compensation, if any, as is necessary to make his aggregate salary not exceeding $30,000; and he shall be reimbursed for travel, subsistence, and other necessary expenses incurred by him in the performance of the duties vested in the Commission.

(c) MEMBERS FROM PRIVATE LIFE.—The members from private life shall each receive not exceeding $100 per diem when engaged in the performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

POWERS OF THE COMMISSION

SEC. 7. (a) (1) HEARINGS.—The Commission or, on the authorization of the Commission, any subcommittee thereof, may, for the purpose of carrying out its functions and duties, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses, and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or such subcommittee may deem advisable. Subpenas may be issued under the signature of the Chairman or Vice Chairman, or any duly designated member, and may be served by any person designated by the Chairman, the Vice Chairman, or such member.

(2) In case of contumacy or refusal to obey a subpena issued under paragraph (1) of this subsection, any district court of the United States or the United States court of any possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is being carried on or within the jurisdiction of which the person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry; and any failure to obey such order of the court may be punished by the court as a contempt thereof.

(b) OFFICIAL DATA.—Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this Act.

(c) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title, and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

(d) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

SEC. 9. The Commission shall transmit to the President and to the Congress not later than three years after the first meeting of the Commission a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations as it deems advisable. The Commission may also submit interim reports prior to submission of its final report.

EXPIRATION OF THE COMMISSION

SEC. 10. Sixty days after the submission to Congress of the final report provided for in section 9, the Commission shall cease to exist.

ANTITRUST REFORM: CONGRESS RESPONSIBILITIES

(By Senator JACOB K. JAVITS before the Antitrust and Trade Regulation Committee, Chamber of Commerce of the United States, Washington, D.C., February 4, 1969)

The role of antitrust legislation in the modern industrial economy has been the subject of endless debate in recent years. Though many academicians, businessmen and legislators are unhappy with various aspects of our current antitrust policy as formulated and administered by the Courts, the Justice Department and the Federal Trade Commission, antitrust has proven to be much like Mark Twain's aphorism on the weather—nobody has really done anything about it.

There is no question in my mind that something should be done about it. Our basic antitrust precepts were formulated three-quarters of a century ago to apply to a very different kind of economy than exists today. At that time the economy was not highly centralized and subject to practically no government controls. The antitrust laws were necessary to insure at least a degree of regulation through the preservation of competition.

I am not suggesting that we scrap our antitrust laws or that competition is an anachronism. But it is evident that the antitrust laws are only one of a whole series of devices presently available to government to control excesses in our economic system. These controls include the amount and type of government lending and guarantees, government licensing, tax policy, interest rates and labor-management relations, to name just a few.

I feel that many of the criticisms—which have been made of the Courts, the Federal Trade Commission and the Justice Department for failing to take into account in the administration of the antitrust laws this fundamental change in the nature of the economy—are justifiable. I particularly de-

plore the tendency to rely more and more on per se rules of illegality and the tacit abandonment in such cases of the rule of reason. But even if criticism of particular decisions may be merited, such criticism is not going to accomplish the needed reforms. *The essence of the problem is that we have allowed the Courts, the FTC and the Justice Department to make our antitrust policy, whereas in my view this responsibility is in the Congress.*

That is why for the last several years I have introduced a bill to establish a high-level Commission to study all aspects of our antitrust policy and make appropriate recommendations to Congress for amending the law. I believe that it is only on the basis of the recommendations of such a Commission that Congress is likely to be moved to action. I intend to reintroduce my bill this year, and I hope and expect that the new Administration will be considerably more sympathetic to it.

It is true that President Johnson did appoint a task force to study conglomerates. But the Commission I have proposed would be given a much broader mandate and called on to recommend action—changes in antitrust law and policy. The support of the business community in this effort will, however, be essential.

What I am driving at is, perhaps, best illustrated by the case of bank mergers. The Supreme Court, after deciding—rightly or wrongly—that such mergers were subject to Section 7 of the Clayton Act, proceeded to judge the legality of the mergers solely from the standpoint of their effect on competition. In a rare example of its kind since the 1880's, pressure—legitimate pressure—from the banking community led Congress to step in, through the Bank Merger Act, to broaden the criteria of legality to take into account other interests in addition to the preservation of competition.

I suggest that there is nothing really unique about banks and that the same technique might well be applied in other cases.

We need to rethink, from scratch, what it is we really want our antitrust laws to do—where they should lead us, if you will—at this point in our economic development. The Courts and the FTC are not going to do this job of rethinking for us, and neither is Congress unless it gets some support for the kind of Commission I have proposed and from the business community.

I am, of course, not so naive as to think that the Commission will resolve all the deeply-held views about the role of antitrust policy into one broad consensus. Thus, whatever the Commission concludes about conglomerates and the current merger-trend (and that will sure be one of its prime subjects of inquiry) I have no doubt that there will continue to be sharp differences of opinion as to just what, if anything, the government should do about it.

However, there are many areas where I think the Commission might make recommendations that would find broad support in Congress. Let me just mention a few of them:

One of the areas in which the Commission clearly could make a most valuable contribution is in the application of our domestic antitrust laws to foreign trade and investment. For many years, experts have been pointing out how the rigid application of the antitrust laws has put our exporters at a serious competitive disadvantage abroad. That is not a matter to be taken lightly in these days of concern with our balance of payments and our poor export showing last year.

No less pressing is the need to encourage the investment of private capital of the United States and other developed countries in the developing countries. Again it is widely felt that our antitrust laws are an inhibiting factor, particularly to the establishment of consortia of United States and other private companies from industrialized countries grouping to invest in less developed countries. In both instances, there is a deep conflict between our antitrust philosophy and other major national policies when there should be coordination and thoughtful accommodation between them.

Another extreme valuable contribution the Commission could make would be to determine if the Robinson-Patman Act forbidding price discrimination continues to serve any purpose and, if so, to rewrite the Act so that the Courts who must interpret it, and the businessmen who must obey its abstruse commands, can make some sense out of it. For years now the Courts have been extending pointed invitations to Congress to do something about this problem, and it is time the invitation was accepted.

Still another way in which the Commission could perform a valuable service is to clarify the relationship between the Justice Department and the FTC in the enforcement scheme. At present, there is a good deal of overlap in their functions, particularly under the Clayton Act, which seems quite unnecessary. Similarly the relationship between private suits and government suits could be clarified and strengthened.

Yet another area which the Commission could profitable give its attention to is marketing techniques. With the growth of the economy a number of novel marketing techniques have evolved, and with them have come, inevitably, antitrust problems. These problems include resale price maintenance, fair trade laws, limitations on competition between distributors and a whole panoply of problems connected with franchising.

In conclusion I would like to point out that, regardless of the change in administration here in Washington, my bill to establish a Commission, and the cause of antitrust reform in general, will be possible only if the business community can, in an organized way, address itself to this problem and push for the requisite action from Congress. The business community has a perfect right to be concerned about the manner in which our antitrust laws have been administered in recent years. Indeed, given the broad scope of many recent Supreme Court decisions, the fate of many business ventures is really decided in the Justice Department rather than in the Courts.

Businessmen should lose their reluctance to raise antitrust problems for fear of bringing the Justice Department down on their heads. As the ones most affected by the antitrust laws, it is clearly up to businessmen to make known their problems and to ask Congress to make the necessary reforms. The history of the Bank Merger Act proves that this can in fact be done.

I am also convinced that there is a great deal of sentiment in Congress for antitrust reform and that what is necessary to bring out and to translate it into action is a united effort by the business community toward that objective.

Mr. JAVITS. Mr. President, I urge the committee, especially the subcommittee dealing with antitrust laws, to hold an early hearing upon this measure, and on many of the problems which are being argued here today. This should not be dealt with piecemeal or on the concept of restraint of trade which is now out of date, but some new standards, and some new criteria should be adopted.

I point out especially that one of the great problems with this bill which is troubling its opponents is the fact that there will be no followthrough once this exemption from the antitrust is granted, no matter how it works out. What will have to happen is that Congress will have to be called upon to act again, if it turns out to be a grave mistake.

The antitrust laws have built-in difficulties with respect to adaptation to the economics of the country. But one thing they do have, as long as they are in the courts, there is continuous adaptability to changing conditions.

Incidentially, I am not arguing necessarily against the bill. I may very well end up voting for it, depending on its final form. But once we start in on piecemeal amendment, we will find deficiencies which can be repaired only by a completely new antitrust concept which the United States needs to adopt in its own interest, both at home and abroad.

I hope very much that this measure, S. 1478, in which I have joined with other Senators, and in which former Senator Dirksen took such a very profound interest, may have early consideration by the antitrust committee of which the Senator from Michigan (Mr. HART) is chairman.

Mr. HART. Mr. President, will the Senator from New York yield for a brief comment?

Mr. JAVITS. I yield.

Mr. HART. There has been concern over a long period of time by the Senator from New York with respect to this matter, of which all of us have been aware. I am sure that the Antitrust Committee will make every effort to schedule hearings, at which time he and those he would like to be present will have ample opportunity to develop testimony. I share with him the feeling that the antitrust laws, which bear dates of 1906 and 1912, with an occasional amendment, may or may not be the best response to the marketplace of the 1970's.

Really, this is, in part, what persuades me, and other Senators like the Senator from New York, to pursue this objective.

Mr. JAVITS. The antitrust laws, to which the Senator from Michigan has just given the dates, with interpretations by the courts, are still the laws. Considering the way they are written, they date from the time of the beginnings of the major industrialization of this country; that is, about 1890. They certainly ought to be looked at again in the light of today's economy.

I am very grateful to my colleague from Michigan and hope very much that this will be undertaken. He has been opposing the newspaper bill now before us out of a deep sense of sincerity with vigor. I really must point out to him that the time and effort he spends on this could be much better expended in developing a general policy to make this a proper bill.

I thank my colleague from Michigan.

AMENDMENT NO. 442

Mr. McINTYRE. Mr. President, I call up my amendment No. 442 and ask that it be stated.

The bill clerk proceeded to read the amendment.

Mr. McINTYRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD.

The amendment offered by the Senator from New Hampshire is as follows:

AMENDMENT NO. 442

On page 2, beginning with line 24, strike all up to and including page 3, line 2, and insert in lieu thereof the following:

"The term 'newspaper owner' means a person who owns or controls a single newspaper publication, but who—

"(A) does not own or control directly, or indirectly through separate or subsidiary corporations, any other newspaper publication or any radio or television station engaged in radio communication within the meaning of section 3 of the Communications Act of 1934 (47 U.S.C. 153), and

"(B) is not a party to or a participant in any joint venture with any other person who owns or controls directly, or indirectly through one or more separate or subsidiary corporations, any other newspaper publication or any such radio or television station."

On page 3, line 9, strike "regardless of its ownership or affiliations,".

On page 4, line 2, strike the word "person" and insert in lieu thereof the words "newspaper owner".

On page 4, line 9, strike the word "person" and insert in lieu thereof the words "newspaper owner".

On page 4, line 18, strike the word "person" and insert in lieu thereof the words "newspaper owner".

Mr. McINTYRE. Mr. President, I rise today to reiterate my opposition to S. 1520.

This is not a newspaper preservation act; it is a publishers' enrichment act.

Its serious consideration by the Congress is a sad commentary on our failure to perceive the growing concentration of our mass communications media.

And its backing by the administration is added proof of its own myopic vision where media problems are concerned.

Let us examine the arguments urged in support of this dangerous bill, which would authorize ostensibly competing newspapers in a community to enter into joint operating agreements with each other and to engage in price-fixing, market-sharing, and profit-pooling practices now forbidden by the antitrust laws.

According to supporters of the bill, the newspaper industry is in dire financial straits. Industry economics are such that all but our largest cities can no longer support two or more competing dailies. Papers are folding left and right, and we are fast becoming a nation of monopoly newspaper towns.

Joint operating agreements are essential, supporters of the bill argue, if this trend is to be reversed. While they will result in an end to commercial competition between those party to them, the cost savings they will entail will enable both parties to stay in business. Thus it will be possible to save editorial voices which would otherwise fall by the wayside.

Such is the case made in the bill's behalf. It simply does not withstand analysis.

To begin with, the newspaper industry is now experiencing unprecedented prosperity. This may not be true in a handful of large cities, where the middle-class readers sought by advertisers have deserted to the suburbs and where unions have been successful in resisting modernization. But by and large, it is true elsewhere.

This is the simple truth which emerges from 24 days and eight volumes of testimony before the Senate Antitrust and Monopoly Subcommittee. It is concurred in also by Forbes magazine, which concluded after its own recent check on the industry's condition:

> The fact is that, on the whole, the newspaper industry has never been healthier, not even in the heyday of Joseph Pulitzer and William Randolph Hearst.

Nor is it true that industry economics prevent all but the largest cities from enjoying the benefits of two competing newspapers. As of 1967, there were 64 communities with two competing dailies. Slightly less than half—29—were under 100,000 in population and almost a third—20—had less than 50,000 people. If Murray, Ky., with a population of 15,000, can support two competing dailies, surely such cities as Milwaukee, New Orleans, San Diego, and Memphis should, with proper management, be able to do so also.

But let us forget the newspaper industry as a whole for a moment and focus our attention on those 44 newspapers in 22 cities which are already parties to joint operating agreements. Were they, at least, marginal enterprises saved from bankruptcy because they entered such agreements?

Very few of the companies owning these papers make detailed information regarding their operations available to public scrutiny. A number of these companies, however, have shown rather clear-cut signs of economic health.

Consider the situation in St. Louis, where the Post-Dispatch and the Newhouse chain of newspapers have entered a joint operating agreement. In 1968, the Post-Dispatch had excess funds with which to purchase two television stations—KVOA–TV in Tucson, Ariz., and KOAT–TV in Albuquerque, N. Mex.—for a combined price of $18 million. Newhouse, meanwhile, in 1967 paid a record price for a single newspaper property—$53.4 million for the Cleveland Plain Dealer.

Or consider the Cox and Knight chains which have entered a joint operating agreement in Miami, Fla. Cox in 1964 paid $20.5 million for WICC–TV in Pittsburgh, then the highest price ever paid for a single television station. Knight in 1969 bought the Macon, Ga., Telegraph & News for $13 million. And both companies have made several other acquisitions in recent years.

I could multiply my examples, but one more will suffice. That is the joint operating agreement in Tucson, Ariz., between the Arizona Daily Star and the Tucson Daily Citizen. It is one agreement the pertinent facts surrounding which are public information, for it has been challenged successfully in the courts. In fact, the success of that court challenge has been the major single impetus behind S. 1520, the pending bill.

The trial judge in the case made the following finding as to the economic condition of the weaker of the two papers at the time their agreement was entered into in 1940:

> 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 the time that Citizen Publishing would terminate its business and liquidate its assets unless Star Publishing entered into the operating agreement.

Neither the Citizen nor the Star, then, was a failing newspaper back in 1940. And in years subsequent their joint profits grew enormously, reaching 25.8 percent of revenues in 1944. These large profits eventually attracted the attention of the Internal Revenue Service, which contended that they were due to unusual wartime conditions and hence subject to the special tax then in effect on war related profits. The response of the two companies to this charge is interesting, for few parties to joint operating agreements have had the same incentive to speak openly about their economic effects. None of the profits were due to war related activities, the two newspapers said. They were due in their entirety to the cost savings and advertising rate hikes made possible by the elimination of competition from the local newspaper market.

I have little doubt that the Tucson situation has been duplicated in many other joint operating agreement cities. Such agreements have been used less, I feel sure, to keep failing newspapers from dying, than to transform stable but unspectacular enterprises into bonanzas for their owners.

And it should be clearly recognized that S. 1520 would legitimatize this situation. Its exemption from the antitrust laws would be available to any paper which "appears unlikely to remain or become a financially sound publication." If it were really the purpose of the bill's sponsors to restrict its application to truly dying newspapers, surely a tighter standard could have been found than "appears unlikely to remain or become a financially sound publication."

In fact, when I hear all this talk about the dire economic straits in which the newspaper industry finds itself, I am reminded of the arguments raised about 3 years ago at the time of the proposed merger between that giant ITT and ABC. ABC's most effective argument in twice getting FCC approval for the merger was that ABC needed ITT financial support to compete with CBS and NBC. ABC officials all but predicted bankruptcy unless the sale was consummated.

I wonder how many people swayed then by that argument noticed that ABC at its last annual meeting reported its first quarter earnings up 86 percent over the year earlier period, or that ABC's shareholders were told at the time that their company was "in the strongest cash and working capital position in its history."

Not only are few newspapers in the industry really in need of the cure provided by S. 1520, but there is also no guarantee that the cure will in fact work.

The most basic assumption underlying the bill is that the parties to a joint operating agreement will continue to exercise truly independent editorial voices. I seriously question how valid this assumption

is. Parties to a joint operating agreement will have to work together very closely in making all business decisions affecting their papers. They will have to agree on the proper advertising rates to be charged their customers, in which areas and at what price their papers are to circulate, and perhaps most importantly, on what basis their profits are to be split between them. I find it very difficult to believe that two publishers, who disagree strongly on matters of public policy, will be able to make such decisions amicably. I think it far more likely that there will be friction between them, and that eventually one will want to sell out. And when that time comes, he will be allowed to do so only to someone acceptable to the other.

One can do more than merely speculate in this regard. The testimony presented to the Antitrust and Monopoly Subcommittee was directed in considerable part to this very question. And several instances were cited in which one newspaper, party to a joint agreement, had in fact influenced the news and editorial policies of the other.

Let me cite just one example, from the testimony of a former member of the editorial staff of Columbus, Ohio, Citizen-Journal, which is party to a joint operating agreement with the Columbus Dispatch, a Scripps-Howard controlled paper. Let me quote from his comments on the relationships between the two papers:

> For example, I learned that the advertising department of the Columbus Dispatch (which handled advertising for both papers) attempted, on a small scale, to control certain parts of the editorial matter appearing in the Citizen-Journal, although there were many protestations on the part of both papers that the Citizen-Journal was a completely independent paper editorially. I learned that the advertising-to-news-space ratio of both papers was cut in a manner that seriously affected the available news space of the Citizen-Journal without making any appreciable difference to the Dispatch. I learned that the Dispatch effectively frustrated the desire of the (Citizen-Journal's) managing editor . . . to use ROP color for editorial matter, an increasingly common practice in the newspaper business. I learned that the Dispatch business office furnished the Citizen-Journal with a list of firms barred from receiving publicity in either paper.

This testimony goes on, but my point, I think, is made. Protestations of joint operating papers to the contrary, they have no clear history of editorial independence.

And even if, in some instances, men of opposing political views are able to work together on economic matters while retaining editorial freedom, their competition is almost certain to be ended in at least one respect—as regards any public issues in which they have a mutual financal interest. I wonder, for example, whether the papers party to a joint operating agreement in Nashville, Tenn., would have been more active in uncovering the shenanigans of a local franchise company—shenanigans which have led to current investigations by the SEC and the Senate itself—if they had not themselves been stockholders of the company. An end to editorial competition only on matters of direct financial interest to the parties to a joint agreement is, it seems to me, a serious danger worth preventing.

But there are other dangers as well. However problematical the editorial independence which may follow the creation of a joint operation agreement, there is a virtual certainty of bad economic effects.

There can be no mistaking the fact that joint operating agreements, by ending all advertising and circulation between those party to them, do result in an increase of economic power. This increased power can be used to raise rates both to advertisers and subscribers. It was so used by the Tucson papers. And it has been reported that a forthcoming study by the Brookings Institute will show advertising rates in joint operating cities—just like those in monopoly newspaper towns—to be 15 percent higher than in cities where competition between papers exists.

Not only can this increased economic power be used to produce a higher short-run return; it can also provide leverage against other media voices in a community, be they existing voices or potential new entrants. In the long run the use of this power—or even the threat of its use—will probably result in the death of far more independent editorial voices than will ever be lost if joint agreements remain unlawful.

Consider the position of a potential new entrant into the newspaper business. He would be far more likely to begin operations in a one newspaper market than in one where competition ostensibly exists. In the first place, he would be less likely in an ostensibly competitive market to find subscribers looking for a change. He would also need advertising dollars to survive, and these could be denied him by the joint agreement papers. Advertisers, of course, have a limited number of dollars with which to reach as many people as possible. These dollars could be lured away from potential new entrants by joint agreement papers which set a combination rate which presented advertisers with reader per dollar efficiencies no new entrant could match. In fact, it would probably be unnecessary for most joint agreement papers ever to incur the dimunition of profits which the use of low combination rates would temporarily entail. The mere threat of their use would enable most publishers to effectively deter entry while continuing to amass high monopoly profits.

The potential of low combination rates and other abuses of economic power as a weapon against smaller competition cannot be overemphasized. It is no answer to say that there have been few new entrants into the newspaper business in recent years, that barriers to entry are already so high as to make any increases in them of theoretical significance only. For one thing, there have been some entries. But far more important, the main reason entries have been few and barriers already high is the fact that powerful publishers throughout the country have amassed market power and then used that power to eliminate their competitors.

Some publishers have done this by selling advertising or subscriptions below cost, others by refusing to accept advertising from those who patronize competing papers. And large newspaper chains and multimedia companies have had advantages when engaging in such practices not available to even the strongest single unit predators. They have been able to subsidize any losses temporarily incurred in one operation with profits earned elsewhere. Like joint agreement papers, they have been able to sell advertising for two entities in combination at rates much lower than for each separately, and to refuse to accept advertising except in such combination packages.

It is not really clear how many publishers have engaged in predatory practices, either legal or illegal. It is because many have, however, that entry barriers are so high.

The answer, I submit, is not to raise them nonchalantly higher. The answer, quite clearly, is to cut them down. A bill I have introduced is designed to do just that. It would bar further acquisitions by the owners of five or more daily newspapers, and it would place a ban on the ownership in a single community of press and broadcast interests simultaneously. If this bill, either in its present or in modified form, is passed by the Congress the rise in entry barriers will be effectively curtailed. If Congress is really interested in the preservation of independent media voices, it will reject this publishers enrichment act and pass my Independent Media Preservation Act instead.

But the order of business today and tomorrow is the former act. And there is one more danger inherent in its passage which should not be overlooked—its precedential effect.

According to an article which appeared in the Nation some months ago, there are newspaper publishers in some 14 different cities who are watching our action on this bill very closely. If it is passed, the article suggests, they, too, will seek to grab some of the riches it offers up.

And passage of the bill would no doubt invite pleas for similar special treatment from others, such as book and magazine publishers, the broadcast industry, and motion picture producers. If newspapers are entitled to antitrust exemptions because engaged in the expression and dissemination of ideas, these other groups will argue, then why not we who are similarly situated.

But perhaps the clearest indication of what this bill is all about emerges from an examination of its supporters and its opponents within the newspaper industry itself. The simple fact of the matter is that the bill is opposed by almost everybody in the industry except those companies with a money vested interest in its passage.

It is opposed by the National Newspaper Association, a trade association with 7,000 member newspapers from coast to coast. Editorials attacking the bill have appeared in the New York Times, the Washington Post, the Wall Street Journal, the Louisville Courier-Journal, and the New York Post. And they have appeared also in a host of similar papers, from the Santa Monica, Calif., Outlook to the Bayonne, N.J., Times.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial entitled "Competition, Not Monopoly," published in the New York Times on March 13, 1969; an editorial entitled "A Dubious Newspaper Bill," published in the Courier-Journal on July 14, 1969; and an editorial entitled "Preserving an Independent Voice," published in the Wall Street Journal on July 2, 1969.

The PRESIDING OFFICER (Mr. SAXBE in the chair). Without objection, it is so ordered.

The material, ordered to be printed in RECORD, is as follows:

[From the New York (N.Y.) Times, Mar. 13, 1969]

COMPETITION, NOT MONOPOLY

A combination of rising production costs and the inroads on circulation and advertising of television and other communications media has made it difficult for newspapers to stay alive in many cities. Out of that difficulty has come a trend toward preserving diversity in news presentation and editorial expression through the pooling of publishing facilities by separately owned morning and afternoon papers. This cost-cutting device is now in use by 44 papers in 22 cities, but specific business arrangements vary in each case.

A 7-to-1 decision of the Supreme Court has now declared illegal the arrangement worked out by two newspapers in Tucson, Ariz., but it would be an error to conclude that its ruling dooms all joint publishing ventures. On the contrary, the Court says explicitly that its decree "does not prevent all forms of joint operation," even though the precise boundaries of what is permissible are not defined. Instead, the decision lays down some healthy guidelines designed to make certain that a device intended to guard against a monopoly in news and opinion is not perverted into one that fosters monopoly.

The Court held that the Tucson agreement, which brought into being a new corporation to handle publishing, advertising and circulation, violated the anti-trust laws through illegal price-fixing, profit-pooling and market control. Nothing in the history of the case impelled the Court to believe that either of the two papers was in such dire financial straits at the time of the compact as to make the joint arrangement a "last straw" indispensable to its survival. The absence of such proof ruled out reliance on the "failing company" doctrine under which latitude in the application of antitrust standards is allowed where the alternative is certainty that an enterprise will collapse.

The constitutional guarantee of freedom of the press provides the press with no warrant for seeking exemption from the laws prohibiting monopoly. If anything, the sanctity attached to press freedom by the First Amendment makes it the special obligation of the press to fight for the broadest extension of that freedom. Joint publishing arrangements, carefully drafted to avoid the kinds of illegality proscribed by the Court, can be a valuable aid to that freedom. By helping to keep alive more voices in an independent press, they will contribute to the vitality of American democracy.

[From the Courier-Journal, July 4, 1969]

A DUBIOUS NEWSPAPER BILL

Legislation giving a number of metropolitan newspapers special anti-trust exemptions has won approval from a Senate subcommittee. It is dubious legislation in itself, and not in the long-range interest of a free press. In effect, the government is being asked to create a privileged sanctuary for certain newspaper operations; it would set a precedent of government intervention that the press may later rue.

The bill's chief backer is that old special-interest specialist, Senator Everett Dirksen. The purpose of the bill is to get around a Supreme Court decision involving newspapers in Tucson, Arizona.

The court held that joint operating agreements are illegal if they include profit-pooling and joint fixing of advertising and circulation rates. The decision did not forbid competing newspapers joining in a mutual printing arrangement.

It would be far better to try to work out the problem in the context of the Supreme Court decision rather than through special legislation.

[From the Wall Street Journal, July 2, 1969]

PRESERVING AN INDEPENDENT VOICE

It's always sad to see a newspaper fail, and the sadness obviously is greatest among those in the business. Even a newpaperman, however, may wonder just how far the Government should go to help.

The Government already goes pretty far. As existing antitrust law is interpreted, a newspaper in financial straits can share printing, circulation and similar facilities with another paper. Such an arrangement permits each paper to retain its editorial identity, its independent "voice."

Some papers, though, have done a good bit more. In addition to merging printing and circulating arrangements, they have combined to set advertising and circulation rates and have pooled their profits. The Supreme Court last March held those added steps illegal, and Congress now is considering a bill that would in effect reverse the court.

The Supreme Court's view, it seems to us, should prevail. With growing competition from television and elsewhere, newspapers do have many problems. Yet if a newspaper needs more help than the economies of a joint printing and circulation setup, there is a real question as to just how well it is and has been serving its market.

Perhaps the problem is the common one of management. In that case the best solution, as Federal antitrust chief McLaren suggests, may be to sell the paper to fresh management or to merge it outright with another.

It can be assumed, said Mr. McLaren in opposing the pending Congressional legislation, "that new competition will be more likely to enter a newspaper market occupied by one publisher, even though he publishes morning and evening papers, than it will a market with separate and ostensibly independent publishers bound together in an agreement to eliminate commercial competition."

Even if a newspaper's management is excellent, its market may have changed materially. Some cities may simply be unable to support as many papers as they once did; in others, many readers may have been siphoned off by strong suburban papers. In any case, when two newspapers are completely inseparable commercially there is bound to be doubt that they can remain forever independent editorially.

One opponent of the Congressional bill has suggested that an open Federal subsidy would be preferable to such sweeping antitrust preference. Either way, extensive dependence on Government seems a dubious means to preserve newspaper independence.

Mr. McINTYRE. Mr. President, these publishers have been joined by their printing trades unions. Resolutions opposing the bill have been passed by the American Newspaper Guild, the International Typographical Union, the Pressman's Union, and the Amalgamated Lithographers.

The only reason the bill is still alive is the enormous political clout—let me say that again, the only reason the bill is still alive is the enormous political clout—of the media barons whose profits would be bolstered by it.

The total number of media holdings controlled by these companies is simply staggering. They now own 127 daily newspapers in 86 cities in 34 States, 109 broadcasting stations in these and an additional three States, one of the two major world news services—United Press International—and 22 national magazines. These are the total holdings of the men whose ostensibly dying voices this bill is designed to save.

Let me repeat, Mr. President, that these are totals. There are some joint agreements the publishers party to which own no media voices other than the papers directly involved. This is true, in fact, of six of the 22 joint agreements now in existence, those in the cities of Bristol, Tenn.-Va.; Honolulu, Hawaii; Nashville, Tenn.; Oil City-Franklin, Pa.; Tucson, Ariz., and Tulsa, Okla.

The amendment I have called up provides that the antitrust exemption provided by the bill itself shall not be made available to any papers owned by a newspaper chain or in any way affiliated with broadcast entities. Under its terms only those six joint agreements to which I referred a moment ago, as well as future agreements involving similarly independent voices, would be granted and legitimatized by the bill.

I have offered the amendment for two reasons.

First, the alleged purpose of this bill is to save dying editorial voices. It being unlikely as it is to accomplish this purpose, the least we can do is to restrict its application to instances in which such voices are in danger of total extinction.

Second, my amendment is a way of limiting the economic pressures generated by joint agreements. These pressures, for reasons I have discussed earlier, have the potential for killing off far more media voices than such agreements will ever save. If newspaper chains and multimedia companies were permitted to take part in such agreements, these pressures would be generated in a host of communities throughout the country, and the already serious trend to media concentration within our country would only be intensified.

So tomorrow, when I have an opportunity to speak again to reemphasize and reiterate these arguments to the Senate before Senators have an opportunity to vote on the question, I shall point out that I offer it to help preserve the multiplicity of diverse and antagonistic media voices on which the welfare of all of us so sorely depends.

LEGISLATIVE PROGRAM—NO SATURDAY SESSION IF CERTAIN MEASURES ARE ACTED UPON

Mr. GRIFFIN. Mr. President, so our colleagues may be advised, I ask the majority leader if he can indicate what is ahead in terms of the schedule for the rest of the week.

Mr. MANSFIELD. Mr. President, I am delighted that the distinguished acting

minority leader has raised this particular question at this particular time. I made an announcement yesterday, in response to a similar request as to what I thought the schedule would be for the rest of the week and going into next week, as well.

At that time I anticipated it would take at least 2 days on the pending proposal, very likely 3, and perhaps would go into next week. On the basis of the progress made today, it appears it is quite possible that we may be able to complete action on this bill tomorrow.

If we finish action on the pending bill tomorrow and on S. 2289—which I think will be adjudicated between the Senator from Wyoming (Mr. HANSEN) and the distinguished chairman of the Committee on Commerce (Mr. MAGNUSON)—and on S. 1862—which has been cleared on both sides—and if the distinguished acting minority leader would look into the possibilities of clearing S. 2306 and S. 2116—the two bills at the top of page 9 of the calendar—by tomorrow night, there would be no need to come in on Saturday.

I do not believe in coming in on Saturdays just for the purpose of making a showing. I want to come in on Saturdays only when there is business to be done. But if this suggestion of mine could be worked out, it would foreclose the possibility of a Saturday session. If that occurred, it would be the intention of the joint leadership to lay before the Senate S. 3154, the mass urban transit measure, and to make it the pending business before the Senate when it convened at 12 o'clock noon Monday.

However, if we do not finish all of these measures by tomorrow night, I think we have to look forward to a Saturday session.

It appears, I reiterate, that if this era of cooperation and accommodation between and among the parties continues, the chances are reasonably good that the bill now before us will be completed tomorrow.

I want to thank the acting minority leader for raising the question, so that if there are Senators who have plans and who are considering the cancellation of them because of a possible Saturday session, it will be advisable for them to read the RECORD and govern themselves accordingly.

Mr. GRIFFIN. Mr. President, I know the distinguished majority leader does not seek to leave an impression that concerns me a little. I do not even know very much about the two bills which he asked me to try to get clearance for; but if there is serious objection to those bills, of course, we would want them handled in the regular way and not try to force them through because of the threat of a Saturday session. I know that is not the idea.

Mr. MANSFIELD. No; because the Senator will note, by looking at the calendar, that I exempted the last two. I knew there would be some controversy about them, but I think there may be no controversy about S. 2306 and S. 2116.

I am glad the Senator raised the question, because if there was a controversy about them, we would confine ourselves to the first two.

Mr. GRIFFIN. I assure the majority leader that I will make every effort to see if those bills can be cleared, if there is no serious objection. I appreciate the announcement.

Mr. MANSFIELD. May I say that I do not believe in the use of the carrot and stick, nor do I believe in holding a club over anyone's head, because if we cannot operate here on an honorable basis, then I think the meaning of the Senate is lost and the dignity of the Senate as an institution is undermined.

Mr. GRIFFIN. I have always appreciated the way the majority leader has conducted himself in his office.

FOREIGN PRESS PRAISES VICE PRESIDENT AGNEW

Mr. GRIFFIN. Mr. President, it is a pleasure to learn that the foreign news media have generally credited Vice President AGNEW with high marks in connection with his recent Asian tour.

While a few commentators, notably in Taiwan, indicated some uneasiness about U.S. policy, on balance, the reaction reveals that Mr. AGNEW explained the Nixon doctrine to the satisfaction of our friends in Asia.

It is noteworthy that many editors laid heavy stress to Mr. AGNEW's assurances that the United States will honor its treaty commitments, and that America is not withdrawing from Asia and the Pacific.

His public appearances and his presentations of moon rock samples drew extensive coverage. There were many expressions of respect and admiration for the Vice President and Mrs. Agnew. He was described as "courageous, outspoken, friendly, quick to learn, tactful."

When there was negative news coverage in itinerary countries, it was usually focused, not upon the Vice President, but upon anti-U.S. demonstrations in a few capitals.

I am informed that the Communist media gave unprecedented attention to the Vice President's trip, using it as a peg for repetition of attacks on U.S. Asian policies. Nevertheless, it is noteworthy that Hanoi and Moscow treated the trip as an event of major international significance.

In West Germany, independent-conservative Muenchner Merkur asserted that Mr. AGNEW "will find his popularity curve has risen considerably. He remained the kindly diplomat in the face of provocations. America's press gave good marks to its former enemy."

Finally the pro-Christian Democratic Frankfurter Neue Presse thought the tour had been "a political success inasmuch as he helped clarify the intentions of the Nixon administration in a convincing manner and has set right distortions."

Mr. President, it is obvious that the Vice President has fully lived up to the expectations of his many admirers and has performed a great and distinguished service for his country.

The extensive news play devoted to Mr. AGNEW's public statements in various capitals indicate that awareness and understanding of the Nixon doctrine has been significantly increased as a result of the trip. Moreover, there is every indication that Mr. AGNEW's prestige as a world figure has been enhanced considerably.

Of particular interest is the fact that the independent, and frequently anti-Western, Eastern Sun of Singapore credited Mr. AGNEW with "success in bolstering the sagging confidence which various Asian countries have been showing toward American willingness to contribute to Asian security." It described the Vice President as "suave in his manners, polished in his speeches, cautious in his relations with the press."

The independent Canberra Times judged that the visit left an "important impression—that the Nixon administration is sensitive to the opinions of its allies in Asia and the Pacific." The moderately conservative Sydney Daily Telegraph asserted that the visit "gives the lie to a propagandists in this country who claim Australia cannot depend on the United States if attacked."

The Auckland Star remarked that "Mr. AGNEW has clearly left the impression that regional defense arrangements may expect more than moral support from the United States."

London's independent Financial Times judged that following the tour "there is ample evidence that America's Far Eastern allies are feeling less worried about the outcome of the war than they have done for months if not years."

ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 3 o'clock and 39 minutes p.m.) the Senate adjourned until Friday, January 30, 1970, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate January 29, 1970:

COUNCIL ON ENVIRONMENTAL QUALITY

The following-named persons to be Members of the Council on Environmental Quality—new positions:

Robert Cahn, of the District of Columbia.
Gordon J. F. MacDonald, of California.
Russell E. Train, of the District of Columbia.

DIPLOMATIC AND FOREIGN SERVICE

The following-named Foreign Service officers for promotion in the Foreign Service to the classes indicated:

Foreign Service officers of class 1:
Harry G. Barnes, Jr., of Maryland.
Adolph Dubs, of Illinois.
John I. Getz, of Illinois.
William C. Hamilton, of Connecticut.
Arthur A. Hartman, of New Jersey.
Cleo A. Noel, Jr., of Missouri.
Normand W. Redden, of New York.
John Church Renner, of Ohio.
William E. Schaufele, Jr., of Ohio.
Talcott W. Seelye, of Maryland.
Dr. Willard F. Shadel, Jr., of Washington.
William Perry Stedman, Jr., of Maryland.

John M. Thomas, of Virginia.
Terence A. Todman, of the Virgin Islands.
Foreign Service officers of class 1 and consular officers of the United States of America:
Hugh G. Appling, of California.
John Campbell Ausland, of Pennsylvania.
James J. Blake, of the District of Columbia.
Henry C. Boudreau, of Maine.
Thomas D. Bowie, of Virginia.
Jonathan Dean, of New York.
James B. Engle, of the District of Columbia.
John W. Fisher, of Montana.
William J. Galloway, of Texas.
George R. Jacobs, of Illinois.
Walter E. Jenkins, Jr., of Texas.
William G. Jones, of Maryland.
David Klein, of California.
Irvin S. Lippe, of Michigan.
Matthew J. Looram, Jr., of New York.
Edward E. Masters, of Ohio.
Edward W. Mulcahy, of Arizona.
Bernard Norwood, of New Jersey.
John P. Shaw, of Maryland.
Lee T. Stull, of Pennsylvania.
Miss Jean M. Wilkowski, of Florida.
Foreign Service officers of class 2:
Arthur P. Allen, of California.
Miss Leona M. Anderson, of Iowa.
Robert A Bishton, of New Jersey.
Robert T. Burke, of New York.
Frank C. Carlucci, of Pennsylvania.
Herman J. Cohen, of New York.
Willis B. Collins, Jr., of Alabama.
Victor H. Dikeos, of California.
Morris Draper, of California.
William A. Hayne, of California.
Theodore J. C. Heavner, of Virginia.
Robert Kirk, of Michigan.
John L. Loughran, of California.
John B. McGrath, of Rhode Island.
Clarence J. McIntosh, of Florida.
Robert Marden Miller, of California.
James W. Misslbeck, of New York.
Donald R. Norland, of Iowa.
John G. Oliver, of Texas.
Peter J. Peterson, of California.
Francis X. Ready, of Massachusetts.
Joseph A. Tambone, of New York.
Jean R. Tartter, of Florida.
Charles P. Torrey, of California.
Foreign Service officers of class 2 and consular officers of the United States of America:
Harold Aisley, of Texas.
James E. Akins, of Ohio.
Nicholas G. Andrews, of Maryland.
Howard J. Ashford, Jr., of Kansas.
William J. Barnsdale, of California.
John L. Barrett, of Texas.
Carl E. Bartch, of Ohio.
John Q. Blodgett, of Rhode Island.
David B. Bolen, of Colorado.
Phillip B. Dahl, of Illinois.
Elden B. Erickson, of Kansas.
Hunter L. Estep, of Texas.
John M. Farrior, of Connecticut.
Arva C. Floyd, Jr., of Georgia.
Robert T. Hennemeyer, of Illinois.
Edward C. Ingraham, Jr., of Maryland.
Daniel J. James, of Illinois.
William C. Jones III, of Texas.
William S. Krason, of Virginia.
Ralph E. Lindstrom, of New Jersey.
Earl H. Lubensky, of California.
Alan W. Lukens, of Pennsylvania.
Philip W. Manhard, of Florida.
Robert J. Martens, of Maryland.
Dudley W. Miller, of Colorado.
James D. Moffett, of Iowa.
Leo J. Moser, of California.
Robert L. Mott, of California.
Robert C. Mudd, of Virginia.
Harvey F. Nelson, Jr., of California.
Harry I. Odell, of the District of Columbia.
Harry M. Phelan, Jr., of Tennessee.
Edward P. Prince, of New Hampshire.
James F. Relph, Jr., of California.
H. Earle Russell, Jr., of Maryland.
Robert K. Sherwood, of Maryland.
Robert P. Smith, of Texas.
C. Melvin Sonne, Jr., of Pennsylvania.
Heywood H. Stackhouse, of Florida.
Thomas C. Stave, of Washington.
David R. Thomson, of California.
M. Gordon Tiger, of Virginia.
Frank S. Wile, of Maryland.
Daniel L. Williamson, Jr., of North Carolina.
Wendell W. Woodbury, of Iowa.
Foreign Service officers of class 3:
Morton I. Abramowitz, of Massachusetts.
Madison M. Adams, Jr., of Florida.
David Anderson, of New York.
Alfonso Arenales, of Texas.
Diego C. Asencio, of New Jersey.
Peter S. Bridges, of Illinois.
Everett E. Briggs, of Maine.
James E. Briggs, of Maryland.
Harry A. Cahill, of Virginia.
Peter D. Constable, of New York.
James P. Farber, of Florida.
John A. Ferch, of Ohio.
Robert E. Fritts, of Illinois.
Robert H. Frowick, of Connecticut.
Alan A. Gise, of Indiana.
Harold E. Horan, of Texas.
Hume A. Horan, of New Jersey.
Ernest B. Johnston, Jr., of Alabama.
Miss Helen E. Kavan, of Ohio.
Lowell C. Kilday, of Wisconsin.
James E. Kiley, of California.
Stephen J. Ledogar, of Virginia.
Nelson C. Ledsky, of Ohio.
Herbert Levin, of New York.
Gifford D. Malone, of West Virginia.
Charles E. Marthinsen, of Pennsylvania.
Richard C. Matheron, of California.
Francis Terry McNamara, of Vermont.
Hawthorne Q. Mills, of California.
Jay P. Moffat, of New Hampshire.
John C. Monjo, of Connecticut.
Richard B. Moon, of Connecticut.
Robert J. Morris, of the District of Columbia.
Daniel A. O'Donohue, of Michigan.
Ronald D. Palmer, of Michigan.
Michael B. Peceri, of Florida.
Ernest H. Preeg, of New York.
A. Irwin Rubenstein, of Florida.
Carl W. Schmidt, of New Jersey.
Walter John Silva, of Texas.
Roger A. Sorenson, of Utah.
Charles R. Stout, of California.
Miss Constance V. Stuck, of Arkansas.
Herbert D. Swett, of California.
George H. Thigpen, of California.
Donald C. Tice, of Kansas.
Albert N. Williams, of Michigan.
John E. Williams, of Florida.
Larry C. Williamson, of California.
Foreign Service officers of class 3 and consular officers of the United States of America:
Martin H. Armstrong, of Washington.
Eugene H. Bird, of Oregon.
William A. Brown, of New Hampshire.
Ward Lee Christensen, of the District of Columbia.
Theodore B. Dobbs, of Virginia.
Robert W. Drexler, of Wisconsin.
Harland H. Eastman, of Maine.
Miss Sharon E. Erdkamp, of Nebraska.
Arthur W. Feldman, of Washington.
Robert E. Ferris, of Nevada.
Mrs. Shirley M. Fine, of Florida.
Miss Eleanor Van Trump Glenn, of Georgia.
John W. Gordhamer, of California.
Alfred Harding IV, of New York.
Ashley C. Hewitt, Jr., of California.
George Borman High, of Illinois.
Shepard C. Lowman, of the District of Columbia.
Herbert S. Malin, of Maryland.
Francis J. McNeil III, of Florida.
Philip C. Narten, of Ohio.
James C. Nelson, of Illinois.
Harry A. Quinn, of California.
Virgil P. Randolph III, of Virginia.
Robert A. Remole, of Minnesota.
G. Edward Reynolds, of Maryland.
Miss Lillian A. Ross, of North Carolina.
Miss Brynhild C. Rowberg, of Virginia.
William W. Sabbagh, of the District of Columbia.
Melville A. Sanderson, Jr., of Florida.
Robert W. Skiff, of Florida.
Warren E. Slater, of the District of Columbia.
Jack M. Smith, Jr., of Virginia.
Jackson L. Smith, of Florida.
John Sylvester, Jr., of the District of Columbia.
John R. Vought, of New York.
John P. Wentworth, of Washington.
Richard W. White, of Maryland.
Foreign Service officers of class 4:
Richard W. Aherne, of Pennsylvania.
Carl A. Bastiani, of Pennsylvania.
David E. Biltchik, of New York.
C. Thomas Bleha, of Michigan.
John A. Boyle, of New York.
Werner W. Brandt, of New York.
George E. Brown, of Texas.
Richard C. Brown, of New Mexico.
Ralph H. Cadeaux, of Florida.
John Franklin Campbell, of California.
Donald D. Casteel, of Wyoming.
Glenn Richard Cella, of New York.
Warren Clark, Jr., of New York.
Carl John Clement, of Minnesota.
Harry L. Coburn, of New York.
Donald I. Colin, of Nevada.
Michael V. Connors, of Washington.
James Ford Cooper, of Michigan.
Miss S. Marguerite Cooper, of California.
Anthony S. Dalsimer, of New York.
Richard C. Devine, of Connecticut.
Peter Jon de Vos, of New Mexico.
William H. Egdar, of the District of Columbia.
Frederick D. Elfers, of the District of Columbia.
Ollie B. Ellison, of Illinois.
David A. Engel, of New Jersey.
Otho Evans Eskin, of the District of Columbia.
Robert E. Ezelle, of California.
Guido C. Fenzi, of California.
Robert M. Fouché, of South Carolina.
Miss Alta F. Fowler, of Virginia.
Jay P. Freres, of Illinois.
Sidney Friedland, of Wisconsin.
Stephen R. Gibson, of California.
Philip C. Gill, of California.
Harry J. Gilmore, of Pennsylvania.
Terrence G. Grant, of Illinois.
Allen S Greenberg, of the District of Columbia.
Philip J. Griffin, of the District of Columbia.
Kurt F. Gross, of Virginia.
William H. Gussman, of New York.
Donald Keith Guthrie, of New Mexico.
Donald F. Hart, of Virginia.
Kenneth Allen Hartung, of New York.
Douglas James Harwood, of Connecticut.
Donald D. Haught, of Virginia.
Stephen J. Hayden, of Oregon.
Peter T. Higgins, of California.
Richard Holbrooke, of New York.
Robert W. Holliday, of Texas.
Sean M. Holly, of New York.
Robert G. Houdek, of Illinois.
Richard B. Howard, of Florida.
George Merwin Humphrey, of Pennsylvania.
Arnold M. Isaacs, of Illinois.
Miss Harriet W. Isom, of the District of Columbia.
Curtis W. Kamman, of Arizona.
Jay K. Katzen, of New York.
Kenneth C. Keller, of the District of Columbia.
John E. Kelley, of Hawaii.
Francis M. Kinnelly, of Maine.
Eugene Klebenov, of Massachusetts.
Roland Karl Kuchel, of New Jersey.
Thor H. Kuniholm, of the District of Columbia.

Denis Lamb, of Ohio.
Robert E. Lamb, of Georgia.
David F. Lambertson, of Kansas.
James S. Landberg, of Washington.
Perry W. Linder, of California.
Walter A. Lundy, Jr., of Virginia.
Robert A. Martin, of Pennsylvania.
Philip R. Mayhew, of the District of Columbia.
Richard L. McCormack, of Florida.
Jack W. Mendelsohn, of Illinois.
James M. Montgomery, of New Jersey.
Bert C. Moore, of Ohio.
Ralph R. Moore, of Massachusetts.
Robert B. Morley, of New Jersey.
Mrs. Lillian Peters Mullin, of Illinois.
George Clay Nettles, of Alabama.
David G. Newton, of Massachusetts.
Thomas M. T. Niles, of Kentucky.
Nuel L. Pazdral, of California.
John D. Perkins, of Indiana.
Miss Emily Perreault, of Illinois.
Robert F. Pfeiffer, of New York.
Homer R. Phelps, Jr., of New York.
Miss Anne Pinkney, of California.
Robert L. Pugh, of Washington.
J. Brayton Redecker, of Connecticut.
Reynold A. Riemer, of California.
Philip J. Rizik, of the District of Columbia.
George L. Rueckert, of Wisconsin.
Ernest C. Ruehle, of Missouri.
Charles B. Salmon, Jr., of New York.
Cornelius D. Scully III, of Virginia.
Raymond W. Seefeldt, of Illinois.
Pierre Shostal, of New York.
Richard J. Smith, of Connecticut.
Charles Steedman, of Rhode Island.
Robert S. Steven, of Rhode Island.
Paul E. Storing, of New York.
Roscoe S. Suddarth, of Tennessee.
Peter Bird Swiers, of New York.
Charles T. Sylvester, of Rhode Island.
Peter Tarnoff, of New York.
Carl Taylor, of Vermont.
Clyde Donald Taylor, of Maine.
Andrew G. Thoms, Jr., of New Jersey.
William Graham Walker, of California.
W. Robert Warne, of California.
Miss Winifred S. Weislogel, of New Jersey.
Walter Frederick Weiss, of California.
Martin A. Wenick, of New Jersey.
James O. Westmoreland, of Tennessee.
Thomas Edward Williams, of Virginia.
Ronald E. Woods, of Michigan.
H. L. Dufour Woolfley, of Louisiana.
Roderick M. Wright, of California.

Foreign Service officers of class 4 and consular officers of the United States of America:

Richard P. Ballor, of Delaware.
Frank C. Bennett, Jr., of California.
Jere Broh-Kahn, of Ohio.
Miss C. Patricia Junk, of Ohio.
Reese A. Lewis, of California.

Foreign Service officers of class 5:

Alvin F. Adams, Jr., of New York.
James A. Allitto, of California.
Michael I. Austrian, of New York.
Richard W. Baker III, of New Jersey.
William E. Barreda, of Texas.
Miss Elizabeth A. Bean, of Connecticut.
Joseph F. Becelia, of New York.
Alan H. Bergstrom, of North Dakota.
Robert D. Blackwill, of Nevada.
David L. Blakemore, of New York.
Robert B. Boettcher, of Texas.
Richard W. Bogosian, of Massachusetts.
Miss Janina Bonczek, of California.
William J. Boudreau, of Massachusetts.
L. Paul Bremer III, of Connecticut.
William R. Brew, of New York.
David E. Brown, of Virginia.
G. Gardiner Brown, of Ohio.
Robert D. Brown, of Idaho.
Timothy C. Brown, of Nevada.
Miss Edith Louise Bruce, of Illinois.
Edward A. Casey, Jr., of New Jersey.
Emil Castro, of New York.
Hervey Parke Clark, Jr., of California.
James L. Clunan, of Connecticut.
Wat T. Cluverius IV, of Illinois.
L. Selwyn Coates, of Ohio.
Herbert A. Cochran, of North Carolina.
Larry Colbert, of Ohio.
Thomas M. Coony, of Connecticut.
Donald E. Crafts, of Georgia.
Carl C. Cundiff, of Oklahoma.
Carl B. Cunningham, of California.
John H. Curry, of Michigan.
Charles L. Daris, of the District of Columbia.
James C. Dean, of Illinois.
T. McAdams Deford, of Maryland.
V. Raymond Dickey, of South Dakota.
James P. Dodd, of Kentucky.
Conrad M. Drescher, of New York.
Edward S. Dubel, of New Jersey.
Michael L. Durkee, of New York.
Albert E. Fairchild, of North Carolina.
Dan W. Figgins, Jr., of New York.
John D. Finney, Jr., of Missouri.
Alan H. Flanigan, of Tennessee.
Charles W. Freeman, Jr., of Massachusetts.
Leon S. Fuerth, of New York.
Frederick H. Gerlach, of Virginia.
John A. Graham, of Washington.
Maurice N. Gralnek, of Illinois.
Marvin Groeneweg, of Iowa.
Michael J. Habib, of New York.
Francis S. Hall, of New York.
Scott S. Halliford, of Tennessee.
Dennis G. Harter, of New Jersey.
Frederick H. Hassett, of Missouri.
James M. Hawley III, of West Virginia.
Arthur Houghton, of the District of Columbia.
Arthur H. Hughes, of Nebraska.
Donald E. Huth, of California.
Lars H. Hydle, of California.
Richard L. Jackson, of Massachusetts.
Donald L. Jameson, of California.
Larry Craig Johnstone, of Washington.
D. Lowell Jones, of Mississippi.
M. Gordon Jones, of California.
Philip S. Kaplan, of California.
Frank P. Kelly, of New Jersey.
Dennis W. Keogh, of West Virginia.
Robert Allan Kohn, of New York.
John C. Kornblum, of Michigan.
Gilbert D. Kulick, of California.
James W. Lamont, of Maryland.
Lawrence B. Lesser, of New York.
Ira H. Levy, of Missouri.
Miss Bonnie M. Lincoln, of Minnesota.
Raymond B. Lombardi, of Rhode Island.
Mark Lore, of New Jersey.
David W. Loving, of Virginia.
Lewis R. Macfarlane, of Washington.
Arturo S. Macias, of Wisconsin.
Edward M. Malloy, of New York.
David C. McGaffey, of Michigan.
Doyce R. McNaughton, of Texas.
Roger B. Merrick, of Colorado.
Joseph W. Moyle, of Minnesota.
Dennis P. Murphy, of Washington.
Dennis R. Papendick, of California.
Alan Parker, of the District of Columbia.
David D. Passage, of Colorado.
John H. Penfold, of Colorado.
Chester F. Polley, Jr., of Illinois.
Gene R. Preston, of California.
Robert Maxwell Pringle, of Virginia.
Mark S. Ramee, of New York.
Douglas K. Ramsey, of Nevada.
Randolph Reed, of the District of Columbia.
Denis R. Regan, of New York.
Thomas R. Reynders, of Massachusetts.
Floyd A. Riggs, of Virginia.
Erik S. Ronhovde, of Montana.
William Frederick Rope, of New York.
Richard J. Rosenberg, of Nebraska.
Theodor Rumme, of Massachusetts.
William E. Ryerson, of Pennsylvania.
Miss Ruth M. Schimel, of New York.
C. Michael Schneider, of Ohio.
James T. Schollaert, of Pennsylvania.
William F. Schrage, of Illinois.
Richard E. Schwartz, of Missouri.
James W. Shinn, of Maryland.
Frederick Owen Shoup, of California.
Daniel H. Simpson, of Ohio.
Robert S. Simpson, of California.
Michael M. Skol, of Illinois.
Dane F. Smith, Jr., of New Mexico.
Peter G. Smith, of Michigan.
Denman T. Snow II, of Georgia.
David A. Sousa, of Massachusetts.
Samuel D. Starrett, of Indiana.
Steven E. Steiner, of Pennsylvania.
Byron R. Stephenson, of Kansas.
Michael D. Sternberg, of New York.
David H. Swartz, of Illinois.
W. Kenneth Thompson, of the District of Columbia.
Ward C. Thompson, of New Hampshire.
Miss Elizabeth R. Thurston, of Indiana.
James E. Thyden, of California.
Thomas F. Timberman, of Maryland.
James C. Todd, of California.
Peter Tomsen, of Ohio.
Kenneth H. Torp, of Connecticut.
Frank Tumminia, of New York.
Miss Caroline Marr Turtle, of New Jersey.
Edmund van Gilder, of Pennsylvania.
Anthony H. Wallace, of New York.
Phillip J. Walls, of Michigan.
Ralph Claiborne Walsh, of Texas.
John Kendall Ward, of Florida.
Louis B. Warren, Jr., of New Jersey.
John H. Will, of Texas.
James Alan Williams, of Virginia.

Foreign Service officer of class 5 and a consular officer of the United States of America:

Miss JulieAnn McGrath, of Illinois.

Foreign Service officers of class 6:

Paul E. Barbian, of Wisconsin.
Richard M. Bash, of Oklahoma.
Charles R. Bowers, of California.
David H. Burns, of Massachusetts.
Timothy Michael Carney, of the District of Columbia.
Robert K. Carr, of California.
Thomas H. Carter, of Florida.
Gary E. Chafin, of Texas.
Lawrence E. Christmas, of Texas.
Victor D. Comras, of Florida.
Martin W. Cooper, of New Hampshire.
James B. Corey, of Michigan.
John B. Craig, of Pennsylvania.
Richard D. Cummins, of New York.
James F. Dobbins, Jr., of Pennsylvania.
Michael W. Donovan, of Indiana.
Robert F. Dorr, of California.
Stanley T. Escudero, of Florida.
Robert P. Gallagher, of Rhode Island.
Thomas Humphrey Gerth, of New York.
Ben. F. Harding, of Alaska.
Miss Genta A. Hawkins, of California.
William D. Heaney, of California.
Delmar Karlen, Jr., of New York.
Douglas R. Keene, of Massachusetts.
Allen L. Keiswetter, of Kansas.
Edward Gibson Lanpher, of Virginia.
Larrie D. Loehr, of California.
Stevenson McIlvaine, of Virginia.
Robert C. Myers, of Virginia.
Harold T. Nelson, Jr., of Nebraska.
Jerome C. Ogden, of New York.
Miss Shirley E. Otis, of Pennsylvania.
Wesley H. Parsons, of Arizona.
James J. Reid, of Texas.
Algirdas J. Rimas, of Virginia.
Dennis A. Sandberg, of Minnesota.
Miss Ernestine H. Sherman, of Oregon.
Kirby L. Smith, of Florida.
Miss Marsha D. Smith, of Maryland.
Kenneth A. Stammerman, of Kentucky.
Luis G. Stelzner,of California.
Donald J. Sutter, of New Jersey.
J. Richard Thurman, of Kentucky.
Miss Rosa Lee Unger, of Ohio.
Miss Dena-Kay E. Wade, of Virginia.
David M. Walker, of California.
Richard LaVerne Williamson, Jr., of California.

Foreign Service officer of class 6 and a consular officer of the United States of America:

J. Guy Gwynne, of Arkansas.