

promote the training of medical and paramedical personnel in the field of family medicine; to the Committee on Interstate and Foreign Commerce.

By Mr. VANIK:

H.R. 19483. A bill to amend title XI of the Federal Aviation Act of 1958 to provide that the Civil Aeronautics Board shall require the boycotting of certain movement by aircraft in cases of international aircraft hijacking, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. GUBSER:

H.J. Res. 1385. Joint resolution authorizing the President to proclaim the 28th day of September of each year as "Teacher's Day"; to the Committee on the Judiciary.

By Mr. LANGEN (for himself, Mr. FISHER, Mr. FLYNT, Mr. McDONALD of Michigan, Mr. BUCHANAN, Mr. SNYDER, and Mr. DICKINSON):

H. Con. Res. 754. Concurrent resolution expressing the sense of the Congress with respect to sanctions against Rhodesia; to the Committee on Foreign Affairs.

By Mr. BROOKFIELD:

H. Res. 1226. Resolution designating January 22 of each year as Ukrainian Independence Day; to the Committee on the Judiciary.

#### PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DADDARIO:

H.R. 19484. A bill for the relief of Mrs. Ellis Medlock; to the Committee on the Judiciary.

By Mr. RODINO:

H.R. 19485. A bill for the relief of Eleanor Bacon-Peck; to the Committee on the Judiciary.

#### PETITIONS, ETC.

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

603. By the SPEAKER: Petition of the general president, Laundry, Dry Cleaning and Dye House Workers' International Union, Chicago, Ill., relative to minimum wage legislation; to the Committee on Education and Labor.

604. Also, petition of the President of the Republic of Peru, expressing his appreciation for the aid of the American people to the people of Peru; to the Committee on Foreign Affairs.

605. Also, petition of Mercedes G. Vda. de Calimbas, Sulucan, Bocaue, Bulacan, Philippines, relative to increased disability compensation payments for disabled veterans; to the Committee on Veterans' Affairs.

## SENATE—Monday, September 28, 1970

The Senate met at 12 noon 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:

O Lord of the morning hour, of the afternoon, the evening, and the night, "under the shadow of Thy wing" we have dwelt secure and come once more to serve Thee in this place. For journeying mercies, for renewed strength, and a rekindled faith, we give Thee thanks. Free us this day from all that obstructs our doing Thy will. Command all our talents of mind and heart and will in service to the whole Nation.

Eternal God, we thank Thee for the measure of peace achieved and the promise of peace yet to come. We beseech Thee, by Thy grace, to put down the pride, greed, and anger that turn man against man and nation against nation, so that wars may be ended, the peace of Thy kingdom established, and all men call Thee Father.

In Thy holy name we pray. Amen.

#### MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS AND A JOINT RESOLUTION

Messages in writing from the President of the United States were communicated to the Senate by Mr. Geisler, one of his secretaries, and he announced that on September 25, 1970, the President had approved and signed the following acts and joint resolution:

S. 58. An act providing for the addition of the Freeman School to the Homestead National Monument of America in the State of Nebraska, and for other purposes;

S. 203. An act to amend the act of June 13, 1962 (76 Stat. 96), with respect to the Navajo Indian irrigation project;

S. 434. An act to reauthorize the Riverton extension unit, Missouri River Basin project, to include therein the entire Riverton Federal reclamation project, and for other purposes.

S. 1087. An act for the relief of Vernon Louis Hoberg.

S. 1170. An act to authorize the Department of Commerce to make special studies, to provide services, and to engage in joint projects, and for other purposes;

S. 2808. An act to authorize the Secretary of the Interior to construct, operate, and maintain the Minot extension of the Garrison diversion unit of the Missouri River Basin project in North Dakota, and for other purposes;

S. 2882. An act to amend Public Law 394, 84th Congress, to authorize the construction of supplemental irrigation facilities for the Yuma Mesa Irrigation District, Arizona;

S. 2976. An act for the relief of Margarita Anne Marie Baden (Nguyen Tan Nga);

S. 3337. An act to provide for the disposition of funds appropriated to pay judgments in favor of the Yakima Tribes in Indian Claims Commission dockets numbered 47-A, 162, and consolidated 47 and 164, and for other purposes;

S. 3617. An act to amend the Marine Resources and Engineering Development Act of 1966 to continue the National Council on Marine Resources and Engineering Development;

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

S. 3997. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Confederated Bands of Ute Indians in Court of Claims case 47567, and a judgment in favor of the Ute Tribe of the Uintah and Ouray Reservation for and on behalf of the Uncompahgre Band of Ute Indians in Indian Claims Commission docket numbered 349, and for other purposes;

S. 4033. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Chemehuevi Tribe of Indians; and

S.J. Res. 67. Joint resolution granting the consent of Congress to the States of Maryland and West Virginia and the Commonwealths of Virginia and Pennsylvania and the District of Columbia, as signatory bodies, for certain amendments to the compact creating the Potomac Valley Conservancy District and establishing the Interstate Commission on the Potomac River Basin.

#### REPORT ON SALARIES OF OFFICERS AND EMPLOYEES OF ORGANIZATIONS FUNDED UNDER THE ECONOMIC OPPORTUNITY ACT—MESSAGE FROM THE PRESIDENT

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

I hereby submit the report on salaries of officers and employees of organizations funded under the Economic Opportunity Act that is required by Section 610-1(b) of the Economic Opportunity Act as amended in 1966. The report was prepared by the Office of Economic Opportunity and covers the fiscal year that ended on June 30, 1970.

RICHARD NIXON.

THE WHITE HOUSE, September 28, 1970.

#### 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.)

#### MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed a bill (H.R. 18583) to amend the Public Health Service Act and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law-enforcement authority in the field of drug abuse, in which it requested the concurrence of the Senate.

#### THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, September 25, 1970, be dispensed with.

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

#### THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of measures on the calendar to which there is no objection, beginning with Calendar No. 1252.

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

#### RANDOLPH-SHEPPARD ACT FOR THE BLIND AMENDMENTS OF 1970

The Senate proceeded to consider the bill (S. 2461) to amend the Randolph-Sheppard Act for the blind so as to make certain improvements therein, and for other purposes which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Randolph-Sheppard Act for the Blind Amendments of 1970."

#### PREFERENCE FOR VENDING FACILITIES ON FEDERAL PROPERTY

SEC. 2. Section 1 of the Act entitled "An Act to authorize the operations of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes," approved June 20, 1936 (20 U.S.C. 107), is amended to read as follows:

"SECTION 1. For the purposes of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting, blind persons licensed under the provisions of this Act shall be authorized to operate vending facilities on any Federal or other property. In authorizing the operating of vending facilities on Federal property, preference shall be given, so far as feasible, to blind persons licensed by a State agency as provided in this Act; and the head of each department of agency in control of the maintenance, operation, and protection of Federal property shall, after consultation with the Secretary and with the approval of the President, prescribe regulations designed to assure such preference (including exclusive assignment of vending machine income to achieve and protect such preference) for such licensed blind persons without adversely affecting the interests of the United States."

#### CONCESSION VENDING SURVEYS

SEC. 3. Section 2(a)(1) of such Act of June 20, 1936 (20 U.S.C. 107a), is amended to read as follows:

"(1) Make surveys of concession vending opportunities for blind persons on Federal and other property in the United States;"

#### VENDING FACILITY

SEC. 4. Such Act of June 20, 1936, is further amended by striking out "vending stand" and "stand" wherever they appear and inserting in lieu thereof "vending facility" and by striking out "vending stands" and "stands" wherever they appear and inserting in lieu thereof "vending facilities".

#### ELIMINATION OF AGE REQUIREMENT AND VENDING OF FOOD AND BEVERAGES

SEC. 5. Section 2(a)(4) of such Act of June 20, 1936, is amended by (1) striking out "and at least twenty-one years of age", (2) striking out "articles dispensed automatically or in containers or wrapping in which they are placed before receipt by the vending stand, and such other articles as may be approved for each property by the department or agency in control of the maintenance, operation, and protection thereof and the State licensing agency in accordance with the regulations prescribed pursuant to the first section:" and inserting in lieu thereof the following: "foods, beverages, and other such articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, as determined by the State licensing agency:".

#### DELETION OF CERTAIN LIMITATIONS IN LICENSING BLIND OPERATORS OF VENDING FACILITIES

SEC. 6. Section 2(b) of such Act of June 20, 1936, is amended by (1) striking out "and have resided for at least one year in the State in which such stand is located", and (2) striking out "but are able, in spite of such infirmity, to operate such stands."

#### PROVISION OF VENDING FACILITY LOCATIONS

SEC. 7. Section 2 of such Act is further amended by adding a new subsection (d) at the end thereof:

"(d) In the design, construction, or substantial alteration or renovation of each public building after January 1, 1971, for use by any department, agency, or instrumentality of the United States, there shall be included, after consultation with the State licensing agency, a satisfactory site or sites with space and electrical and plumbing outlets and other necessary requirements suitable for the location and operation of a vending facility or facilities by a blind person or persons. No space shall be rented, leased or otherwise acquired for use by any department, agency, or instrumentality of the United States after January 1, 1971, unless such space includes, after consultation with the State licensing agency, a satisfactory site or sites with space and electrical and plumbing outlets and other necessary requirements suitable for the location and operation of a vending facility or facilities by a blind person or persons. All departments, agencies, and instrumentalities of the United States shall consult with the Secretary (or his designee) and the State licensing agency in the design, construction, or substantial alteration or renovation of each public building used by them, and in the renting, leasing, or otherwise acquiring of space for their use, to insure that the requirements set forth in this subsection are satisfied. This subsection shall not apply (1) when the Secretary (or his designee) and the State licensing agency determine that the number of people using the property is insufficient to support a vending facility or (2) to the rental of space by the Government in a building wherein the lessor retains space for a restaurant or other establishment which would be in competition with a blind operator of a vending facility purveying food and other articles."

#### ARBITRATION BETWEEN OPERATORS AND LICENSING AGENCIES

SEC. 8. Section 3(6) of such Act (20 U.S.C. 107b) is amended by substituting a comma for the period at the end thereof and adding the following new wording: "Including binding arbitration by three persons consisting of one person designated by the head of the State licensing agency, one person designated by the licensed blind operator, and a third person selected by the two, who shall serve as chairman."

#### DEFINITIONS

SEC. 9.(a) Section 6(b) of such Act (20 U.S.C. 107e) is amended to read as follows:

"(b) The term 'blind person' means a person whose central visual acuity does not exceed 20/200, in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees. In determining whether an individual is blind, there shall be an examination by a physician skilled in diseases of the eye or by an optometrist, whichever the individual shall select."

(6) Section 6 of such Act is further amended by adding at the end thereof the following new subsection:

"(f) The term 'vending facility' includes, but is not limited to, automatic vending machines, snackbars, cart service, shelters, counters, and such other appropriate auxiliary equipment (as the Secretary may by reg-

ulations prescribe) as are necessary for the sale of the articles or services referred to in section 2(a)(4), which are, or may be operated by blind licensees, and such term also includes cafeterias, but only upon a demonstration by the State licensing agency if the feasibility of the inclusion of such facilities, as evidenced by a program of training and supervision of blind licensees commensurate with the proposed operation."

#### ARBITRATION BETWEEN AGENCIES

SEC. 10. Such Act is further amended by redesignating section 8 (20 U.S.C. 107f) as section 9 and by inserting the following new section after section 7:

"SEC. 8. (a) An arbitration board of three persons consisting of one person designated by the Secretary who shall serve as chairman, one person designated by the head of the Federal department or agency controlling Federal property over which a dispute arises, and a third person selected by the two who is not an employee of the departments concerned shall hear appeals as provided in subsection (b) of this section.

"(b) If, in the opinion of a State licensing agency designated by the Secretary under this Act, any department or agency in control of the maintenance, operation, and protection of Federal property is failing to comply with the provisions of this Act, or any regulations issued thereunder, it may appeal to the board. The board shall, after notice and hearing, render its decision which shall be binding. If the board finds and determines that the acts or practices of any such department or agency are in violation of this Act, or the regulations issued thereunder, the head of the affected department or agency shall promptly cause such acts or practices to be terminated, and shall take such other action as may be necessary to carry out the decision of the board. All decisions of the board shall be published."

#### JUDICIAL REVIEW

SEC. 11. Such Act is further amended by adding the following new section:

"SEC. 10. Notwithstanding other provisions of this Act, any blind person or State licensing agency suffering legal wrong because of any agency action, or adversely affected or aggrieved by such action within the meaning of this Act or other relevant statutes, shall be entitled to and shall have standing for judicial review thereof."

#### APPLICABILITY

SEC. 12. Such Act is further amended by adding the following new section:

"Sec. 11. Notwithstanding any other provision of law, the provisions of this Act are applicable to any agency, establishment, or other entity created within the Government of any department or agency of the United States."

#### EFFECTIVE DATE

SEC. 13. The amendments made by this Act shall become effective January 1, 1971.

The amendment was agreed to.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 91-1235), explaining the purposes of the measure.

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

#### PURPOSE OF THE BILL

The principal objective of this bill is to enlarge the employment opportunities of qualified blind persons through the operation of vending facilities on federally controlled property. It provides that in authorizing the operation of vending facilities on

Federal property blind persons licensed by a State agency as provided in the act shall be given, so far as feasible, preference and requires that Government agencies in control of such properties shall prescribe regulations designed to assure such preference, including exclusive assignment of vending machine income to achieve and protect such preference. This bill also would include vending machines in the definition of a vending facility and require that, after January 1, 1971, provisions for vending facilities shall be included in the design, construction, or substantial alteration or renovation of each public building controlled by a Federal agency, insofar as is judged feasible by the Secretary of Health, Education, and Welfare in consultation with the State licensing agency.

#### BACKGROUND OF THE LEGISLATION

The Randolph-Sheppard Act originally was enacted by the Congress in June 1936, to establish the program granting preference to blind persons in the operation of vending stands in Federal buildings. Since 1936, the vending stand program has grown until there are approximately 3,400 blind persons in the overall effort. Thousands of critically handicapped persons have thus been given the opportunity to become self-supporting entrepreneurs over the past 34 years, and their performance has served as an inspiration to countless others who are handicapped by blindness.

At the end of fiscal year 1969, there were 836 stands on Federal properties employing 972 blind persons. In addition, following the Federal lead, the State agencies for the blind and the States vocational rehabilitation agencies which license blind operators have opened employment opportunities for concessionaires in State and municipal buildings, as well as nongovernmental buildings. There were 2,084 stands employing 2,287 blind persons on non-Federal installations last fiscal year. During the fiscal year 1968, these concessions operated by blind persons recorded a gross business of \$78.9 million. The average income of the blind operators was \$5,580.

Since its enactment 34 years ago in 1936, the Randolph-Sheppard vending stand act has been amended only once—in 1954—when improvements to it were included in the Vocational Rehabilitation Amendments of 1954.

Further improvements to meet changing conditions over the years, such as the rapid proliferation of automatic vending machines, have been suggested by representatives of national organizations for the blind and handicapped, as well as State agencies authorized to administer the program. These changes have been incorporated in S. 2461, together with modifications suggested by Federal authorities, for the purpose of expanding the opportunities for vending facilities operations.

S. 2461 was introduced on June 30, 1969, by Senator Randolph, and referred to the Committee on Labor and Public Welfare. The bill has 51 cosponsors. A special Subcommittee on Handicapped Workers, under the chairmanship of Senator Randolph, was appointed. Two days of hearings were held July 9 and 10, 1970, at which time testimony was submitted on the bill by 19 witnesses.

Rehabilitation Services Administration Commissioner Edward Newman testified before the committee that the bill "would extend and expand this program in its efforts to provide employment opportunities for a much greater number of blind persons."

Further information provided at the hearings indicated that: Revenues from vending stands are being jeopardized by a growing trend toward the exclusive use of automatic vending machines in some Federal buildings; Federal employee recreation and welfare groups are receiving this vending machine

income for their own uses, including organized family outings; extension of the program to new and renovated federally controlled installations after January 1, 1971, could expand the present 3,400 blind vending work force to an estimated 7,500 within the next 7 years; and there is a higher incidence of blindness coming out of the Vietnam conflict than was the case in either World War II or the Korean conflict.

Although the congressional intent of the Randolph-Sheppard Act was to provide to the maximum extent possible new job opportunities for the blind, the present law does not provide for exclusive assignment of vending machine income to the vending stand operations which are competing with the machines, or to the State licensing agencies which administer the programs at the local level. The Comptroller General of the United States has, on two occasions, said that these funds from vending machines are to be regarded as commissions. Blind organizations strongly contend that such funds should be devoted to the purposes of the Randolph-Sheppard Act, or otherwise they must be miscellaneous received in the U.S. Treasury.

Because the major impetus for this legislation stems from the need to update the existing law, S. 2461 is made consistent with other Federal legislation with respect to the definition of blindness.

Support for S. 2461 was indicated during the hearings by representatives of the four Federal agencies concerned: the General Services Administration, the Rehabilitation Services Administration of the Department of Health, Education, and Welfare; the Committee on Blind-made Products; and the President's Committee on Employment of the Handicapped.

Among the organizations submitting testimony in support of S. 2461 were: The American Association of Workers for the Blind; the American Council for the Blind, the American Foundation for the Blind, General Council of Workshops for the Blind; Goodwill Industries of America; International Association of Rehabilitation Facilities; National Rehabilitation Association; National Council of State Agencies for the Blind; Texas State Commission for the Blind; the President's Committee on Employment of the Handicapped; National Federation of the Blind; National Industries for the Blind; International Association of Rehabilitation Facilities; National Rehabilitation Association; National Center for Deaf-Blind Youths and Adults; and American Optometric Association.

No additional cost to the Federal Government is authorized by S. 2461.

#### AMENDMENT OF THE WAGNER-ODAY ACT

The Senate proceeded to consider the bill (S. 3425) to amend the Wagner-O'Day Act to extend the provisions thereof to severely handicapped individuals who are not blind, and for other purposes which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

That the Act entitled "An Act to create a Committee on Purchase of Blind-Made Products, and for other purposes", approved June 25, 1938 (52 Stat. 1196; 41 U.S.C. 46-48), is amended by striking out all after the enacting clause and inserting in lieu of the matter stricken the following: "That there is hereby created a committee to be known as the Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped (hereinafter referred to as the 'Committee') to be composed of two private citizens conversant with the problems in-

cident to the employment of blind and other severely handicapped individuals and a representative of each of the following Government departments or agencies: The Department of Agriculture, the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the Department of Health, Education, and Welfare, the Department of Commerce, the Department of the Interior, the Department of Justice, the Department of Labor, and the General Services Administration. The members of the Committee shall be appointed by the President, shall serve without additional compensation, and shall designate one of their number to be Chairman. The private citizen members of the Committee shall each be appointed for a term of five years; and such members shall be eligible for reappointment.

"Sec. 2. (a) It shall be the duty of the Committee to determine the fair market price of all suitable commodities produced and offered for sale by, and suitable services offered by, blind or other severely handicapped individuals to the Federal Government from time to time by any qualified nonprofit agency for the blind or other severely handicapped, organized under the laws of the United States or of any State, to revise such prices from time to time in accordance with changing market conditions, and to make such rules and regulations regarding specifications, time of delivery, authorization of a central nonprofit agency or agencies to facilitate the distribution of orders (by direct allocation, subcontract, or other means) among the qualified agencies for the blind and other severely handicapped, and other relevant matters as shall be necessary to carry out the purposes of this Act.

"(b) Rules and regulations of the Committee shall provide that, in the purchase by the Government of commodities produced and offered for sale by nonprofit agencies for the blind or other severely handicapped, priority shall be accorded to such commodities produced and offered for sale by nonprofit agencies for the blind, and that, in the purchase by the Government of services offered by nonprofit agencies for the blind or other severely handicapped, priority shall, until the close of June 30, 1976, be accorded to services offered by the blind.

"Sec. 3. All suitable commodities and suitable services hereafter procured in accordance with applicable specifications by or for any Federal department or agency shall be procured from such qualified nonprofit agencies for the blind or other severely handicapped in all cases where such commodities or services are available within the period specified at the price determined by the Committee to be the fair market price for the commodity or commodities or services so procured; *Provided*, That this Act shall not apply in any cases where suitable commodities or suitable services are available for procurement from any Federal department or agency and procurement therefrom is required under the provisions of any law in effect on the date of enactment of this Act.

"Sec. 4. For purposes of this Act—

"(a) the term 'severely handicapped' means an individual or class of individuals who is under a physical or mental disability which (according to criteria established by the Committee after consulting with appropriate agencies of the Government and taking into account the views of non-Federal agencies representing the handicapped) constitutes a substantial handicap to employment and is of such a nature as to prevent the individual under such disability from currently engaging in normal competitive employment;

"(b) the term 'qualified', when used in reference to any nonprofit agency for the blind or other severely handicapped, means such an agency which complies with such occu-

pational health and safety standards as are specified by the Secretary of Labor;

"(c) a commodity offered for sale by any nonprofit agency for the blind or the severely handicapped shall be considered to be produced by the blind or severely handicapped only if not less than 75 per centum of the man-hours of direct labor required for the production of such commodity was performed by blind or other severely handicapped individuals; and a service offered by any such agency shall be considered to be a service provided by the blind or severely handicapped only if not less than 75 per centum of the man-hours of direct labor entailed in the provision of such service is performed by blind or other severely handicapped individuals; and

"(d) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"Sec. 5. (a) There is hereby authorized to be appropriated to the Committee \$200,000 for each fiscal year commencing with the fiscal year ending June 30, 1971, to carry out the provisions of this Act.

"(b) The General Services Administration shall provide administrative services for the Committee on a reimbursable basis."

Sec. 2. The amendments made by the first section of this Act shall take effect on the first day of the ninth month following the month in which this Act is enacted.

The amendment was agreed to.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1236), explaining the purposes of the measure.

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

#### PURPOSE OF THE BILL

This bill has two principal objectives: First, to extend the special priority in the selling of certain products to the Federal Government now reserved for the blind to the other severely handicapped, assuring, however, that the blind will have first preference; and, second, to expand the category of contracts under which the blind and severely handicapped would have priority to include services as well as products, reserving to the blind first preference for 5 years after the enactment of the bill.

#### BACKGROUND OF THE LEGISLATION

The Wagner-O'Day Act was originally enacted by the Congress in June of 1938 to provide employment opportunities for the blind in the manufacture of products to be sold to the Federal Government. In the 32 years since its enactment, it has been of inestimable value in providing workshops for the blind with contracts for blind-made products at a fair market price.

As enacted in 1938, the Wagner-O'Day Act created a presidentially appointed Committee on Purchases of Blind-made Products composed of one public member and representatives of six Federal agencies concerned with utilization of blind-made products. The committee determined the fair market price of all "brooms and mops and other suitable commodities manufactured by the blind and offered for sale to the Federal Government by any non-profit-making agency for the blind," procurement of which shall be mandatory and authorized a central non-profit-making agency (the National Industries for the Blind) to facilitate the distribution of orders and other relevant matters of procedure.

The act has been administered by personnel from the several Federal agencies purchasing blind-made products and members of the Committee on Purchases of Blind-made Products, all of whom have had their salaries paid from funds appropriated to their individual agencies.

In the past year, fiscal year 1969, 78 workshops for the blind in 35 States sold approximately \$23 million worth of goods to the Federal Government, providing employment to some 5,000 blind individuals. These products, 435 in number, covered a wide range including mops, brooms, pillow cases, military neckties, barrack bags, and signal flags. While the \$23 million purchased from workshops for the blind represents less than five one-hundredths of 1 percent of the total of \$49.28 billion of Federal purchases, for the blind workers assisted it represents the difference between some modicum of self-sufficiency and dependency, the difference between being a taxpayer and a tax burden.

During the past 32 years the Wagner-O'Day Act has stood without amendment. In the intervening years, techniques for utilizing the innate talents of the blind and other severely handicapped have continually improved and the realization has grown that these persons can pursue useful, productive lives rather than being institutionalized or becoming burdens upon their families.

In response to the changes of the past three decades, S. 3425 was introduced on February 10, 1970, and referred to the Committee on Commerce. On March 31, 1970, the Committee on Commerce was discharged from consideration of the bill and the measure was referred to the Committee on Labor and Public Welfare. A Special Subcommittee on Handicapped Workers, under the chairmanship of Senator Jennings Randolph of West Virginia was appointed. Two days of hearings were held on July 9 and 10, 1970, at which time testimony was submitted on the bill by 14 witnesses.

As Rehabilitation Services Administration Commissioner Edward Newman testified before the Committee, "the research clearly indicates that the expansion of the Wagner-O'Day Act will benefit many severely disabled persons other than the blind and will create thousands of new job opportunities without detracting from the original intent of the program."

Further information brought forth at the hearings included the following: Through the addition of services, workshops could further diversify the number of training programs and the types of persons served; one of the most important problems facing workshops engaged in contract work is that of obtaining sufficient work to keep their handicapped clients employed; in Japan nearly a third of that country's blind and partially blind are employed but in the United States no more than one-fifth of the blind are employed; many of the more than 120,000 Vietnam veterans now drawing compensation for service-connected disabilities would be eligible for employment in workshops having contracts under the expanded Wagner-O'Day Act; last year 6,591 disabled persons moved from sheltered workshop employment to outside work in the general economy; and Government contracts would make it possible to establish workshops in rural communities where it heretofore has not been feasible to provide such services for the blind and other severely handicapped.

The Department of Health, Education, and Welfare estimates that there are some 10,000 adult blind and some 77,000 other adult severely handicapped who form the potential work force for nonprofit agency workshops which could receive contracts under the Wagner-O'Day Act, as contemplated to be changed by S. 3425.

Support for S. 3425 was indicated during the hearings by representatives of the

three Federal agencies concerned; namely, the Committee on Blind-made Products, the Rehabilitation Services Administration of the Department of Health, Education, and Welfare, and the President's Committee on Employment of the Handicapped. Among the organizations submitting testimony in support of S. 3425 were the American Association of Workers for the Blind, the American Foundation for the Blind, the General Council of Workshops for the Blind, the Goodwill Industries of America, the International Association of Rehabilitation Facilities (formerly the National Association of Sheltered Workshops and Homebound programs and the Association of Rehabilitation Centers), the National Association for Retarded Children, the National Easter Seal Society for Crippled Children and Adults, the National Industries for the Blind, the National Rehabilitation Association, and the United Cerebral Palsy Association of America.

#### SUMMARY OF THE BILL

Section 1 of the bill amends the Wagner-O'Day Act as follows:

(a) Section 1 of the Wagner-O'Day Act is amended to—

(1) Change the name of the Committee on Purchases of Blind-made Products to the Committee for Purchase of Products and Services of the Blind and Other Handicapped (hereinafter in this report referred to as the Products Committee).

(2) Increase from one to two the number of private citizens who are members of the Products Committee, providing that they be conversant with problems incident to employment of the other severely handicapped as well as the blind. Provision is also made that these two private individuals shall serve for a term of 5 years instead of indefinitely as is the case presently.

(3) Add to the Products Committee representatives of the Department of Defense, Department of the Army, Department of the Navy, Department of the Air Force, the Department of Health, Education, and Welfare, the Department of Justice, the Department of Labor, and the General Services Administration, and removing from membership representatives of the War Department, the Navy Department, and the Treasury Department.

(b) Section 2 of the Wagner-O'Day Act is amended to—

(1) Add services to suitable commodities as subject to the Products Committee's jurisdiction in determining eligibility for Government contract.

(2) Include other severely handicapped as being eligible along with the blind, with the proviso that the blind will have first preference in the sale of suitable commodities and that in the sale of suitable services the blind shall have first preference until June 30, 1976.

(3) Provide that a nonprofit agency for the blind or the severely handicapped must be qualified, as defined in section 4 of the act.

(4) Permit the distribution of orders by direct allocation, subcontract, or otherwise.

(5) Make it clear that the Products Committee is responsible for rules and regulations regarding not only procedures, but all matters relevant to administration of the act.

(6) Make other changes of a minor and technical nature.

(c) Section 3 of the Wagner-O'Day Act is amended to conform with the changes made in section 2 of the act relative to the inclusion of the other severely handicapped and services, as well as changes of a minor and technical nature.

(d) Section 4 of the Wagner-O'Day Act is amended to—

(1) Add definition of (i) "severely handicapped" of (ii) "qualified" when used in reference to any nonprofit agency for the

blind or other severely handicapped, and (iii) of a State.

(2) Provide that a commodity offered for sale by any nonprofit agency for the blind or other severely handicapped under the act must have at least 75 percent of the man-hours of direct labor required for the production of such commodity performed by the blind or other severely handicapped. This conforms with present practice. A similar requirement is stipulated with respect to services.

(e) A new section 5 is added to the Wagner-O'Day Act to—

(1) Authorize an appropriation of \$200,000 annually to carry out the provisions of the act. Presently funds for the administration of the act are derived from the funds appropriated to the various Federal agencies purchasing blind-made products.

It has been indicated that the projected budget for the first full year of operation, should this bill be enacted, is less than \$125,000. This committee provided for an authorization of \$200,000 as a permanent authorization to allow for normal increased costs over a period of years and expresses the expectation that in the near future the appropriation requested will remain below that figure and in line with the present budget of some \$125,000.

(2) Stipulate that the General Services Administration shall provide administrative services for the Products Committee on a reimbursable basis.

Section 2 of the bill provides that the amendments to the Wagner-O'Day Act made by section 1 of the bill shall take effect on the first day of the ninth month following enactment of this measure.

#### BILL PASSED OVER

The bill (H.R. 17604), to authorize certain construction at military installations and for other purposes, was announced as next in order.

Mr. MANSFIELD. Over, Mr. President. The PRESIDENT pro tempore. The bill will be passed over.

#### CONVEYANCE OF RIGHT, TITLE AND INTEREST RESERVED OR RETAINED IN CERTAIN LANDS CONVEYED TO THE STATE OF MAINE

The bill (S. 752) to authorize the conveyance of all right, title, and interest of the United States reserved or retained in certain lands heretofore conveyed to the State of Maine was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Army is authorized and directed to convey to the State of Maine, without consideration, all of the right, title, and interest of the United States reserved or retained by it in the tract of land which was conveyed to the State of Maine pursuant to the Act entitled "An Act authorizing the Secretary of War to convey the Kennebec Arsenal property, situated in Augusta, Maine, to the State of Maine for public purposes", approved March 3, 1905 (33 Stat. 1270) by a deed from the United States dated April 2, 1905.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-237), explaining the purposes of the measure.

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

#### PURPOSE OF THE BILL

The purpose of the bill is to authorize and direct the Secretary of the Army to convey to the State of Maine, without consideration, all of the right, title, and interest of the United States, retained by it, in the tract of land conveyed to the State of Maine pursuant to the act of March 3, 1905 (33 Stat. 1270).

#### EXPLANATION OF THE BILL

The Kennebec Arsenal was originally established by the War Department in 1836 comprising 40 acres of land located on the east side of the Kennebec River in Augusta, Maine. The arsenal was abolished by order of the Secretary of War, May 1, 1901. Subsequently, under an act of Congress approved March 3, 1905, the Secretary of War, by deed dated April 12, 1905, conveyed the entire property to the State of Maine for use in connection with the Maine Insane Hospital. Both the act and the deed contained provisions which (1) restricted the property to be used only in connection with the insane hospital; and (2) authorized the President of the United States, in his discretion, to repossess the property if needed for uses of the United States.

The property has been used continuously since 1905 as part of the Maine Insane Hospital. The State has indicated that it now desires to use a portion of this property for a fire department and other public purposes, but is precluded from such use by the conditions of the conveyance. S. 752 would, in effect, authorize and direct the Secretary of the Army to release these conditions.

The Department of the Army no longer has any direct interest in this property, and there are no foreseeable future defense requirements for its use.

#### FISCAL DATA

The enactment of this bill will have no effect on the budgetary requirements of the Department of Defense.

#### CONVEYANCE OF CERTAIN LANDS AT FORT RUGER MILITARY RESERVATION, HAWAII

The bill (S. 4187) to authorize the Secretary of the Army to convey certain lands at Fort Ruger Military Reservation, Hawaii, to the State of Hawaii in exchange for certain other lands was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

#### S. 4187

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That notwithstanding any other provision of law, the Secretary of the Army, or his designee, is hereby authorized to convey to the State of Hawaii, subject to the terms and conditions hereafter stated, and to such other terms and conditions as the Secretary of the Army, or his designee, shall deem to be in the public interest, all right, title, and interest of the United States in and to certain lands, with the improvements thereon, within the Fort Ruger Military Reservation, Hawaii, as described in section 3 of this Act.

SEC. 2. In consideration for the conveyance by the United States of the aforesaid property, the State of Hawaii shall convey, or provide for the conveyance, to the United States of certain lands, described in section 3 of this Act, acceptable to the Secretary of the Army, or his designee, as replacement land for use as military family housing sites or other purposes in connection with the

Fort Shafter-Tripler Army Hospital area, Oahu, Hawaii, and shall, at its sole expense, perform on this replacement land certain site preparations which will, in the opinion of the Secretary of the Army, or his designee, equal in cost the dollar value difference between the appraised fair market value of the property being conveyed to the State and the appraised fair market value of the land being conveyed to the United States. The site preparation shall be in accordance with plans and specifications to be approved by the Secretary of the Army, or his designee.

SEC. 3. The lands authorized to be exchanged and referred to in sections 1 and 2 of this Act are located on the island of Oahu, Hawaii, and are as generally depicted on maps on file in the Office of the Pacific Ocean Division Engineer, Honolulu, Hawaii. The lands to be conveyed by the United States comprise approximately fifty-seven acres with the improvements thereon; the replacement lands to be acquired by the United States comprise a minimum of approximately two hundred and fifty-nine acres situated adjacent to the Tripler Army Hospital Reservation. The exact description and acreages are to be determined by accurate surveys as mutually agreed upon between the State of Hawaii and the Secretary of the Army, or his designee.

SEC. 4. The lands conveyed to the United States, as described in section 3 of this Act, shall become a part of the Tripler Army Hospital Reservation and be administered by the Department of the Army.

SEC. 5. Notwithstanding any other provision of law, the cost of the lands to be acquired by the United States, as described in section 3 of this Act, and the cost of the site preparation and installation of utilities borne by the State of Hawaii, as provided herein, shall not be considered in arriving at the average cost of any family housing units or the cost of any single family housing unit to be constructed on the property.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1238), explaining the purposes of the measure.

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

#### PURPOSE OF THE BILL

This bill would authorize the Secretary of the Army to convey to the State of Hawaii all right, title, and interest of the United States in and to approximately 57 acres of land with improvements thereon located within the Fort Ruger Military Reservation, Hawaii, upon the following conditions: (1) the State shall convey or provide for the conveyance to the United States of approximately 259 acres of land located adjacent to the Tripler Army Hospital Reservation; (2) such lands are to be acceptable to the Secretary as replacement family housing sites for Fort Shafter-Tripler Army Hospital area; (3) the State shall at its sole expense provide site preparation on the replacement lands which, as determined by the Secretary, shall equal in cost the difference in value between the land conveyed to the State and that conveyed to the United States; (4) plans and specifications for site preparation are to be approved by the Secretary; (5) exact acreages and descriptions to be determined by accurate surveys as mutually agreed upon; and (6) the Secretary may include such other terms he deems in the public interest. The bill further provides that the lands conveyed to the United States shall become a part of the Tripler Army Hospital Reservation; and also that the cost of site preparation by the State shall not be considered in arriving at the average cost of family housing units which may later be constructed thereon.

## EXPLANATION OF THE BILL

The Fort Ruger Military Reservation is located in the east sector of Honolulu on the north outer slopes of Diamond Head Crater. It was originally established in 1906 on 705.47 acres of ceded lands and 49.73 acres of land acquired in fee. Over the years the acreage has been reduced and the boundaries readjusted. The reservation currently consists of six noncontiguous parcels of land aggregating a total of 80.02 acres, of which three parcels totaling 27.98 acres are ceded lands and three parcels totaling 52.04 acres were acquired at a cost of \$71,599. In addition there are lesser interests in a total of 7.64 acres of land acquired without cost for utility line rights-of-way. The improvements on the reservation include administration, storage, housing and recreational facilities, and miscellaneous appurtenances and utilities, constructed at a total cost of \$1,325,600. Prior to and throughout World War II, the reservation was intensively developed and utilized for various military purposes. Thereafter, Army activities were greatly reduced and the installation is now used primarily for military housing. Prior to receipt of subject legislative proposal, this Department planned to construct 234 units of military housing at Fort Ruger as tentatively authorized for fiscal year 1971.

The State of Hawaii desires to acquire a portion of Fort Ruger lands for the establishment of an integrated medical center, a university medical school and the expansion of facilities of the State-operated Leahi Hospital which occupy lands adjacent to Fort Ruger. In order to offset the continuing military requirements of Fort Ruger for family housing, the State has offered to provide substitute lands comparable in value and utility in exchange for approximately 57 acres of Fort Ruger lands, on terms generally set forth in the bill.

The Fort Ruger lands to be conveyed to the State comprise two separate parcels, one of which contains 51.63 acres of acquired lands and one containing approximately 2.94 acres of ceded lands. Improvements consist of administrative buildings, warehouses, 39 sets of family quarters and supporting facilities. The housing quarters, by reason of age and condition, are planned for demolition upon authorization of the family housing construction program. Preliminary estimates place a current value on the lands and improvements at between \$4,500,000 and \$5 million.

The 259-acre tract of land to be conveyed to the Government is situated on the Koolau Mountain ridge contiguous to the northeast boundary of the Tripler Army Hospital. It is owned by the S. M. Damon Trust Estate which tentatively has agreed to sell the same to the State for reconveyance to the Government. This tract is raw undeveloped land of uneven terrain with a value estimate in the range of \$1 million. By reason of the topography only about 180 acres appear economically feasible of development. To render the replacement lands comparable to the Fort Ruger lands as to utility for housing, the State proposes to perform at its sole expense necessary site preparation, such as clearing, grading, access roads, and utilities under specifications approved by the Army. The cost to be expended for site preparation is to reflect the difference in value between the property to be conveyed to the Government and the property to be conveyed to the State. Final determination will be based on detailed fair market value appraisals of both properties as mutually agreed upon.

Detailed terms and conditions relating to surveys, descriptions, acreage, possession and use of structures, and related matters will be developed by an agreement between the Army and the State. In this connection, it is understood that State legislation has been enacted authorizing the proposed exchange and necessary funds.

## ADDITIONAL FACTORS

While the Fort Ruger lands are essential to current programs, it is considered that the States proposal would afford far greater benefits with respect to the overall military housing program in the Fort Shafter-Tripler area, that is (1) the Army would gain 125 acres more of potential housing sites providing support for 900 housing units; (2) the location adjacent to Tripler Hospital allows for more efficient and economic maintenance and support service; and (3) it provides better future consolidation of future housing requirements. Based on these benefits and on the premise that this exchange will be accomplished at no cost to the Government, the Department of the Army can make available 54.57 acres for conveyance to the State.

## FISCAL DATA

Enactment of this legislation will have no material effect on the budgetary requirements of the Department of Defense.

## CONVEYANCE OF CERTAIN LANDS AT CRAWFORD URBAN RENEWAL PROJECT, PORTSMOUTH, VA.

The bill (H.R. 14373) to authorize the Secretary of the Navy to convey to the city of Portsmouth, State of Virginia, certain lands situated within the Crawford urban renewal project (Va-53) in the city of Portsmouth, in exchange for certain lands situated within the proposed Southside neighborhood development project was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1239), explaining the purposes of the measure.

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

## PURPOSE OF THE BILL

The purpose of this bill is to authorize the Secretary of the Navy to effect an exchange of lands with the city of Portsmouth, Va. Under such exchange the Secretary of the Navy, or his designee, would convey to the city the improved 0.918 acre parcel of Navy land particularly described in section 1 of the bill. In consideration of such conveyance, the city of Portsmouth would be required to convey to the Government lands presently unidentified and described only as "situated within the proposed southside neighborhood development project located in the city," together with improvements thereon or to be constructed thereon, all of which shall be acceptable to the Secretary of the Navy, in addition to such interests in other lands as might be necessary to protect the Government's interests in connection with the exchange.

Senator Spong of Virginia introduced a similar bill in the Senate.

## BACKGROUND OF THE BILL

Crawford Street in Portsmouth, Va., presently dead ends at an old USO building located on the Government-owned property proposed to be conveyed by the Navy to the city. The city of Portsmouth desires to extend Crawford Street through the Navy tract to provide improved access to the urban renewal project (Va-53) referred to in the bill. It is contemplated that the city, in exchange for the Government-owned property, would convey certain land in the area to the United States together with such buildings thereon or to be constructed thereon as are acceptable to the Secretary of the Navy. While certain real property exchanges may be accomplished under the authority of section 203(c) of the

Federal Property and Administrative Services Act, as amended (40 U.S.C. 484(c)), this statutory authority is not utilized to effect exchanges for buildings to be constructed for Government use. In this instance, it appears that buildings may be constructed on the land by the city for conveyance to the United States as a part of the exchange transaction. Such an exchange would not be appropriate under existing statutory authority.

The bill specifically provides the property conveyed to the United States shall be of no less value, as determined by the Secretary of the Navy or his designee, than the property conveyed to the city of Portsmouth.

## FISCAL DATA

Enactment of this measure will not involve the expenditure of any Federal funds.

## AMENDMENT OF THE SOLDIERS' AND SAILORS' CIVIL RELIEF ACT

The Senate proceeded to consider the bill (S. 3795) to amend the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, in order to extend under certain circumstances the expiration date specified in a power of attorney executed by a member of the Armed Forces who is missing in action or held as a prisoner of war which had been reported from the Committee on Armed Services with an amendment on page 2, line 17, after the word "wife," insert a comma and "or any other person,"; so as to make the bill read:

## S. 3795

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 101(1) of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended (50 App. U.S.C. 511), is amended by striking out "The term 'persons in military service'" and inserting in lieu thereof "The term 'person in the military service', the term 'persons in military service'."*

SEC. 2. The Soldiers' and Sailors' Civil Relief Act of 1940, as amended, is further amended by adding at the end thereof a new section as follows:

"SEC. 701. (a) Notwithstanding any other provision of the law, any power of attorney which—

"(1) was duly executed by a person in the military service who is listed as missing in action or as a prisoner of war by the Secretary of the military service of which such person is a member,

"(2) designates such person's wife, or any other person, as his attorney in fact for certain specified purposes or for any and all purposes, and

"(3) contains an expiration date which occurs subsequent to such person being listed as missing in action or a prisoner of war by the Secretary of the military service of which such person is a member, and which occurred prior to the date of enactment of this section or one which occurs subsequent to the date of enactment of this section,

shall be automatically extended for the entire period of time that such person is listed as missing in action or a prisoner of war by the Secretary of the military service of which such person is a member. Any power of attorney extended by the provisions of this section shall have the same validity and legality for all purposes in the same manner and to the same extent as if the expiration date specified therein had not occurred.

"(b) No power of attorney executed subsequent to the date of enactment of this section by any person in the military service shall be extended by virtue of the provisions of subsection (a) if the terms of such document, on its face, clearly indicate that the power granted by such document is to expire

on the date specified therein regardless of whether such person, subsequent to the date of execution of such document, is reported missing in action or a prisoner of war.

"(c) The provisions of this section shall apply only in the case of persons in military service who executed powers of attorney during the Vietnam era (as defined in section 101(29) of title 38, United States Code).

"(d) As used in this section, the term 'prisoner of war' includes being forcibly detained or interned by a foreign government or power."

The amendment was agreed to.

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

The preamble was agreed to as follows:

Whereas it is declared to be a policy of the United States Government to assist those members of the military service, and their families, who are listed as missing in action or prisoners of war as a result of the Vietnam conflict; and

Whereas the indeterminable status concerning the ultimate fate of those men so listed as missing in action or prisoners of war has created problems concerning their legal status in management of their personal affairs: Now, therefore,

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1240), explaining the purposes of the measure.

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

#### PURPOSE

As stated in the title, the purpose of the bill as amended seeks to amend existing law to extend under certain circumstances the expiration date in a power of attorney which had been executed by a member of the armed services who is either missing in action or is held as a prisoner of war. The bill is designed to enable the wife or any other person designated as attorney in fact for the serviceman in a missing status, to continue to manage the private affairs for the family or for the services.

#### EXPLANATION OF AMENDMENT

The bill as proposed would limit the extension of the applicability of the proposal to powers of attorney granted to the wife of the service member who is in a missing status. Since such members may have granted powers of attorney to other than a wife, both the Department of Defense and the committee believe it should be applicable to any person who is a designee on the power of attorney. This would permit that person to continue to act on behalf of the missing member, within the limits of the authority prescribed in the power of attorney.

#### EXPLANATION OF BILL

As stated in the whereas clauses, it is the policy of the U.S. Government to assist the families of military service personnel who are either listed as missing in action or prisoners of war as a result of the Vietnam conflict. The bill seeks to alleviate the problems created by long absences and indeterminable status of those members in the management of their personal affairs.

Many of these service members sign powers of attorney authorizing designees to act for them in the management of property and other business matters during their absences. In many instances these powers of attorney have expired during the period of time these servicemen have been listed in a missing status. Because of this, wives, relatives, and others have been unable to conduct routine personal business transactions.

The bill seeks to extend those powers of

attorney that have expired or would expire during the period that a service man is in a missing status.

Mr. MANSFIELD. Mr. President, that completes the call of the calendar.

#### ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, with a time limitation of 3 minutes therein.

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

#### WAIVER OF THE CALL OF THE CALENDAR UNDER RULE VIII

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

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

#### COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, in accordance with the usual request which has been granted, I ask unanimous consent that the committees may be permitted to sit during the morning hour for the conduct of business.

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

#### ORDER OF BUSINESS

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

The PRESIDENT pro tempore. 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 PRESIDING OFFICER (Mr. SPONG). Without objection, it is so ordered.

#### COMMITTEE MEETING DURING SENATE SESSION—OBJECTION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on the District of Columbia, the Subcommittee on Public Lands of the Committee on Interior and Insular Affairs, and the Committee on Government Operations be authorized to sit during the session of the Senate today.

Mr. BAYH. Mr. President, the Senator from Indiana has made his position very clear. He is very reluctant to object because of the resulting inconvenience to his colleagues. But he is most anxious to show what is actually going on.

Thus, the Senator from Indiana feels that he has no alternative, despite his admiration for his majority leader, and must object.

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. 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.

#### REPORT OF THE PRESIDENT'S COMMISSION ON CAMPUS UNREST

Mr. BYRD of West Virginia. Mr. President, the President's Commission on Campus Unrest, like the mountain in the fable, has labored and brought forth a mouse.

The broad generalizations in the recommendation made by the Commission are little more than recapitulations of every ultraliberal cliché that has grown up around the subject, and the proposition that the President of the United States bears the primary responsibility for restoring peace in our colleges and universities is preposterous.

The report's condemnation of campus violence is perfunctory, a pro forma nod in the direction of reality. It is little more than the kind of lipservice to law and order that suddenly seems to have become fashionable on the part of many who up to now have sought to explain and excuse the campus disorders.

There is, of course, some sound material in the recommendations; for example, "When criminal violence occurs on the campus, university officials should promptly call for the assistance of law enforcement agencies." I could not agree more.

But the central thrust of the recommendations that it is up to the White House to "bring us together before more lives are lost and more property destroyed and more universities disrupted" by "taking the lead in explaining to the American people the underlying causes of campus unrest," and by such things as calling a "series of national meetings designed to foster understanding among those who are now divided" is unfair and an over-simplification of a very complex problem.

That is not to say that the President cannot help in the situation that has developed. But to attempt to make him the central figure in a situation he did not create, and which was allowed to get out of hand long before he even took office, is to take the problem out of its proper context.

To attempt to make the President responsible for straightening out the mess in our colleges and universities seems to me incredibly naive.

This is a disappointing report. What should have been a strong statement on the side of a lawful and orderly society is a namby-pamby document, indeed. In my judgment, the Commission failed miserably in what should have been a major part of its task: to come to grips with the problem of what to do about Marxist-oriented professors and the hard-core subversive leaders of campus disorders. Something more than a polite slap on the wrist is urgently needed to deal with those who have instigated and fomented the revolutionary upheaval.

Mr. GRIFFIN. Mr. President, I ask

unanimous consent that, following the remarks by the distinguished Senator from West Virginia, a letter dated September 21, 1970, entitled "An Open Letter to College Students," from John Edgar Hoover, Director of the Federal Bureau of Investigation of the U.S. Department of Justice be printed in the RECORD.

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

U.S. DEPARTMENT OF JUSTICE,  
FEDERAL BUREAU OF INVESTIGATION,  
Washington, D.C., September 21, 1970.

AN OPEN LETTER TO COLLEGE STUDENTS FROM  
JOHN EDGAR HOOVER

As a 1970 college student, you belong to the best educated, most sophisticated, most poised generation in our history.

The vast majority of you, I am convinced, sincerely love America and want to make it a better country.

You do have ideas of your own—and that's good. You see things wrong in our society which we adults perhaps have minimized or overlooked. You are outspoken and frank and hate hypocrisy. That is good too.

There's nothing wrong with student dissent or student demands for changes in society or the display of student unhappiness over aspects of our national policy. Student opinion is a legitimate aspect of public opinion in our society.

(This open letter to college students from Director Hoover pinpoints eight ploys used by radical extremists in their efforts to steer justifiable campus protest into violent and destructive channels. It was furnished to United Press International on 9-21-70 and is reprinted with permission.)

But there is real ground for concern about the extremism which led to violence, lawlessness, and disrespect for the rights of others on many college campuses during the past year.

The extremists are a small minority of students and faculty members who have lost faith in America. They ridicule the flag, poke fun at American institutions, seek to destroy our society. They are not interested in genuine reform. They take advantage of the tensions, strife, and often legitimate frustrations of students to promote campus chaos. They have no rational, intelligent plan of the future either for the university or the Nation.

The extremists are of wide variety: adherents of the Students for a Democratic Society (SDS) including the Weatherman; members of the Young Socialist Alliance (YSA), the Trotskyist youth group; the Communist Party's Young Workers Liberation League (YWLL). Or they may be associated with the Student Mobilization Committee to End the War in Vietnam (SMC), a Trotskyist-dominated antiwar group.

Many are not associated with any national group. The key point is not so much the identification of extremists but learning to recognize and understand the mentality of extremism which believes in violence and destruction.

Based on our experience in the FBI, here are some of the ways in which extremists will try to lure you into their activities:

1. They'll encourage you to lose respect for your parents and the older generation. This will be one of their first attacks, trying to cut you off from home. You'll hear much about the "failures" and "hypocrisy" of your parents and their friends. The older generation has made mistakes but your parents and millions of other adults worked hard, built, sacrificed, and suffered to make America what it is today. It is their country too. You may disagree with them, but don't discredit their contributions.

2. They'll try to convert you to the idea that your college is "irrelevant" and a "tool of the Establishment." The attack against the college administration often is bitter, arrogant and unreasoning. SDSers, for example, have sought to disrupt the colleges by demanding the right to select professors, determine the curriculum, and set grading standards.

3. They'll ask you to abandon your basic common sense. Campus extremism thrives on specious generalizations, wild accusations, and unverified allegations. Complex issues of state are wrapped in slogans and clichés. Dogmatic statements are issued as if they were the final truth. You should carefully examine the facts. Don't blindly follow courses of action suggested by extremists. Don't get involved in a cause just because it seems "fashionable" or the "thing to do." Rational discussion and rational analysis are needed more than ever before.

4. They'll try to envelop you in a mood of negativism, pessimism, and alienation toward yourself, your school, your Nation. This is one of the most insidious of New Left poisons. SDS and its allies judge America exclusively from its flaws. They see nothing good, positive, and constructive. This leads to a philosophy of bitterness, defeatism, and rancor. I would like you to know your country more intimately. I would want you to look for the deeper unifying forces in America, the moods of national character, determination, and sacrifice which are working to correct these flaws. The real strength of our Nation is the power of morality, decency, and conscience which rights the wrong, corrects error, and works for equal opportunity under the law.

5. They'll encourage you to disrespect the law and hate the law enforcement officer. Most college students have good friends who are police officers. You know that when extremists call the police "pigs" they are wrong. The officer protects your rights, lives, and property. He is your friend and he needs your support.

6. They'll tell you that any action is honorable and right if it's "sincere" or "idealistic" in motivation. Here is one of the most seductive of New Left appeals—that if an arsonist's or anarchist's heart is in the right place, if he feels he is doing something for "humanity" or a "higher cause," then his act, even if illegal, is justifiable. Remember that acts have consequences. The alleged sincerity of the perpetrator does not absolve him from responsibility. His acts may affect the rights, lives, and property of others. Just being a student or being on campus does not automatically confer immunity or grant license to violate the law. Just because you don't like a law doesn't mean you can violate it with impunity.

7. They'll ask you to believe that you, as a student and citizen, are powerless by democratic means to effect change in our society. Remember the books on American history you have read. They tell the story of the creative self-renewal of this Nation through change. Public opinion time after time has brought new policies, goals, and methods. The individual is not helpless or caught in "bureaucracy" as these extremists claim.

8. They'll encourage you to hurl bricks and stones instead of logical argument at those who disagree with your views. I remember an old saying: "He who strikes the first blow has run out of ideas." Violence is as ancient as the cave man; as up-to-date as the Weatherman. Death and injury, fear, distrust, animosity, polarization, counter-violence—these arise from violence. The very use of violence shows the paucity of rational thought in the SDS, its inability to come up with any intelligent critique of our society.

Personally, I don't think the outlook for campus unrest this year is as bleak as some prophets of pessimism proclaim. The situa-

tion at some colleges is serious, but certainly not hopeless.

Along with millions of other adults, I'm betting on the vast majority of students who remain fair-minded, tolerant, inquisitive, but also firm about certain basic principles of human dignity, respect for the rights of others, and a willingness to learn. I am confident our faith has not been misplaced.

#### ORDER OF BUSINESS

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

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

#### CONDITIONS IN GREECE

Mr. FULBRIGHT. Mr. President, on August 10, I brought to the attention of the Senate a most perceptive account of present conditions in Greece written by Sir Hugh Greene, the former director of the British Broadcasting Co. The article reported an exclusive interview which Sir Hugh had conducted with the head of the Greek junta, Mr. George Papadopoulos. As I told the Senate at the time, I found Sir Hugh's interpretation of Mr. Papadopoulos' remarks and his additional observations of conditions in Greece most illuminating but profoundly disturbing.

On August 24, I received a letter from Mr. P. Chrissicopoulos, "Acting Director of the Press Office" on the letterhead of the "Royal Greek Embassy." The purpose of Mr. Chrissicopoulos' letter was to transmit the "full text" of Prime Minister Papadopoulos' interview with Sir Hugh Greene and to request that, "in the interest of factual reporting," it be inserted in the RECORD.

I am most pleased to comply with this request and I ask unanimous consent that both the letter and the official version of the interview be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. FULBRIGHT. Mr. President, a reading of the official text supplied by the "Royal Greek Embassy," confirms the accuracy of Sir Hugh's reporting. In those instances where direct quotations appeared in the article they correspond quite closely to the official text, making allowances, of course, for the usual variations in translation. There are no discrepancies in substantive content.

The accuracy of Sir Hugh's reporting having thus been confirmed, there remains the question of the interpretations which should be placed upon Mr. Papadopoulos' remarks. As Sir Hugh noted, there was indeed a certain lack of clarity in the language used by Mr. Papadopoulos. Having now had the benefit of reading the official text, however, I fully agree with Sir Hugh's interpretations and with his conclusion that the interview revealed a dictator "dropping the mask."

## EXHIBIT 1

ROYAL GREEK EMBASSY,

Washington, D.C., August 20, 1970.

Hon. J. WILLIAM FULBRIGHT,  
Senate Office Building,  
Washington, D.C.

DEAR SENATOR FULBRIGHT: The Congressional Record for August 10, 1970, contained Sir Hugh Greene's account of an interview granted by Prime Minister Papadopoulos, the account being published in the London Sunday Telegraph of August 2, 1970.

In the interest of factual reporting, I would be grateful to you if you would insert into the Congressional Record the enclosed full text of the Prime Minister's interview.

Very truly yours,

P. CHRISICOPOULOS,

Acting Director of the Press Office.

FULL TEXT OF PRIME MINISTER'S INTERVIEW  
WITH SIR HUGH GREENE

The General Direction of Press and Information announced on Saturday that because the special correspondent of the *SUNDAY TELEGRAPH* Sir Hugh Greene, who was granted an interview by Prime Minister Mr. George Papadopoulos, had interposed his own comments, subjective critiques and arbitrary conclusions, changing the meaning of the Prime Minister's replies, the full text of the interview was being released by publication.

Opening the interview Sir Greene thanked the Prime Minister for his kindness in granting the interview. "I realise," he said "how valuable your time is, especially now that you have assumed the Foreign Ministry. On the occasion, I express my sympathy on the death of Mr. P. Pipinellis. Mr. Pipinellis was known in England as the man whose efforts during the 1967 Cyprus crisis led to by passing the tension and helped to improve relations between Turkey, Greece and the Cypriot people."

"Therefore it is natural that interest has been demonstrated in whether there will be any change of policy on the Cyprus issue."

Answer. In both speeches which I made on assuming my new duties as Minister of Foreign Affairs, I clarified absolutely that not only would there be no change whatsoever in the foreign policy of the Government, both in its general lines and in matters of special interest, but that I shall consider the continuation, as close as possible, of the policy followed by the memorable Mr. Pipinellis as a success. And, after all, that is one of the reasons why I considered it necessary to assume the responsibilities of that Ministry personally.

Question. I would like to submit certain questions on the internal affairs of the country, which are provoking special interest abroad. For example, the Prime Minister, in one of his past statements, characterised the Government as temporary. My question is whether he continues to consider it temporary today.

Answer. The final purpose of the Government is to secure for the Nation the prerequisites which are necessary for the functioning of the State in accordance with the Constitution of 1968. Under this meaning, the present special form of Government is temporary.

Question. Is the aim to lead the country to a parliamentary form of democracy?

Answer. Undoubtedly, that is the aim.

Question. Are you following a steady plan towards a parliamentary form of government?

Answer. Actually such a plan is being followed concerning the gradually developing stages of the course. However, concerning the time duration of each stage, the government, perhaps, could not stick to a pre-designated scheduled or pre-dated course, because those factors creating the prereq-

uisites which are necessary for the functioning of the 1968 Constitution are many and varied; consequently, the duration of each stage will depend on events.

Question. Which are those factors?

Answer. I have reported them in detail many times in the past. I realize, however, the wish of Mr. Greene for a new, brief enumeration of them so that he can have a full picture of the situation and the problems being confronted. Thanks to his long and distinguished career as a journalist and specialist in public affairs, Mr. Greene knows surely already that, during the pre-revolutionary years, democracy in Greece was in danger, not from immediate action by communists, but from the existence of weak areas in society which made it easy prey for communist subversion.

These weak areas were:

(1) The retarded economic development of the country.

(2) The unacceptable delay of social services and their inability to give the citizens the necessary assistance or to contribute to the improvement of living conditions.

(3) The lack of the necessary infrastructure for rapid economic and social development.

(4) The bad conditions of education which, as is known, greatly influences all other sectors of the life of a nation and,

(5) The inadequacy of administration and of the state machinery in general.

These are the sectors on which the government now concentrates all its efforts so that it can create the basic prerequisites which would allow the country the luxury of a representative form of government without undergoing the dangers which existed in 1967. Only then could the nation have a fully democratic system of government without being the target of party contest.

Question. Under these conditions, how does the Prime Minister view the appearance of new men and new political parties in the electoral struggle which shall lead the country to a parliamentary government?

Answer. It is certainly self-understood that when the necessary conditions have been created the field will be left free to all those who consider themselves suitable to devote their energies to public life and to offer their abilities to the country. They shall have the opportunity to measure their strength in elections as members of the political opposition or of the governmental party, and to assume their places in the legislative or executive authority.

Question. I would like to ask if the Prime Minister would present himself as head of a political party. Also if he considers the lack of support from any party machine as a weakness of his government.

Answer. To the first part of the question, the reply is that I have devoted myself to the struggle for the achievement of basic targets, that is, the acquisition of the possibility for the nation to proceed to elections in safety, tranquility and peace. I am working so that it will be possible for others to govern the country, without the threat which was created previously by the existence of the aforementioned weaknesses. The only thing I can hope for is that I will offer satisfactorily the services which are required to cure the nation's needs and to guide it to a point where the functioning of a democratic system, as described in the 1968 constitution, will be possible. I hope that it will not be necessary for me to continue to govern the country in the new role of a political Prime Minister. I hope that, at that time, I shall be in a position to leave, the governing of the land to others, with the conviction that they shall believe in the same basic truths of democracy. With one word I can say the following:

My future activity in the political sector

will depend on the strength which will be left in me to continue and on the needs of the nation. Personally, despite all this I believe that there shall be no need for such continuation.

Concerning the second part of the question, indeed, the lack of a political party machine behind the present government constitutes a weakness from one side. But, if one takes into consideration the fact that one of the basic efforts of the government aims at bypassing those political passions which had arrived at a frenzy during the 20-year pre-revolutionary period, then it shall become absolutely clear that the loss suffered from the lack of a political party machine is much smaller than the damage which would have followed if the country had been left to the prey of political passions.

Question. Does the Prime Minister consider the indefinite maintenance of martial law during the duration of this transitory period necessary?

Answer. I believe that martial law or, more correctly, the shadow of it which has remained will not be maintained much longer. My intention is to lift it at the soonest possible date. I will be the happiest man on earth on that day, which I hope will be soon.

Question. I would like to note that, since there is only a shadow of martial law, its lifting would not bring about any essential change in the task of the government.

Answer. Indeed, that is how things stand, and there is a possibility for one to wonder why is this shadow still necessary and preserved. Its necessity is due to purely psychological reasons. The spirit of anarchy that has created the political tensions was so strong, that its control, by this shadow of martial law, was necessary. This shadow is more effective than an entire system of laws.

Question. On the subject of the political detainees in Greece: The recent leniency towards Theodorakis impressed public opinion greatly. Is there hope for such a leniency by the Prime Minister to other political detainees?

Answer. Time will tell. Personally, I wish to be freed from this matter of political detainees as soon as possible.

Question. I heard, Mr. Prime Minister, that you study Greek philosophy and that your political beliefs are based on the theories of Polybius and Plato's Criton. According to the theories of Polybius, political life moves within a circle which begins with autocratic regimes and, through successive stages, ends in anarchy, to return again to autocracy and a new circle begins.

Answer. Firstly, I believe that the classical Greek philosophers, and the study of history, exercise indeed a great influence on the formation of a man's ideals, independently of the sector of his interests. My concepts are not based on these two classical Greek intellectuals only. Undoubtedly, both Polybius and Plato exercised a significant influence on the formation of my personal concepts and beliefs. The views of Polybius on political matters are indeed excellent. The inquisitive mind of Plato, on the other hand, examined social and philosophical subjects in such a way as to render an invaluable contribution to the development of the human mind. However, their ideas are not the only basis for the formation of many personal concepts and beliefs. The study of the history of humanity from the days of Polybius and Plato through today, my personal experiences, the truths concluded from the study of history and the observation of current events also contributed.

Question. Would it be possible for you, Mr. Prime Minister, to say a few more words on your political ideals and especially if you believe that the democratic system is more preferable than the autocratic one?

Answer. I, indeed, believe that the democratic system is the safest, when it offers the

people the most satisfactory conditions of justice, freedom, security and human dignity. However, those who are elected by the majority of the people and whose mission is to carry out, to the letter, the mandate of the people and rule in accordance with democratic principles, should be imbued by a deep sense of responsibility and also be inspired by the ideals with which they are identified. Only then is the democratic system applied. Otherwise, it is not applied, when the only motive of the representatives of the people is their re-election.

Question. Perhaps the Prime Minister has an explanation for the non-satisfactory character of those who exercised power according to the Greek History.

Answer. This subject could keep us talking for hours, and because I am pressed for time I will try to give a brief résumé of my views, even if it is not satisfactory for either of us.

The phenomenon is, in part, due to an organic weakness of the mentality of the Greek people acquired, as a result of the long duration of tortures during foreign occupations.

It is also due to a weakness of organization, caused by an attempt to imitate democratic slogans as they are applied in other countries under entirely different conditions not adapted to our own conditions. For example, Greece today is able to apply a Constitution similar to the British one, but this was impossible for her before fifty, thirty or even twenty years.

Question. The final question is whether the suspension of the delivery of arms raises difficulties in any way for the Greek Government, or weakens its position, and whether the lifting of the subject suspension is expected soon.

Answer. I always try to see things in the most realistic manner. The present situation may be compared with that of a man who tries to safeguard his area from an enemy. If he considers it clever to supply the guard with one weapon so that he may better guard his own home, as well as the entire area, then he should give the guard a strong weapon. If the guard has no weapon, he will try to defend both the house and the area in the best possible way, but, of course, in this case the chances for the success of his mission have decreased. Certain of our allies think that they can exercise pressure on us by refusing to supply us with the necessary arms. We will find as many arms as we can to defend our small house.

We will probably fall fighting because of lack of the necessary weapons. If our allies consider supplying us with weapons as clever, so that we may be able to face the common enemy more effectively and make our small house the vanguard of the free world, then they strengthen their own defence as well. If not, then they themselves will suffer from the consequences. But what really is of interest is the following: Military aid is not an essential factor in the continuation and fulfillment of the task the Revolution undertook. Consequently, the suspension of arms supplies does not exercise pressure on the Government nor hinders its work and progress.

It is interesting to mention that, during World War II, when Greece was Britain's only active ally and fought against the enemy armies, giving England time to breathe and be strengthened, she did it with arms she had received from Germany before the war began. This, of course, does not mean that Greece will now be supplied with Russian arms, because presently she can receive all kinds of arms if she pays for them, from any ally, and it is certain that Britain will be the first to accept the exchange.

Sir Greene then thanked the Prime Minister for his kindness in giving him so much of his time.

### THE SIMPLE PLEASURES

Mr. FULBRIGHT. Mr. President, with wars, hijackings, protests, riots, forest fires, and the antics of prominent public figures occupying so much of the press and television, it is a relief to find that there is someone who has not lost his perspective.

John Park Cravens is a valued constituent of mine who lives in Russellville, Ark. His wisdom is attested to by a recent letter he wrote to the editor of the Northwest Arkansas Times. I ask unanimous consent that his letter to the editor may be printed in the RECORD.

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

#### THE SIMPLE PLEASURES

To the Editor:

I care not for the roar of the traffic, the blare of horns and screech of brakes; the sound of sirens, whistles, engines, jackhammers, and the smells of pollutions of the city.

Give me the average countryside home where I can sit by the side of the road and under a tree, and rest and relax as gentle breezes bring inspiring sounds to my ears like the calls of field larks, doves, raincrows, and especially the mocking bird. I breathe pure air, and the fragrance of wild flowers, and fresh plowed ground.

And how dear to me to hear church bells ringing in the valleys; the ripple of a brook; the sounds of a gentle waterfall; the fountaining of a fish in a pond; the low of cattle; the barking of a pack of dogs chasing a fox a mile away. It is wonderful. These things are so soothing to my heart, mind and soul, and they are true and Godly heritages. Such are the true heritages of millions that need to be protected by laws of our Great Land.

JOHN PARK CRAVENS.

RUSSELLVILLE.

### THE WEST AS VIEWED BY THE EAST

Mr. FULBRIGHT. Mr. President, an article entitled "The East Thinks West Is Filthy," written by Dennis Bloodworth, was published in the Washington Post on September 20.

The article is an excellent analysis of some of the most significant characteristics of the Asian people with whom we are so deeply and tragically involved at the present time. The article, incidentally, presents some very cogent reasons why our efforts to assist Asians, as we have done and are doing, is not likely to be very rewarding. I believe that this article is worthy of the attention of Members of the Senate and I ask unanimous consent that it be printed in the RECORD.

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

#### THE EAST THINKS WEST IS FILTHY

(By Dennis Bloodworth)

"You cannot possibly understand us," Asians have told me woundingly, "but with us it is different. We know you Europeans only too well." This is frequently a ludicrously unjustified boast.

Asia is an insanitary continent, reeking of ineradicable dirt and poverty but famous for its laundering and inhabited by different peoples who wash thoroughly before getting into a hot bath, or who bathe in running streams, dance under a shower (if in public, fully clothed) or throw bucketfuls of water over themselves from great vats or jars.

To them, the white man is disgusting, for he sits in a tub of water and rinses himself in his own filth. As to left-handed cleansing operations, the Chinese used paper before the West but preferred goosefeathers in the heyday of the hedonists, and many Orientals claim that water, sand or even stones are more hygienic.

#### MISUNDERSTOOD MORALS

If the Westerner is unclean, he is also ugly, and his customs sometimes take much explaining away. American soldiers are no more brutal or licentious than others, but when they are unleashed in Taipei or Bangkok or Tokyo for five days of leave from the Vietcong, they are quite naturally less concerned with national manners than country matters, and since the evil that men do lives after them, by 1968 they had fathered more than 2,000 "red-haired" Thais alone.

It is useless to protest that while the Americans were increasing the mixed population of Thailand, the Thai "Queen Cobra" regiment was doing the same in Vietnam at the average rate of one baby for every 13 men, or that in a given year, seven unlucky Americans out of 10 in some outfits had caught the "Vietnam rose" (which, by any other name, may be identified as a particularly stubborn form of gonorrhoea).

Asian prejudices have been hardened by scenes of public necking and drunkenness and brawling, and by the insults offered to their wives by white men for whom every pretty girl is a prostitute. Even the best-behaved American serviceman, walking sedately down a Bangkok street arm in arm with some charming little piece, is a shameless *farang* who fans hidden fires of cultural indignation. For, strictly speaking, it is impermissible there for boy to touch girl in public.

The vices of the inventive white, yesterday damned for poisoning the wells of wise living in the Orient, are adopted by Asian governments today—provided they show a profit. The anticolonial urge to fulminate against the foreigner as if he were the sole originator of all pot, sex, booze and gambling is giving way gently to a tacit admission that he is not the only man who is vile, after all. But there is still much room for misunderstanding.

Like most of his Asian neighbors, the Lao lacks the Christian's sense of guilt. In his philosophy, man did not first come on stage against the setting of the Garden of Eden to perform Act One, Sin One, for to him good and evil are inseparable. In consequence, as long as man's actions are not motivated by a possessive urge, he may accept all opposites—the pleasure that is defined by pain as well as the pain that is defined by pleasure.

This is the middle way between the guru and the gourmand. The Lord Buddha himself condemned excessive asceticism. The enlightenment which eluded him for six long years of self-denial and meditation embraced him finally after he had disgusted five fellow sages by eating a square meal and taking a bath. That inspired the outlook which gives millions of Asians their sense of perspective today.

But, as at least one devout Lao commentator has plaintively remarked, Buddhism can easily become the doctrine of lethargy and self-indulgence. If to reason is to destroy the true vision of the cosmos, don't think. If to strive is to bind yourself to this deplorable world of illusion, then don't strive. Moreover, as all Buddhists wish to "gain merit" by performing charitable acts, and so edge nearer to Nirvana, it may be kinder to take than to give.

The Buddhist bonze (monk) who holds out his begging bowl to the Thai housewife and lets her fill it with food is doing her a favor, for she is gaining merit. The pagodas bless the community by allowing themselves to be showered with candles and flowers and fruit and children. How many times Western-

ers have embarrassed or bewildered Asians by thrusting things upon them and expecting gratitude in return it is hideous to contemplate.

Asian leaders who have taken the dollar aid and damned Washington afterward have also assumed that in the unsentimental commerce of international relations, the donor in any case gives because he needs the recipient. The recipient, therefore, renders service twice over.

#### TOO OLD TO SIN

The Orient produces its own fine strain of hypocrisy, however, and while the Moslems and Buddhists of Southeast Asia may remain strictly loyal to their faiths, they will argue that to cut corners is to take the straightest path.

"Fish?" an old peasant in Thailand echoed, grinning toothlessly. "No, I don't fish. I am old and will die soon. Why should I risk losing merit by killing living creatures? I leave fishing to my son. He's still young."

In Malaya, Chinese Buddhists will happily eat the bird that has been decapitated out of sight by some other unfortunate. In Burma, the rule that monks may not touch money was sidestepped long ago when the people began giving the bonzes cylinders of silver coins contained in long nets. The Theravada Buddhist usually wears his hair shirt open at the neck, as it were.

The legend of laziness in Southeast Asia must be examined, like all its legends, for its inner meaning. It is quite unjust to imagine that Oriental idleness is the same as that of the Western worker who slacks on the job while the foreman has his back turned. The white man is a thief who steals paid time, but the indolent Asian would rather have the time than the money. Slowness and the siesta are his secrets of survival in the steamy tropics, and his philosophy leaves him with simple demands.

Buddhism has taught the Lao that he must cast off ambition, that nothing fails like success, and this suits him down to the ground. When provided by solicitous Americans with new strains of seeds that would double his rice crop, he remarks with pleasure that now he need sow only half his usual acreage.

"What would I do if I worked harder and earned more money?" said a Cambodian farmer when told that he, too, could double his yield. "I don't know. I already have a bicycle and a radio. Get another wife, perhaps?" He is not lazy; he simply declines to lead the life of Reilly or Richard Nixon.

It is not surprising if many Laos look askance at modernization and miracle rice, for instinct tells them correctly what will next come to pass: The bumper crops will demand more fertilizer and insecticides, then more roads and carts and trucks, then more mills and silos, more credits, more consumers at home and buyers abroad, more human involvement. Man should not meddle.

Most Moslems believe that all is decreed in advance, and the Buddhist sees the world of illusion rolling blindly forward beyond his control. Man's illness is terminal from birth, and the patient must accept with mild resignation all the funny and unfunny things that happen to him on his way to the cemetery.

It escapes the attention of self-righteous Asians that racists—whether white, black, brown or yellow—are the same trash under the skin. The prism of color prejudice east of Suez refracts tints more subtle than the black-and-white contrasts of the West, however. For where the white man is resented for his race, he may be envied for his whiteness, and where the black man earns sympathy as the victim of white oppression, he may be despised for his blackness.

The Negro in Asia can find a landlady's door slammed in his face as surely as if he were in Little Rock, and in 1968 a Committee

of the Concerned for Equal Housing was set up to fight discrimination—in Bangkok. The Asians sympathize with the black man's struggle for civil rights in the United States, as long as it stays there.

An Asian country is a land of many hues in which the basic principle of prestige is, the lighter the better. Dark Indians, dark Cambodians, dark Indonesians suffer silently the disdain of their paler compatriots. In Singapore and Malaysia, Eurasians come in all shades from ivory to ebony and yet will make cruel distinctions among themselves, off-white denying his mixed-blood brotherhood with dark-oak.

Many struggle purposefully up the color chart toward an alabaster Nirvana, deliberately seeking wives fairer than themselves so that their children—the next incarnation—will be a shade closer to the ultimate bliss. Moreover, in a multicolored subcontinent, difference of pigmentation sharpens the sense of racial superiority, and as the tide of Western colonialism ebbed in Asia, it left exposed the Herrenvolk instincts of those who had been quickest to complain of oppression by their former European masters. And none felt this more promptly than the minority hill tribes.

Shans, Kachins, Karens, Mois, Thais, Meos, Nagas, Sakkais, Papuans, Dyaks, Dusuns, Muruts, Igorots—the minorities straddle the neat national boundaries that others have drawn and ignore the borders that ignore them. And in most cases they have until recently been cheated, bullied and sometimes enslaved by new Asian masters for whom "freedom" is a war cry when used against the West but a dirty word when directed against their own brown or yellow power.

#### THE LEAST TRUSTED

During the war against the Communist terrorists in Malaya, it was the New Zealanders who were filtered into deep jungle to win over the Sakais, the aborigines whom the Communists recruited as farmers, guides and spies, for it had been found that the Kiwis had the knack of winning their confidence and friendship. The Australians were trusted next, then the British, then the Gurkhas. The last on the list were the Malays, the new Asian overlords of the land. But the Malays have been models of magnanimity compared with the Burmese.

Most Burmese live in the lower reaches of the Irrawaddy Valley and its delta; the great uplands in the north and the coastal areas to the south are the domains of big minorities. But when in 1947 the country stood on the threshold of independence from British colonial rule, nearly all of these peoples agreed to join a sovereign Union of Burma governed from Rangoon, provided they enjoyed certain autonomous rights.

Separate Shan, Kachin and Karen states were duly created, each with a minister in the central government and representation in the two houses. The senior Shan ruler, Sao Shwe Taik, became first president of Burma.

Almost in a matter of months, however, the Burmese were showing that they were determined to dominate the entire country—by force if necessary—and militants among the minorities took to the hills in armed rebellion. The Burmese then tossed out the constitutional right of the Shans and Karens to secede, and their trigger-happy troops moved into the mountains, sacking villages and brutally shooting or manhandling the hill people in their homes.

In Thailand, where 300,000 restive Meos live astride the northern border, the government reacted to the depredations of fewer than 200 armed tribesmen in 1968 by ordering air strikes on "suspect" villages and by treating all who did not subsequently come out of the hills to be resettled in the plains as Communists.

The western half of the vast tropical island of New Guinea became the Indonesian province of West Irian in 1963. There were muffled reports of sudden armed uprisings by discontented Papuan natives in this territory which Sukarno had "liberated" from the Dutch. I remember how Lt. Gen. Djatikusomo—Javanese soldier, diplomat, prince—spoke of Indonesia's compassionate task of freeing the oppressed Papuans from their colonial fetters as civilizing the dirty natives "if necessary at the point of the bayonet."

#### ORIENTAL CUISINE

It might be thought that the last citadel of Oriental culture must be the stomach. The Chinese can prepare anything delectably from bird's nest to fish lips. The Laos like chicken stuffed with peanuts and cooked in coconut milk, ants' eggs and placenta from the mother cow. The Thais work wonders with redhot peppers and lemongrass. The Burmese make cocktail snacks out of deep-fried buffalo skin.

The poorer Vietnamese survives on rice and nuoc mam, a vivid sauce made by packing salted fish in a jar and leaving them to rot, and the Korean loves kimchi, three-month-buried pickled vegetables which can give him a breath that takes everyone else's away.

A six-month-long publicity campaign in Singapore to persuade families to change from rice to cheaper wheat converted fewer than one in 50, and for breakfast or tea. But even these tumcoats ate bread, only this stubborn defense of rice is essentially a rear-guard action.

Switch on the television, and Dr. Kildare with Malay subtitles is interrupted by clattering Cantonese voices urging hitherto happy islanders to buy American fruit juice and British baby foods, bottled essence of chicken and extracts of beef, deep-frozen fish fingers and tinned Scotch broth. Children brimming with black currant juice are shown diving into sparkling pools; tired husbands sip their reconstituted mushroom soup and assume slow, lecherous smiles.

The Asian audience is impressed, and eating habits begin to alter. The supermarkets of Singapore, originally opened for white men raised on bottles and cans, paper packets and similar unrewarding fodder, are full of eager yellow and brown faces and hands. As the edibility gap closes, people who thought that one of the most sinister aspects of the Westerner was the way he went on drinking milk long after he should have been weaned now have cream and butter in their own refrigerators at home.

Japan, farthest of all to the East, leads the way toward the West in all things. Japanese are forgetting tea and taking to coffee, and there are about 100,000 coffee houses today in their narrow islands.

The are also forgetting rice and taking to noodles and meat and milk and even cheese. By early 1969, more than 500 rice dealers in Tokyo alone had put up their shutters. The Japanese are beginning to import great quantities of mutton and lamb and beef because the steaks from their own magnificent ale-fed herds can no longer meet domestic demand. But in order to eat gross Western foods, it is necessary to use gross Western methods, and among the white-collar workers of Tokyo, chopsticks are going out and the knife and fork are coming in.

As hallowed by history as corruption, the diligent practice of piracy and smuggling on a grand scale is also part of the pattern of policies in Southeast Asia. Prime Minister Lee Kuan Yew told a slightly surprised reporter in Singapore that perhaps the most useful role the U.S. Seventh Fleet could play after British forces had withdrawn from the area would be to check the growing piracy in the Straits of Malacca.

This occupation, regarded as reprehensible in the squeamish West, had respectable origins in Malayan waters as a form of system-

atic taxation. Henchmen of the local rajahs boarded ships when they sailed into the river estuaries bound for markets upstream and exacted a toll from them. Malacca itself—one-time powerful Venice in fee by forcing ships to put in and pay in coin or cargo for the right to proceed farther, while great war fleets of Moslem rovers, proud of their profession and sanctified by their persecution of the infidel, hovered in wait for them in the South China Sea.

Things are not what they were, and the modern Malay, Thai or Chinese pirates make do with modest enough little squadrons. But they operate in fast launches armed with machine guns or junks fitted with a row of powerful outboard motors, and hijacking smugglers or terrorizing and robbing fishing fleets are routine activities.

In the uneasy waters that lie between Borneo and the Philippines, cut-throat raids on coastal towns are one of the hazards of living. In mid-1968, four boatloads of pirates with high-powered weapons assaulted Basilan City in the southern Philippines and fought a pitched battle with troops and police until helicopters flew in army reinforcements.

Filipino "cigarette boats" skim over the razor-edged coral at 35 to 40 knots, leaving any revenue cutter or armed hijacker to feel its way gingerly around the hazard. Slipping into the small, sun-baked ports of Sabah, the Malaysian state in North Borneo, Filipinos can cram 350 cases each containing 10,000 "blue seal" American cigarettes into one of these, and return safely across the 800 miles of sea to Manila. Their purchases are not illegal in Sabah, and their re-entry into the Philippines is made as smooth as a well-oiled palm.

#### UNLISTED EXPORT

In southeast Asia, impoverished governments resort to many unorthodox ways of raising cash. The principal Laotian export of the past decade is not officially listed.

From the springlike climate of the northern uplands, the Meo tribeswomen trudge down to the markets in the plans to barter their agricultural produce for gold, cloth and salt. And their main cash crop comes from waving fields of *papaver smoniferum*, which may yield 16 pounds of crude opium per acre.

The "smoking saloons" of Southeast Asia range from utility accommodations with wooden benches for trishaw drivers and coolies to plush tourist traps, but ask in any of these where the opium came from and the reply will be, "Yunnan." Yunnan is the mountainous southwestern province of China, but "Yunnan," like "Cognac," has become a loose generic term. It applies to the opium not only of China but of the other countries whose high frontiers converge in the same remote region of tossed hills and lush valleys—the Shan States of Burma, the northern borderlands of Thailand, the western limits of Laos—where the absurdly named "garden poppy" flourishes.

The mule trains and caravans of porters that trek southwest from Yunnan into Burma bring out between 300 and 400 tons of raw opium a year, joining the general trail of poison leading to the Thai frontier region where, in crude "kitchens" in the mountain villages, practiced hands refine much of it into powder with a morphine content of up to 80 per cent.

In northern Thailand, the commerce is organized by remnants of the Nationalist Chinese army which were forced out of Yunnan when Mao's men overran the province in 1950. While Peking and Taipei indulge in mutual mudslinging, the growers of Communist Yunnan and the former diehards of President Chiang Kai-shek cooperate—if at arm's length—in a profitable business venture.

The narcotics seep down in Bangkok and from there out into the world—in the ties

of cars, in sacks of fertilizer, even embedded in the flesh of specially branded cattle. For a long time, an enterprising group of French pilots ran a transport service affectionately known as Air Opium, dropping their cargo at selected points outside Saigon or parachuting it into the Gulf of Thailand to be picked up by waiting ships.

In most countries, the traffic is officially illegal but may nevertheless have powerful protectors. In Laos, military aircraft authorized by the top brass have flown the drug, and in Thailand, marketing is invariably in the hands of men of distinction. Bribes buy blind eyes, and in some parts of the Far East, the arm of the law is more golden than long.

#### THE VERSATILE BOMOH

But if minds and movements in Southeast Asia must be seen through filters that bring out the threads of gold and graft, piracy and *papaver somniferum*, they must also be observed through other influences that color them, from philosophy to superstition. In an ignorant subcontinent, opium is not the only religion of the people.

The Chinese Communists have admitted repeatedly that the supernatural has been among their most stubborn ideological foes. Most people in the East are ignorant, and therefore cling to the habits and superstitions of their venerated ancestors.

Poverty is not the only criterion. A smartly turned-out Lao, sipping his scotch in the bar of the Georges Cinq in Paris, may be wearing several frayed and rather soiled threads of cotton around his wrist in place of the platinum watch one might expect. They keep his 32 souls inside his body and out of mischief.

It was not until 1960 that the first Dyak from the longhouses of Sarawak began to study modern medicine. He had been introduced to this strange science when a visiting English missionary had given him a dose of castor oil seven years before. His regular family doctor had been a bomoh, whose stock remedy was to paint his face and chant ferocious incantations.

The Malay bomoh is a versatile fellow who will undertake to locate missing corpses, drive off ghosts, heal the sick, supply love potions, put spells on a customer's enemy and much else besides. Bomohs have been involved in crimes from confidence tricks to robbing the Treasury, but their real specialty is rape.

In 1969, the Malaysian Education Minister advocated sex lessons in school to protect pupils, because "we have all heard of those bomohs and religious teachers who have been brought to court for molesting girls." One Malaysian medium took away and violated a 15-year-old after telling her mother that he was going to perform a ritual which would remove eight lethal needles hidden in her body, and an 18-year-old wife was ravished on a beach by a bomoh who assured her that this treatment would "cure her husband's stomach ache."

Not all bomohs are bad, however. The magical healers of Indonesia and Malaysia are often careful herbalists who charge no fee for their services. They were, incidentally, the first to use quinine as a cure for malaria. Today, bomohs in the backwoods of central Malaya are being given a smattering of Western medicine and many of them are turning toward antibiotics rather than arrowroot plucked by the light of a gibbous moon.

#### A POTENTIAL WEAPON

Among educated Malaysians to whom Oxford, Cambridge or the Middle Temple are intellectual homes, and whose tastes run to Jaguar cars, the stock market and golf, far more than would care to admit call in the family witch doctor to cure suffering—or sometimes to inflict it on others. Politicians hire bomohs as they hire bodyguards—to protect them against the bomohs of their opponents.

An attempt to liquidate President Suharto of Indonesia in mid-1968 was ascribed to a

witch in the pay of the equivocal ex-Foreign Minister, Dr. Subandrio. Sihanouk consults soothsayers, and so did Sukarno.

Numerology and astrology wield an incalculable influence over public events throughout Southeast Asia, where even house numbers may be chosen for luck rather than location and do not always follow each other consecutively. When Sukarno set 270 experts the task of drawing up a national overall development plan, he was not so much concerned with the content of its 5,000 pages as with its form: it had to be divided into 17 volumes, eight parts and 1,945 clauses, because Indonesia had declared independence from the Dutch on Aug. 17, 1945.

It is now possible to graduate in astrology in Thailand after a four-year course, and it is certainly desirable that this occupation should be confided to the hands of properly qualified experts. Many believe that Mrs. Sirimavo Bandaranaike lost the general elections in Ceylon in 1965 because her astrologers goofed over the choice of polling day.

Mysticism makes its own history. The wife of the Vietnamese warlord, Gen. Khanh, commissions a geomancer to relocate her kitchen so that it will be more in harmony with the universe. But word gets out; other generals at once suspect that Khanh is unsure of his ground in more senses than one, and that the moment has arrived to mount a coup against him. Within a few weeks, Khanh is out and his rivals are in.

Does Prince Boun Oum promise democracy as the antidote for communism? No one cares. For a Lao villager who knows that there are 16 hours in the day and the world is flat, the most powerful antidote for communism is not democracy but Boun Oum's magical amulet, which enables the prince to become invisible at will in spite of his aristocratic corpulence. The ease with which magic can beat Marx in the myth-laden lands of Southeast Asia must never be underestimated.

#### THE MALLEABLE TRUTH

Since Asians do not regard life as a theorem of Euclid, there is no QED, and in consequence their reasoning and their objectives are sometimes mysterious.

"Will you get off this phone!" yelled an infuriated woman who had mistakenly called our number in Singapore three times in succession under the impression that it was that of a friend.

The minister of information in Vientiane, importuned by correspondents who complained that they were receiving conflicting reports of what was happening in the Laotian war, remarked with asperity: "If you will talk to different officials, naturally you get different answers."

Another minister, asked if it was really true that seven North Vietnamese battalions were attacking Phou Khoun as officially announced, replied readily enough, "Well, it's only partly propaganda."

The Vietcong have twisted the malleable truth of Asia into their own form of folk art. I learned in Saigon that Vietcong units were being encouraged to file false returns by instructions from above which laid down minimal killing quotas: "In February, the division will eliminate 1000 of the enemy, shoot down 50 American helicopters. . ." Back came the same figures from below at the end of the month, proving that all quotas had been fulfilled.

It is Asian to tell a man what he wants to hear, or to refrain from telling him what he does not want to hear. The courteous Malay who does not want to answer your inconvenient request with a brusque and final negative reply "Belum," and it is understood that this vague and elastic euphemism spans all future time, from "not just yet" to "never."

The white man who accuses the Asian of double-talk is simply failing to understand what he is being told in plain, straightfor-

ward innuendo. Southeast Asia is a polite subcontinent in which you say a man has short legs by calling him tall in the saddle. "How many members do you have?" I asked the leader of a moderate political party in Brunei as we sat barefoot in his bungalow.

"About 20,000," he replied. "All staunch supporters?" I pressed on, in my brutal Caucasian fashion. "Let me put it this way," he answered with a plump smile. "About 800 of them would probably have the sense not to join the extremists if there were another insurrection."

"And how many pay party dues?" "We do not levy dues," he said loftily. "We rely on well-wishers for our funds."

It was a painless way of saying that the party was being bribed from behind, and that if it came to the crunch, about 95 per cent of its members would desert it.

#### THE UNSUBTLE WEST

In the East, words are often uttered only because, without them, it would be difficult to read between them, whereas in the West one is actually expected to take them at their face value. What is a subtle guide at one end of the world, therefore, may become an unsubtle disguise at the other.

Unlike the Asians, the Americans do not spell out their fantasies in words of four letters but pad out their truths with the polysyllabic fables in which their national language is so rich. At their distorted 5 o'clock shadow of the Vietnam war known in Saigon as the daily press briefing, a helicopter attack becomes a "vertical envelopment," failure to catch the enemy is a "pursuit operation terminated with negative results" and raining 500-pound bombs and napalm on Vietnamese peasants by mistake is an "accidental delivery of ordnance which impacted on an inhabited area."

A communique dated March 16, 1968, reads: "In an action today, American divisional forces have killed 128 enemy near Quangnai City." That's the massacre at Mylai, that was.

#### THE RECENT PRESIDENTIAL ELECTION IN CHILE

Mr. FULBRIGHT. Mr. President, former Ambassador to Chile Ralph Dungan has provided some well reasoned and perceptive comments on the recent presidential election in Chile. I ask unanimous consent that his article, "Chile: Test of American Maturity," which was published in the Washington Post September 23 may be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. FULBRIGHT. Mr. President, because no candidate received a majority of the votes cast, the final choice rests with the Chilean Congress. The Chilean Congress should be left alone, free from outside influence, to make this choice.

Over many years, the people of Chile have demonstrated their capacity to make a free political system work. I am sure they are capable of doing so again.

#### EXHIBIT 1

##### CHILE: TEST OF AMERICAN MATURITY

(By Ralph A. Dungan)

Whatever else follows, the recent Chilean election—in which a socialist, Salvador Allende, with some Communist Party support was the victor—provides an opportunity for the United States government to demonstrate a maturity in the conduct of its for-

sign relations which would be as refreshing as the Chilean situation is novel.

Several characteristics of the election can be acknowledged by almost any objective observer. As has been true historically in Chile, the elections were as honest as elections are anywhere—perhaps more so. Participation was high, as usual, and proportionately higher than in most Western countries.

Demagoguery, last minute incidents or external events do not seem to have distorted the results. To the extent that there were seriously disturbing factors present, the urban terrorism attributed to and sometimes claimed by the MIR (Revolutionary Left Movement) was more likely to have benefited center-right candidate Sr. Alessandri. The election by almost every standard was honest, orderly and in the best Chilean and Western tradition.

Therefore, there is every reason for us to adhere fully to our principle of self-determination and maintain strictly neutral posture as the Chilean people move to complete the constitutionally prescribed process on Oct. 24. On that date a joint session of the Chilean Congress will decide in a runoff ballot which of the three candidates will be president. If it adheres to tradition, Sr. Allende having the largest plurality, will be named.

It can be predicted safely that the period preceding the runoff will be marked by political jockeying as the Christian Democrats seek to gain whatever advantage their large number of seats in the Congress will yield after the poor third-place showing of their candidate, Sr. Tomic.

One can also expect some panic reaction on the part of the wealthy and the relatively large petty bourgeoisie. It will be difficult indeed to stem the flow of currency into foreign banks, the relatively unimportant capital market, like similar institutions in other countries, will no doubt be chaotic. These and other manifestations of unrest and anxiety are to be expected given Sr. Allende's rhetoric during this and previous campaigns.

And the reaction may be more than the fragile social and economic structure of Chile can stand. Some elements of the military might make a move, as they have promised, to prevent Allende's taking power. Or the MIR, taking advantage of the confusion, might make a desperate move. Or, less likely, one of Chile's neighbors might threaten.

But the democratic process does not guarantee stability; it only guarantees people free choice in the selection of their government. A majority (more than 60 per cent) of the Chilean people, quite predictably, have indicated their desire for a government of the left and apparently at least a third of the electorate is not concerned with a Marxist label.

It is hoped that Chileans and Chile's friends outside the country will view the recent election in some perspective and will speak and act with restraint. Foreigners especially should recognize that despite the very substantial progress brought about under the Frei government, continued rising expectations, unsolved problems like inflation, and the desire for a change were important factors in the election.

Chile, like other modern democracies, has a large swing vote not clearly committed to party or ideology. This swing vote is young and left-leaning and looking for solutions. The choice of aging, rigid Jorge Alessandri as the candidate of the Conservatives was poorly calculated to attract center-left elements which could have made the difference in this close race.

Then there is Sr. Allende himself. A man historically in opposition, he has had no recent governmental experience. He is intelligent and committed. Above all he is a Chilean and can be expected to look for, as he has suggested, solutions which will

suit the Chilean character and spirit. He will inherit large problems including a huge external debt, a probable decline in copper prices, and endemic inflation. Taking nothing away from his ideological convictions, he is too intelligent and sophisticated an observer not to realize that doctrinaire solutions usually don't work.

In any event, the central fact is that the Chilean people have chosen and are in the process of completing a constitutional and free election. It would be most unfortunate if anything interrupted the process which will determine Chile's destiny.

#### JEROME HOLLAND: A GREAT DIPLOMAT

Mr. GRIFFIN. Mr. President, I know of no more exacting and difficult diplomatic post than that of U.S. Ambassador to Sweden.

Pacifist, antiwar sentiment has been cleverly fanned into a widespread campaign against the United States. Some Swedish officials have proclaimed a curious "neutrality" policy which appears to be specifically in favor of our enemies.

It remained for Dr. Jerome Holland, the Nixon administration's appointee as Ambassador, to test the depth of this sentiment, and to present the case for his country.

He has done an absolutely magnificent job.

In spite of the harassment, the shrill, irrational tactics so similar to what we are encountering in this country, Jerome Holland has made a deep impression on the people of Sweden. He has given new luster to the image of America.

Just how he had done this is set forth in a very interesting article in a recent issue of the Baltimore Sun. It is a fascinating chronicle of a man in complete possession of himself, acting with a quiet self-confidence, undeterred by personal insults, unafraid of competition.

The article describes him attending a service and then delivering a lecture in the ancient Cathedral of Vasteras on "the Negro church as a social force in America." Five hundred listened attentively and respectfully, ignoring the racket outside created by the rabble-rousers.

This was part of a 2-day trip during which he "met all the dignitaries in two towns, toured a mechanized farm, a family farm, a museum, and Sweden's oldest provincial newspaper."

Ambassador Holland and his wife make such tours about twice a month. The results are best summed up by one of the young harassers who trail him wherever he goes:

This is unusual activity for a diplomat. Mr. Holland is fast becoming the best known Ambassador who ever came here. He is very effective.

We in America can be very proud of Ambassador Holland. But we should not be surprised. Here is a man who has achieved excellence in all his endeavors: as the famous "Brud" Holland, all-American football player at Cornell, as an undergraduate and graduate student earning his doctorate, as an educator who became president of Delaware State College and then Hampton Institute.

He is imbued with the same qualities which were remarked on in the recent

eulogies in tribute to the late Vince Lombardi.

Mr. President, I ask unanimous consent that the article referred to be inserted in the RECORD at this time.

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

**SWEDES HARASS U.S. ENVOY—200 CIRCLED CATHEDRAL WHERE HOLLAND WAS SET TO LECTURE**

(By Daniel Berger)

VASTERAS, SWEDEN, Sept. 17—Two hundred young people surrounded the great red-brick brick Lutheran cathedral in this provincial town.

They belonged to FNL, the boisterous Swedish pro-Viet Cong group. Their posters said "Holland Go Home."

The leaflet they handed to everyone bore a cartoon that was intended to be abusive. The drawing showed President Nixon on the sidelines of an American football field, cheering on a big Negro player who carries a ball labeled "Sweden."

RAY TEAM

The car arrived. The crowd rushed. Dozens of police ran interference. The big man was out and into the cathedral before anyone could throw an egg at him.

The crowd chanted, "Holland Go Home" and other slogans in Swedish that somehow sounded like "T-E-A-M Ray Team."

Five hundred solid citizens of Vasteras waited in the gothic interior. The choir sang Swedish Lutheran hymns.

The cathedral dean briefly introduce the Negro as the United States ambassador, Jerome H. Holland. As the dean translated, he gave a 45-minute lecture on "the Negro church as a social force in the United States."

NOT SELLING AMERICA

Mr. Holland was not selling America. He was describing the separated Negro church as a responsible and effective protest movement for the past 200 years and, he predicted, for some time to come.

He sounded like a sociologist which he is giving an introductory lecture to freshmen. At the end there was no applause, only respectful silence as befitted a service. There were no interruptions. The choir sang beautifully, "Nobody Knows the Trouble I've Seen," in English.

Mr. Holland was gone; he left the police scuffling with a student at the door. It was not much. The two big Stockholm evening tabloids each gave it a page, with pictures.

ANOTHER SCORE

That FNL cartoon was right. Brud Holland, the former twice All American Cornell end, scored again. He pierces the FNL line every time, and roams Sweden like it was the Harvard backfield.

On this two-day trip, he met all the dignitaries in two towns, toured a mechanized farm, a family farm, a museum and Sweden's oldest provincial newspaper.

Mr. Holland does this about twice a month. Thanks to FNL, he is a celebrity. Crowds gather, less to see the action than to see him. The FNL intelligence network is impressive. He is never without this troublesome escort.

UNUSUAL ACTIVITY

"This is unusual activity for a diplomat," says a Swedish member of the breed. "Mr. Holland is fast becoming the best-known ambassador who ever came here. He is very effective."

For the 15 months before Mr. Holland arrived, the United States had no ambassador here.

In 1967 and 1968, Prime Minister Olof Ualme and other politicians were contending with a fervent anti-war, anti-American

sentiment in public opinion. Ambassador William W. Heath, a Texas crony of President Johnson, was ill-equipped to deal with it.

The embassy withdrew into itself and waited for the storm to subside. Communication lines to Swedes were blocked.

In perfect trim at 54, Mr. Holland would still be a terrifying spectacle on the other side of a line of scrimmage.

Entertaining Swedes and Americans at his official residence in Stockholm the other evening, nursing a martini with two olives, he was gregarious, relaxed and plain-spoken.

VISITED ALL OF SWEDEN

Since arriving in April, he has visited every part of Sweden and intently traded views on social questions with every kind of Swede.

He is often asked to discuss Negro life. "I have a certain credibility," drily suggests the author of "Black Opportunities" and former president of Hampton Institute in Virginia and Delaware State College in Dover.

But he does not stick to that subject. Recently he addressed industrialists in Gothenburg on "Challenges to Management." While he did so, his wife was on the other side of town discussing the women's liberation movement.

ADMINISTRATION WAR LINE

An energetic woman with two young teenage children in Stockholm schools, Laura M. Holland is a lively complement to her husband's meet-the-Swedes campaign and an acute observer of Swedish politics.

Mr. Holland never brings up the war but always answers the inevitable questions about it. On this subject, and this subject alone, he restricts himself to the straight administration line.

He may not have converted a single Swede to a proadministration opinion on Vietnam but what he has done in five months is isolate the war as the obstacle to understanding, and reopen the Swedish-American dialogue on other subjects.

Mr. GRIFFIN. 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 PRESIDING OFFICER. Without objection, it is so ordered.

#### BILL ORDERED TO BE PLACED ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 18583.

The PRESIDING OFFICER (Mr. SPONG). The Chair lays before the Senate H.R. 18583, a bill to amend the Public Health Service Act and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law enforcement authority in the field of drug abuse, which was read twice by its title.

Mr. MANSFIELD. Mr. President, discussions have been had with the interested parties. I believe the request I am about to make is agreeable to all concerned.

Mr. President, I ask unanimous consent that the bill be placed on the calendar.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

#### ORDER OF BUSINESS

Mr. GRIFFIN. Mr. President, I ask unanimous consent that I may proceed for an additional 5 minutes.

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

#### NATIONAL EMERGENCY DISPUTES

Mr. GRIFFIN. Mr. President, I had a reservation to travel last Thursday morning from Washington to New York aboard the Penn Central Metroliner. But I was not sure whether I would be able to get to New York by train until I awoke that morning and learned from news reports that railroad unions and management had finally agreed in the middle of the night to a 2-week extension of a strike deadline related to a work rules dispute that has been going on for about 11 years.

Mr. President, it is very disturbing, as this dispute continues and the real likelihood of a nationwide rail strike hangs over the head of the Nation, that the committees of the Congress with jurisdiction over labor-management legislation are apparently too busy with other matters to give this important subject their attention.

I wish to focus today, as the President did over the weekend, upon the fact that since February of this year there has been pending before the Congress a bill which I introduced in the Senate on behalf of the administration, S. 3526, entitled the Emergency Public Interest Protection Act of 1970. This legislation would place railroads and airlines under the emergency disputes provisions of the Taft-Hartley Act and would add to the present emergency provisions of Taft-Hartley three new options which would be available to the President of the United States if a dispute in certain transportation industries continued beyond the expiration of the 80-day cooling-off period.

Since the Taft-Hartley Act has generally worked well in most emergency dispute situations, it seems reasonable that the airlines and railroads should be brought under its emergency dispute provisions so as to eliminate the confusion which has existed because of parallel but differing procedures now provided by the Railway Labor Act and Taft-Hartley.

However, the key feature of the administration bill is the options which it would make available to the President, subject to congressional veto, to deal with continuing emergency disputes in the transportation industries. The options to be made available are built around the core principle that the best way to settle a labor dispute is to keep governmental intervention required for protection of the public interest to the minimum necessary while at the same time maximizing the opportunity for private settlement of the dispute. The bill goes on the

theory that if governmental intervention is unpredictable, both in terms of occurrence and form, there would be more inducement for the parties to resolve the dispute themselves. If neither party can count on government intervention, genuine bargaining in earnest is likely to begin much earlier.

The three options to be made available to the President of the United States under the bill are as follows: One, he could extend the cooling off period for an additional period of time; or, two, he could set in motion a procedure which would enable partial operation of the enterprise; or, three, and the most important option available, he could appoint a panel which would select and give effect to one of the final offers made the parties engaged in collective bargaining.

The options mentioned would apply only to the following industries: the railroads, airlines, maritime, longshore, and trucking industries. The President of the United States, under the bill, could invoke any one of the three options, but only one.

Mr. President, I can understand that there may be differences of viewpoint concerning the merits of some provisions in this legislative proposal. But I cannot understand or justify the fact that the Congress has ignored this proposal altogether. No hearings have been scheduled by the responsible committees of either House of Congress, and we are now less than 10 days from another deadline which could be the beginning of a nationwide railroad strike.

Perhaps the deadline will be extended again, and perhaps the Congress will meet its objectives and be able to adjourn around the middle of October. It would be unfortunate, if not irresponsible, I would suggest, if Congress were to adjourn without taking any action in this field. Indeed, I can foresee the necessity, after the election, for the President to call the Congress back into special session for the purpose of dealing with a nationwide railroad strike if we do not take action now to provide him with the necessary tools to deal with the serious situation now confronting the railroad industry and the Nation.

Mr. President, I hope that the responsible committees of the Congress will take note of the seriousness of the situation and will go to work on this problem. I believe this legislation must be assigned as high a priority—as indeed, a higher priority than some of the bills that have been coming out of the Committee on Labor and Public Welfare.

In that connection, Mr. President, I ask that the text of a letter dated September 25, 1970, from the President of the United States, addressed to the leadership of the House and the Senate, be printed in full in the RECORD.

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

TEXT OF A LETTER FROM THE PRESIDENT TO SENATOR MIKE MANSFIELD, SENATOR HUGH SCOTT, SPEAKER JOHN MCCORMACK AND REPRESENTATIVE GERALD FORBES

On February 27, 1970, I proposed to the Congress enactment of the Emergency Public Interest Protection Act of 1970 to protect the public against the damaging effects

of strikes in the transportation industry. Despite the high priority assigned to this proposal, there has been no action by the Congress to create an effective alternative to work stoppages in this vital industry.

Since I offered my proposal, two disputes involving the nation's railroads and labor unions have reached a crisis point. In the first of these, all mechanisms of the Railway Labor Act have been exhausted, and the nation this week barely averted a shutdown of the rail transportation system. If negotiations in the next two weeks prove to be fruitless and a strike occurs, the only remedy at hand will be special legislation by the Congress addressed to the specific issues involved in this case. In the second dispute I exercised last week the authority conferred upon me by the Railway Labor Act to delay work stoppages when essential transportation services are in jeopardy. I appointed an emergency board to investigate, thus achieving an automatic stay of action of parties to the dispute for a period of 60 days.

When that period ends, it is likely that the Congress will no longer be in session, and the nation's rail transportation might be totally halted. Once again events have revealed the deficiencies of existing legislation for handling labor disputes in the transportation industry. This is precisely the kind of situation I sought to prevent when I proposed emergency legislation seven months ago.

Now, I urgently ask the Congress to give immediate priority to my proposed Emergency Public Interest Protection Act so that in the future transportation services essential to the well-being of the American people will not be subject to the threats and strains of recurring crises.

Sincerely,

RICHARD NIXON.

Mr. GRIFFIN. 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.

#### EXTENSION OF TIME FOR COMMITTEE ON THE JUDICIARY TO REPORT S. 3201, THE CONSUMER PROTECTION ACT OF 1969

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Judiciary Committee be permitted an additional extension of 7 days to report back to the Senate S. 3201 to amend the Federal Trade Commission Act to provide increased protection for consumers, and for other purposes. The original agreement between the chairman of the Judiciary Committee and the chairman of the Commerce Committee provided for a reporting date of September 14, which was extended by order of the Senate until today, September 28. This additional extension is requested because of the desire of the Judiciary Committee to meet on this measure this week. It is understood by the terms of this consent agreement that this bill will be reported back to the Senate automatically next Monday, October 5, without further action by the Senate or by the committee.

The PRESIDING OFFICER (Mr. SPONG). Is there objection? The Chair hears none, and it is so ordered.

#### THE PUEBLO DE TAOS INDIANS—60 YEARS OF INJUSTICE

Mr. GRIFFIN. Mr. President, considerable national attention has been focused recently on the problems and plight of the American Indians, and with justification. As President Nixon said in his recent Message to Congress on Indians on July 8:

This condition is the heritage of centuries of injustice. From the time of their first contact with European settlers, the American Indians have been oppressed and brutalized, deprived of their ancestral lands and denied the opportunity to control their own destiny.

Because of my concern for the welfare of Indians generally, and because of my special concern for some 18,000 Indians in the State of Michigan who have achieved varying degrees of progress, I am interested in seeing that sound, progressive legislation of real meaning for Indians is advanced in Congress.

For that reason I wish to indicate my support for H.R. 471.

The purpose of this legislation is to convey trust title to the Pueblo de Taos Indians in New Mexico of approximately 48,000 acres of land which the United States took from the Indians in 1906 without the payment of any compensation.

Of course, I am well aware of the desire to expedite the business of the Senate in the closing days of the session. I am conscious of the fact that there have been occasions in past sessions when bills with great merit were lost in the rush to adjournment. It would be very unfortunate if such a fate should befall this measure.

H.R. 471 was passed by the House of Representatives on September 9, 1969, more than a year ago. Similar proposed legislation was also passed by the House during the 90th Congress.

During consideration by the House in the 90th Congress, and again in this Congress, extensive committee hearings and long executive sessions were held.

The Indian Subcommittee of the Senate Interior and Insular Affairs Committee held hearings in July on the bill, and I understand that the bill may be taken up by the full committee this week.

I believe that this is a unique and singularly justifiable piece of Indian legislation since the Indians involved have used the lands concerned since the 14th century for religious and tribal purposes. Moreover, its enactment would be an important symbol of this Government's responsiveness to the just grievances of American Indians. President Nixon specifically cited the Taos claim as one such just grievance in his Indian message.

According to the Indian Claims Commission in a decision of September 8, 1965, the Indians had clearly established Indian title to an estimated 130,000 acres of aboriginal use since the 14th century, and the U.S. Government had extinguished Indian title to the land without payment by adding the land to the Taos—later Carson—National Forest in 1906. The Commission directed that the Indians be paid the value of the 130,000 acres at that time. The value has not yet been determined. The judgment

will be reduced accordingly if the Indians receive trust title to the 48,000 acres within the tract.

The religious significance of this particular land to the Taos Indians is best described in the Indian Claims Commission findings of fact:

One of the precepts of Pueblo philosophy and religion is that a way of life was established in the beginning by Mother Nature and the Pueblo's forefathers, and that things should be done as they were in the past.

The native religion of the Taos Indians is to this day very much involved with the daily life of the people. This religion does now and has for centuries tied them closely to the land. The land and the people "are so closely tied together that it is what might be technically called a symbiotic relationship—the people, by their prayers and their religious functions, keep the land producing; and the land keeps the people."

Starting with the northernmost part of the eastern claim area, the most important site identified on petitioner's Exhibit No. 84(a) is Blue Lake. This is the most sacred shrine of the Taos Indians. It is claimed to be their church. In August every year the entire adult population of Taos Pueblo goes to Blue Lake for ancient religious ceremonies which have continued uninterrupted for centuries. On the first day a ceremony is held in the Canyon of the Taos River, east of the pueblo. Then on the second day, the Indians go to the Blue Lake and there hold ceremonies during the day and night.

Since the Taos lost title to the area in 1906, some commercial timber harvesting has occurred. A sacred lake was dynamited. A cabin was constructed a few hundred yards from their most sacred shrine. These acts had the same meaning to the Indians as vandalizing a church would have in a Christian community.

Of course, none of these acts were permitted with the knowledge that they violated the religion of the Taos people.

Although the Taos Indians have had use of some 32,000 acres of this land since 1940 under a 50-year permit with provisions for subsequent renewals, and subject to certain control by the Forest Service, they have never been satisfied with the arrangement, and it has been a source of continuous controversy and conflict.

The Taos are apprehensive that Congress could at some future time repeal the act which allows the permit arrangement and take the land. They feel that if they had trust title, they would have a more secure right to the land than they have under the present permit, and more adequate protection of their religious interests in the area. H.R. 471 would grant them trust title to the 32,450 acres for which they have use under the present permit, plus an additional 15,550 acres.

Normally, legislation involving Indian land claims in other States does not generate mail from my constituents. However, in this case, I have received communications from the Michigan Commission on Indian Affairs and Indian constituents endorsing and urging favorable action on H.R. 471.

Because of the uniqueness of this particular Indian land claim; because the Taos Indians without question had established Indian title to a much larger

area; because of the singular close religious significance which this land has to the daily lives of the Taos people; and because enactment of this legislation would go far toward restoring Indian trust and confidence in the Federal Government at a time when many new and far-reaching proposals are before them, I strongly urge the passage of the Taos-Blue Lake legislation.

#### ORDER OF BUSINESS

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 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.

#### COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

##### REPORTS OF OFFICE OF CIVIL DEFENSE

A letter from the Director of Civil Defense, transmitting, pursuant to law, a report of Federal Contributions Program Equipment and Facilities, for the quarter ended June 30, 1970 (with an accompanying report); to the Committee on Armed Services.

A letter from the Director of Civil Defense, transmitting, pursuant to law, a report of Federal Contributions—Personnel and Administration, for the fiscal year ended June 30, 1970 (with an accompanying report); to the Committee on Armed Services.

##### REPORT OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

A letter from the Chairman, U.S. Equal Employment Opportunity Commission, transmitting, pursuant to law, a report of the Commission for the fiscal year ended June 30, 1969 (with an accompanying report); to the Committee on the Judiciary.

##### REPORT OF THE SUPREME COURT OF THE UNITED STATES

A letter from the Chief Justice, Supreme Court of the United States, reporting, pursuant to law, the Court will open the October 1970 term on October 5, 1970, at 10 a.m., and will continue until June 7, 1971, or until all matters before the Court are disposed of; which was ordered to lie on the table.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RIBICOFF, from the Committee on Government Operations, unfavorably:

S. Res. 433. Resolution to disapprove Reorganization Plan Numbered 4 of 1970 (Rept. No. 91-1242).

By Mr. McCLELLAN, from the Committee on Government Operations, without amendment:

H.R. 4599. An act to extend for 2 years the period for which payments in lieu of taxes may be made with respect to certain real property transferred by the Reconstruction Finance Corporation and its subsidiaries to other Government departments (Rept. No. 91-1243).

By Mr. HUGHES, from the Committee on Labor and Public Welfare, with an amendment:

H.R. 14252. An act to authorize the Secretary of Health, Education, and Welfare to make grants to conduct special educational programs and activities concerning the use of drugs and for other related educational purposes (Rept. No. 91-1244).

#### PRINTING OF REVIEW OF REPORT ON SAN LUIS REY RIVER, SAN DIEGO COUNTY, CALIF. (S. DOC. NO. 91-106)

Mr. BYRD of West Virginia. Mr. President, on behalf of my colleague, the senior Senator from West Virginia (Mr. RANDOLPH), I present a letter from the Secretary of the Army, transmitting a report dated April 3, 1970, from the Chief of Engineers, Department of the Army, together with accompanying papers and illustrations, on San Luis Rey River, San Diego County, Calif., requested by a resolution of the Committee on Public Works, U.S. Senate.

I ask unanimous consent that the resolution be printed as a Senate Document, with illustrations, and referred to the Committee on Public Works.

The PRESIDING OFFICER (Mr. HUGHES). Without objection, it is so ordered.

#### BILLS INTRODUCED

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

By Mr. SCHWEIKER:

S. 4400. A bill for the relief of Nemattolah Hajasgarkhan; to the Committee on the Judiciary.

By Mr. BAKER (for Mr. MURPHY):

S. 4401. A bill to amend the Federal Aviation Act of 1958, as amended, to authorize air carriers to engage in bulk air transportation of persons and property; to the Committee on Commerce.

By Mr. PROXMIRE:

S. 4402. A bill for the relief of Sang Yol Hwang; to the Committee on the Judiciary.

#### IMPROVEMENT OF OPERATION OF THE LEGISLATIVE BRANCH—AMENDMENTS

##### AMENDMENT NO. 951

Mr. METCALF submitted amendments, intended to be proposed by him, to the bill (S. 844) to improve the operation of the legislative branch of the Federal Government, and for other purposes, which were ordered to lie on the table and to be printed.

##### AMENDMENT NO. 952

Mr. METCALF submitted amendments, intended to be proposed by him, to the bill (H.R. 17654) to improve the operation of the legislative branch of the Federal Government, and for other purposes, which were ordered to lie on the table and to be printed.

#### AMENDMENT OF THE CONSTITUTION RELATIVE TO EQUAL RIGHTS FOR MEN AND WOMEN—AMENDMENT

##### AMENDMENT NO. 953

Mr. ERVIN submitted an amendment, in the nature of a substitute, intended to be proposed by him, to the joint resolution (H.J. Res. 264) proposing an amend-

ment to the Constitution of the United States relative to equal rights for men and women, which was ordered to lie on the table and to be printed.

#### ANNOUNCEMENT OF HEARINGS ON TAX CONVENTIONS

Mr. ALLEN. Mr. President, on behalf of the Senator from Arkansas (Mr. FULBRIGHT), I wish to announce that the Committee on Foreign Relations has scheduled a public hearing on Monday, October 5, 1970, to receive testimony on the following income tax conventions:

First, tax convention with Belgium, signed at Brussels on July 9, 1970 (Ex. I, 91-2);

Second, tax convention with Finland, signed at Washington on March 6, 1970 (Ex. E, 91-2);

Third, tax convention with Trinidad and Tobago, signed at Port of Spain on January 9, 1970 (Ex. D, 91-2); and

Fourth, estate tax convention with the Netherlands, signed at Washington on July 15, 1969 (Ex. G, 91-1).

The hearings on these conventions will be held in room 4221 of the New Senate Office Building beginning at 10 a.m. Any person interested in testifying should communicate with the chief clerk of the committee without delay.

#### ADDITIONAL STATEMENTS OF SENATORS

##### A BOLD NEW INDIAN POLICY

Mr. PERCY. Mr. President, it has become fashionable to bemoan the plight of the American Indian. Books have been written, magazine and newspaper articles published, and television and radio programs aired to document the shameful harvest of centuries of oppression and injustice.

Clearly the time has come for action—not just words—for dramatic new initiatives which will allow the Indian people to take their rightful place in American society.

In his historic message to the Congress on July 8, 1970, President Nixon announced a bold new Indian policy that would assure Indians self-determination while reducing Federal paternalism. Under the President's proposals Indian tribes would still remain the subject of Federal concern and Federal support but would be authorized to assume control of Federal programs and services provided for them. Seven separate proposed bills have been sent to Congress by the Department of the Interior in order to implement the President's proposals and it is heartening that this week, hearings are being held on some of these bills by the Indian Affairs Subcommittee of the Senate Committee on Interior and Insular Affairs.

Because of the complexity of the President's proposals, both the Senate and House will need to give these measures extended study and, of course, some time will be required to ascertain the views of Indian leaders.

The President has made it clear that he wants Indian people to participate in

policy development to the greatest possible degree. He has asked Vice President AGNEW in his capacity as Chairman of the National Council on Indian Opportunity to hold regional hearings throughout the country with Indian leaders. Five such meetings have been held this month and three more will be completed within the next several days before the second round of the meetings takes place in early November. The purpose of these meetings is to allow Indian leaders to examine in detail the message of the President and the legislation which has been introduced to implement it. The reactions, suggestions, and the recommendations which will result from this dialog between the Federal Government and the Indian people will play an important part in modifying the legislation before it is reintroduced in the 92d Congress.

There is one item of legislative business which need not await further deliberation and study before action. In his message to the Congress, President Nixon urged enactment of H.R. 471, a bill—already passed by the House—that would restore sacred Blue Lake lands to the Indians of the Taos Pueblo in New Mexico.

These lands were taken from the Pueblo without the payment of compensation in 1906. They are a natural cathedral containing the holy places and altars of the ancient Taos faith and their preservation as a wilderness—as H.R. 471 would assure—is essential to the sustenance of the Taos culture and religion.

The struggle of the Taos Pueblo, for over 60 years, to regain their sacred lands has captured the imagination of Indians throughout the country and people throughout the Nation and the world. The injustice done to these Indians has become a symbol of the injustices done to all Indians. As President Nixon stated in his message, the passage of H.R. 471 "would stand as an important symbol of this Government's responsiveness to the just grievances of the American Indians."

I am proud that leaders of both political parties have expressed strong support for the bold initiatives announced in President Nixon's message to the Congress which has kindled renewed hope among our Indian citizens that better days lie ahead. As a gesture of good faith Congress should swiftly pass H.R. 471 into law as requested by the President.

##### THE ADA AND LAWLESSNESS

Mr. BENNETT. Mr. President, I note from the radio and newspaper accounts this morning that Americans for Democratic Action have called for a congressional inquiry into what they term official lawlessness. The ADA is rightfully concerned with the shooting of students at Kent State and Jackson State. All Americans are concerned with those tragic affairs.

However, in its presentation the ADA once again demonstrated, by the position it took and the manner in which it was done, that it is an organization bordering on the extremist.

In describing the tragedy at Kent State

as official lawlessness, the ADA carefully avoided the question of why the National Guard had been called to the campus. The shooting of four students was not an isolated incident but rather the culmination of several days of lawlessness and criminal and violent action on the part of some students on that campus. The Guard was called into a situation that was already supercharged with violence.

The ADA ignores the events preceding the tragedy and thus places the total blame for all of what happened at Kent State on the shoulders of a group of young Guardsmen.

There was, for instance, no mention in the press accounts of the bombing at Wisconsin University which killed an innocent graduate student working in his laboratory.

The ADA took no particular stand, according to news accounts, against the systematic bombing of Federal buildings and other public places in Minneapolis by left-wing extremists.

The ADA, according to news accounts, appears to have taken no strong stand against the wanton assassination of policemen in New York, Philadelphia, Omaha, San Francisco, Berkeley, and a dozen other cities across the country.

If the ADA is to have its voice heard as a constructive instrument in American policy rather than as a shrill and strident cacophony on the left, it would do well to consider the whole problem of violence.

It would seem to be advisable also for responsible Americans to disavow this kind of one-sided approach to a problem of so serious a nature as that of domestic violence.

##### IT IS THE RIGHT OF ALL MEN TO TRAVEL FREELY THROUGHOUT THE WORLD

Mr. PROXMIRE. Mr. President, in recent weeks, all of us have been greatly concerned over the obvious mental anguish and physical discomfort suffered by the people being held hostage in Jordan, and their families. I believe that the leaders of all nations must take quick and affirmative action to see that future acts of air piracy be prevented.

Recently, the Committee for World Human Rights issued a statement, in which I concur, saying in part that it—

Is the right of all men to travel freely throughout the world.

The committee's statement goes on to say that—

We unconditionally condemn any and all barbarous acts of air piracy.

This committee, which has done such outstanding work in the area of human rights in the past, also called upon all governments to prevent a repetition of the events of the past weeks, which inflicted suffering upon innocent people.

Mr. President, I ask unanimous consent that the statement issued by the Executive Committee of the Committee for World Human Rights condemning air piracy and calling for unified action by all governments to forestall future acts of air piracy be printed in the Record.

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

## STATEMENT

The infamous crime of piracy has been revived in this day and age in the form of malicious hijacking and destruction of airplanes operating in national and international commerce with consequent hazard to the life and health of innocent passengers, crews and bystanders. As members of the Committee for World Human Rights, a non-partisan and non-political group of dedicated businessmen and many concerned individuals from the United States and other countries devoted to perpetuating and fostering the ideals of World Human Rights—included in which is the right of all men to travel freely throughout the world—we unconditionally condemn any and all barbarous acts of air piracy.

The failure of demonstrable and vigorous leadership by Chief Executives undermines and vitiates public confidence in their intention and disposition to firmly and unequivocally discharge their humanitarian responsibilities in safeguarding against such bestial acts.

We call upon the Chief Executives of every nation to not only condemn such monstrous actions but to insure prompt punishment for their perpetrators; and to forestall, by unified action on the part of all governments, a repetition of the suffering inflicted upon innocent people.

## THE CONDUCT OF THE WAR IN VIETNAM

Mr. DOLE. Mr. President, in the aftermath of the recent vote on the McGovern-Hatfield amendment to end the war, there have been claims by some supporters of that amendment that the doves have won the debate on the conduct of the war in Vietnam.

If one looks at the size of the vote against the McGovern-Hatfield amendment, there are some instant credibility problems with that claim. However, I would be inclined to agree in one sense. That is, both hawks and doves have won because the cause of freedom itself has won.

President Nixon has now been left unhampered to bring this war to an honorable conclusion and he is doing so. Ever since Cambodia the American weekly casualty rate has been well under 100, troop withdrawals are proceeding on schedule, and American commanders in Vietnam report increasing success with the Vietnamization program.

In addition, the fact that an overwhelming majority of Senators and Representatives refused to place any limitations on the President of the United States is a lesson that certainly is not being lost on Hanoi. The hope for peace through negotiation was never strong when Hanoi's leaders thought they could count on American public opinion to bring about a unilateral surrender. With this hope removed, we may have some significant response from the other side at Paris.

So, in one sense, I will say to the supporters of the McGovern-Hatfield amendment—yes, you have won. You will now share with all Americans in the fruits of a just and honorable peace in Vietnam.

## THE FITZGERALD CASE: 309 DAYS OF WAITING

Mr. PROXMIRE. Mr. President, it is now more than 300 days since I wrote to Attorney General Mitchell asking the Justice Department to investigate the Air Force's treatment of Ernest Fitzgerald. Fitzgerald was fired by the Air Force because he told the truth to Congress about the enormous overruns occurring on the C5-A project.

No investigation should take this long, Mr. President. We ought at least to have some indication whether the Justice Department plans to prosecute by this time. For there is little doubt that the Federal statute which makes it a crime to injure anyone on account of his testimony before Congress has been violated. The only question is—who is the guilty party? It should not take 10 months to find out.

Mr. President, I call on the Justice Department to dispose of this case. Further delay is totally unwarranted.

## PRESIDENT NIXON TO DISCUSS POW PROBLEMS WITH EUROPEAN LEADERS

Mr. BENNETT. Mr. President, while in Europe, President Nixon will have several opportunities to discuss with European leaders the problem of American prisoners of war being held by the North Vietnamese Communist Government.

He will again urge Pope Paul to use the great weight of his office in behalf of obtaining humane and decent treatment for the American prisoners. It is expected he may also bring up the matter when visiting with President Tito of Yugoslavia.

It is obvious that the paramount problem facing the President in his discussions with top European officials is still the critical situation in the Middle East. However, the President has indicated he will also devote time to the problem of American prisoners. His efforts will be aimed at enlarging the role of these prominent men in building the massive world opinion against the manner in which the North Vietnamese have treated Americans held prisoner.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

## DIRECT POPULAR ELECTION OF THE PRESIDENT AND THE VICE PRESIDENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the unfinished business.

The PRESIDING OFFICER (Mr. ALLEN). The bill will be stated by title for the information of the Senate.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 1) proposing an amendment to the Constitution of the

United States relating to the election of the President and the Vice President.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

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 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. CURTIS. Mr. President, an editorial in the Washington Post this morning has this title: "Senate Joint Resolution 1—There Is Still Room for Improvement."

Mr. President, if we are asked to change our federal system, if we are asked to deprive some 34 States from having any voting power, certainly the proponents of such a proposal should tell us what those improvements are.

Senate Joint Resolution 1 involves more than one issue. There is the issue as to whether we should abandon the federal system and no longer elect our President by counting the votes by States and go to what has been described as direct popular election. That is one issue.

It is contended that many people and organizations have spoken out on it. However, we are asked to buy the package. We are asked to buy a proposal that would, for the first time, allow the election of a President by a minority. It is written right in the amendment, intended to become a part of the Constitution, that 40 percent of the people can elect the President. That is one basic change.

It is also suggested as a part of the package that we have a runoff election. Most people think that presidential elections are long and costly now. It is suggested that we have two elections when necessary, two campaigns. It is also suggested, as a part of the package, that we have the votes tallied like one big adding machine slip, to determine how many people vote on each side, but that the States determine the qualifications of the voters, at least in many respects.

So, Mr. President, no one could disagree with the Washington Post in its statement in reference to Senate Joint Resolution 1 that there is still room for improvement in it. But, Senate Joint Resolution 1 has been the pending business for a long time. It has been the pending business since September 2. Up to this very hour, the distinguished Senator from Indiana (Mr. BAYH) has not offered any improvements. We have not heard him speak of any. I have inquired at the desk and it is my understanding that he is not offering any amendments.

Thus, so far as the country is concerned and so far as the Senate is concerned, the chief spokesman for Senate Joint Resolution 1 is still trying to get the whole package adopted.

Mr. President, I want to be candid and fair. I am opposed to abolishing our Federal system. I am opposed to depriving 34 States of the voting power that they now have. But I respect those who disagree with me. If the proponents want to change the Constitution, they should bring in the very best proposal they can, and avoid some of the confusion and chaos that will surely ensue.

Mr. President, I want to read the first part of the editorial. It states:

As the Senate approaches another test on the direct elections amendment, some undecided Members may well find comfort in the fact that the Bayh resolution will be wide open to amendment.

Mr. President, I do not believe that the proponents are going to amend it. The Senator from Indiana (Mr. BAYH) has not offered any amendments. What reason do we have to believe that if we allow this proposal to be adopted or to proceed to adoption, that there will be any amendment?

The editorial goes on:

Majority Leader Mansfield has called for another vote on Tuesday for limitation of debate on the measure. If he wins, it does not necessarily mean that Senate Joint Resolution 1 will be approved in its present form.

Mr. President, why did the editorial writer say that? He said it because Senate Joint Resolution 1 is not in acceptable form. It is not in a form that can be defended. It has not been defended, Mr. President.

The editorial goes on:

Several of its supporters would prefer a different means for selecting the President if no candidate should receive at least 40 percent of the vote.

There, Mr. President, the editorial writer is referring to the runoff. How many people and how many organizations in the United States are asking that we go to a system where 40 percent of the people can choose its President, with all the responsibility that is falling upon the President in the trying times in which we live?

Certainly, we should have a President that speaks at least for the majority of the people. Yet, this proposal and the proponents have offered no changes, but invite the uncertainty and the unwisdom of having a 40 percent President, and, if that fails, of having a runoff.

The editorial goes on to say:

The runoff provision of this resolution is widely acknowledged to be its weakest point.

Mr. President, why should we insert into the Constitution of the United States a point that is acknowledged to be weak? The Constitution has elements of permanence. It is true that we can change it, but we hope that it goes on through all time.

Why do we have to amend the Constitution this fall?

Why do we have to adopt an amendment that is a runoff provision, that is acknowledged as being a weak point?

Mr. President, I want to point out that if there had not been a delay here, if there had not been discussion on the part of the opponents of the proposal, Senate Joint Resolution 1 would have been adopted a long time ago. Senate

Joint Resolution 1 happens to be in the same form now as it was before the House of Representatives, and then it is gone. Maybe the States would have refused to ratify it. I hope they would. They should. On the other hand, the argument would then be made, "Well, it must be good because Congress passed it, therefore, we should ratify it." That is like the argument made here: that this must be a good proposal because it passed the House of Representatives.

One of the reasons for having two Houses of Congress is to guard against unwise or imprudent acts on the part of one House. So the fact that it was passed by the first body is really not an argument that should sway the second body. If the legislative body which acted last always followed what the first body did, then the whole system of having two legislative houses would be destroyed.

Mr. President, I want to say something else about the runoff election. The proposal is silent as to when the runoff would be held. All those who have been willing to give an estimate of the time it would take for a runoff have said several months. The distinguished chairman of the Judiciary Committee indicated that it would probably be the next July before we found out who was the President.

Can one imagine a situation in this space age of having uncertainty from the campaign in the fall until the next July as to who would be the President of the United States? Is it any wonder that those who argue for the amendment would admit that "The runoff provision is widely acknowledged as its weakest point"?

Mr. President, on September 8 I raised the question of the runoff with the chief author of the resolution and discussed his amendment on the floor of the Senate. I want to read to the Senator his response.

I quote the distinguished Senator from Indiana (Mr. BAYH), speaking to the junior Senator from Nebraska. The Senator from Indiana said:

I salute the Senator for bringing up this point about the runoff. As I suggested earlier, it has been a point that has bothered me.

If that bothers the distinguished Senator from Indiana, who pleads so eloquently and long to have the Nation adopt this system—if he says that one of the major parts of the provision bothers him—should we take some more time to look it over? The answer is "Yes." If we had not taken time, if questions had not been asked, it would now have been too late. The proposal would have been adopted, and only the States could save us then.

In connection with the distinguished Senator's statement that the runoff is something that has bothered him, it occurs to me that his subcommittee that advanced the resolution might resolve the distinguished Senator's doubts by holding some hearings and thrashing out the problem of a runoff election: Should one be held, and if so, how?

I do not think that very much thought has been given to the question. As I have pointed out, the distinguished Senator

from Indiana said to the junior Senator from Nebraska:

I salute the Senator for bringing up this point about the runoff. As I suggested earlier, it has been a point that has bothered me.

Also, on the same date, the junior Senator from Indiana said:

I would suggest that if the people of France are sophisticated enough to have an electoral system in which they can have a runoff election, the people of the United States, and Congress in particular, should be sophisticated enough and intelligent enough to pick a date that would work. I would, however, like to point out that if the 40 percent provision contained in S.J. Res. 1 had been operative in France, that country would not have had to have a runoff.

Mr. President, no one has advanced any good reason why we should have a minority President. Can anyone suggest that if the President is called upon to act in a crisis at home or in a crisis abroad, this country would be in a better position because he has been elected by only 42 percent or by 40 percent? The present requirement in the Constitution is that he shall receive a majority vote.

The only possible argument that has been advanced in support of a runoff that has come to my attention is the reference to the Republic of France by the distinguished Senator from Indiana.

Mr. President, during a colloquy on the pending legislation before the Senate, the distinguished Senator of Indiana mentioned the sophistication of the people of France and the current method of runoff elections now prevailing in that country. I refer to the remarks appearing in the CONGRESSIONAL RECORD for September 8 on page 30818.

In view of the fact that the distinguished Senator of Indiana has raised the French Republic as an example of where a runoff is provided where one presidential candidate gets less than a majority of the vote, I believe it is in order to review constitutional stability of the French since 1789.

In view of the disastrous French defeat in 1940, and taking into account that the French have had to write new constitutions five times since 1789, a critique of French constitutional stability is entirely germane to our debate.

The current French Republic which the distinguished Senator of Indiana mentioned has only been in existence for a very short time. To be specific, it was created by the referendum of September 1958 which means an experience of about 12 years.

Let us review the French experience. The first Republic was brought about by the convention of 1792 to 1795.

The Republic was proclaimed on September 21, 1792, by a radical national convention, which had been elected under the influence of the fall of the king, the prison massacres, and the Prussian invasion on the northeastern borders. The Constitution elaborated by the national convention and adopted in 1793 provided for the establishment of one legislative assembly, elected for 1 year by universal suffrage. All important legislative texts were to be submitted to popular referendum. Executive power was given to an executive council composed of 24

members, elected by the assembly. But the Constitution, barely voted upon, was suspended until peace had been restored, and in fact, was never applied.

The convention was divided between two parties, the Girondins—moderates—and the Jacobins—radicals—who were also called Montagnards. Their differences became irreconcilable after the execution of the king. The Jacobins soon took over and set up a committee of public safety which led to the dictatorship of Robespierre and the reign of terror.

#### THE DIRECTORY, 1795-99

The new Constitution of the year III, which set up the Directory, named after the five "directeurs" who made up the executive, sought to find a balance between the excesses of the rule by the legislative assembly and the dictatorship of the Committee of Public Safety. It reinforced the powers of the executive by making it more independent of the legislature, but not sufficiently: the executive had no powers over the legislature and no powers over the treasury and the judiciary. The separation of powers was too absolute to provide for efficient conduct of government, especially in time of war. The coup d'état of the 18th of Brumaire (November 9, 1799), got rid of the Directory and the Constitution of the year III, and saw the advent of the Consulate headed by Napoleon Bonaparte.

#### THE SECOND REPUBLIC, 1848-52

The Revolution of 1848 brought about the downfall of the July monarchy. After the firing on crowds in February 1848, King Louis-Philippe abdicated in favor of his grandson in the wake of the insurrectionary mood of the Parisians. On February 24, the Republic was proclaimed and a provisional government was set up with the task of elaborating a new constitution. By November 4, 1848, the National Assembly, which had been elected in April, had completed a new constitution, providing for a single chamber and a strong president, elected directly by universal suffrage. The presidential elections of December 10, 1848, brought Louis-Napoleon Bonaparte to power. On December 2, 1851, however, Louis-Napoleon staged a coup d'état and announced the dissolution of the assembly. On November 2, 1852, the empire was reestablished by decree.

#### THE THIRD REPUBLIC, 1870-1939

With the capitulation of Napoleon III at Sedan, in September 1870—during the Franco-Prussian war—the Republic was proclaimed on September 4, and a provisional government of national defense was set up to pursue the conduct of the war. In February 1871, elections for a national assembly were held, with the task of setting up a new Constitution. The Constitution finally agreed upon in 1875 was a compromise between those who hoped to leave the way open for a restoration of the monarchy and those who wished for a republican form of government. Consequently it was very vague and not very comprehensive. The President was to be elected by an absolute majority of the votes of the senate and the chamber of deputies sitting together as the national assembly. The senate was

elected by a complicated system of indirect election and the chamber of deputies by direct universal suffrage. Ministers were responsible to the national assembly. The first confrontation between the President and the national assembly resulted in a victory for the latter, and the Third Republic was characterized by the preponderance of the legislative branch over the executive. World War II brought about the fall of the Third Republic. After the defeat of the French Armies in May and June of 1940, the national assembly endorsed the establishment of Marshal Pétain as Prime Minister. On July 10, 1940, the national assembly granted Pétain the authority to promulgate a new Constitution, which replaced the term "French Republic with that of "French State."

Mr. President, the instability of the Third French Republic is well illustrated by two lists. The first is a list of the Presidents of France from February 1871 to July 1940. The second, and the more important list, is of the French Governments from September 1870 to July 1940. I ask unanimous consent that the two lists may be printed in the RECORD.

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

#### PRESIDENTS OF THE THIRD REPUBLIC

1. Adolphe Thiers, provisional, Feb. 1871–May 1873.
2. Patrice de MacMahon, May 1873–Jan. 1879.
3. Jules Grevy, Jan. 1879–Dec. 1887.
4. Sadi Carnot, Dec. 1887–June 1894.
5. Jean Casimir-Périer, June 1894–Jan. 1895.
6. Félix Faure, Jan. 1895–Feb. 1899.
7. Emile Loubet, Feb. 1899–Feb. 1906.
8. Armand Fallières, Feb. 1906–Feb. 1913.
9. Raymond Poincaré, Feb. 1913–Feb. 1920.
10. Paul Deschanel, Feb.–Sept. 1920.
11. Alexandre Millerand, Sept. 1920–June 1924.
12. Gaston Doumergue, June 1924–June 1931.
13. Paul Doumer, June 1931–May 1932.
14. Albert Lebrun, May 1932–July 1940.

#### GOVERNMENTS OF THE THIRD REPUBLIC

1. Louis Jules Trochu, Sept. 1870–Feb. 1871.
2. Eugène Chevandier de Valdrôme, "the Bordeaux government," Sept. 1870–Feb. 1871.
3. Adolphe Thiers, Feb. 1871–May 1873.
4. Adolphe Thiers, May 1873–Feb. 1875.
5. Louis Buffet, March 1875–Feb. 1876.
6. Jules Dufaure, Feb.–March 1876.
7. Jules Dufaure, March–Dec. 1876.
8. Jules Simon, Dec. 1876–May 1877.
9. Albert de Broglie, May–Nov. 1877.
10. Gaëtan de Grimaudet de Rochebout, Nov.–Dec. 1877 (10 days).
11. Jules Dufaure, Dec. 1877–Jan. 1879.
12. William H. Waddington, Feb.–Dec. 1879.
13. Charles de Freycinet, Dec. 1879–Sept. 1880.
14. Jules Ferry, Sept. 1880–Nov. 1881.
15. Léon Gambetta, Nov. 1881–Jan. 1882.
16. Charles de Freycinet, Jan.–July 1882.
17. Charles Duclerc, Aug. 1882–Jan. 1883.
18. Armand Fallières, Jan.–Feb. 1883.
19. Jules Ferry, Feb. 1883–March 1885.
20. Henri Brisson, March–Dec. 1885.
21. Charles de Freycinet, Jan.–Dec. 1886.
22. René Goblet, Dec. 1886–May 1887.
23. Maurice Rouvier, May–Nov. 1887.
24. Pierre Tirard, Dec. 1887–March 1888.
25. Charles Floquet, April 1888–Feb. 1889.
26. Pierre Tirard, Feb. 1889–March 1890.
27. Charles de Freycinet, March 1890–Feb. 1892.
28. Emile Loubet, Feb.–Nov. 1892.

29. Alexandre Ribot, Dec. 1892–Jan. 1893.
30. Alexandre Ribot, Jan.–April 1893.
31. Charles Dupuy, April–Nov. 1893.
32. Jean Casimir-Périer, Dec. 1893–May 1894.
33. Charles Dupuy, May 1894–Jan. 1895.
34. Alexandre Ribot, Jan.–Oct. 1895.
35. Léon Bourgeois, April 1896–June 1898.
36. Jules Méline, April 1896–June 1898.
37. Henri Brisson, June–Oct. 1898.
38. Charles Dupuy, Oct. 1898–June 1899.
39. René Waldeck-Rousseau, June 1899–May 1902.
40. Emile Combes, June 1902–Jan. 1905.
41. Maurice Rouvier, Jan. 1905–March 1906.
42. Ferdinand Sarrien, March–Oct. 1906.
43. Georges Clemenceau, Oct. 1906–July 1909.
44. Aristide Briand, July 1909–Nov. 1910.
45. Aristide Briand, Nov. 1910–Feb. 1911.
46. Ernest Monis, March–June 1911.
47. Joseph Caillaux, June 1911–Jan. 1912.
48. Raymond Poincaré, Jan. 1912–Jan. 1913.
49. Aristide Briand, Jan.–March 1913.
50. Louis Barthou, March–Dec. 1913.
51. Gaston Doumergue, Dec. 1913–June 1914.
52. René Viviani, June–Aug. 1914.
53. René Viviani, Aug. 1914–Oct. 1915.
54. Aristide Briand, Oct. 1915–Dec. 1916.
55. Aristide Briand, Dec. 1916–March 1917.
56. Alexandre Ribot, March–Sept. 1917.
57. Paul Painlevé, March–Sept. 1917.
58. Georges Clemenceau, Nov. 1917–Jan. 1920.
59. Alexandre Millerand, Jan.–Sept. 1920.
60. Georges Leygues, Sept. 1920–Jan. 1921.
61. Aristide Briand, Jan. 1921–Jan. 1922.
62. Raymond Poincaré, Jan. 1912–March 1924.
63. Raymond Poincaré, March–June 1924.
64. Frédéric François-Marsal, June 1924 (5 days).
65. Edouard Herriot, June 1924–April 1925.
66. Paul Painlevé, April–Oct. 1925.
67. Paul Painlevé, Oct.–Nov. 1925.
68. Aristide Briand, Nov. 1925–March 1926.
69. Aristide Briand, March–June 1926.
70. Aristide Briand, June–July 1926.
71. Edouard Herriot, July 1926 (3 days).
72. Raymond Poincaré, July 1926–Nov. 1928.
73. Raymond Poincaré, Nov. 1928–July 1929.
74. Aristide Briand, July–Oct. 1929.
75. André Tardieu, Nov. 1929–Feb. 1930.
76. Camille Chautemps, Feb. 1930 (4 days).
77. André Tardieu, March–Dec. 1930.
78. Théodore Steeg, Dec. 1930–Jan. 1931.
79. Pierre Laval, Jan. 1931–Jan. 1932.
80. Pierre Laval, Jan.–Feb. 1932.
81. André Tardieu, Feb.–May 1932.
82. Edouard Herriot, June–Dec. 1932.
83. Joseph Paul-Boncour, Dec. 1932–Jan. 1933.
84. Edouard Daladier, Jan.–Oct. 1933.
85. Albert Sarraut, Oct.–Nov. 1933.
86. Camille Chautemps, Nov. 1933–Jan. 1934.
87. Edouard Daladier, Jan.–Feb. 1934 (9 days).
88. Gaston Doumergue, Feb.–Nov. 1934.
89. Pierre Étienne Flandin, Nov. 1934–May 1935.
90. Ferdinand Bouisson, June 1935 (4 days).
91. Pierre Laval, June 1935–Jan. 1936.
92. Albert Sarraut, Jan.–June 1936.
93. Léon Blum, June 1936–June 1937.
94. Camille Chautemps, June 1937–Jan. 1938.
95. Camille Chautemps, Jan.–March 1938.
96. Léon Blum, March–April 1938.
97. Edouard Daladier, April 1938–March 1940.
98. Paul Reynaud, March–June 1940.
99. Philippe Pétain, June–July 1940.

Mr. CURTIS. Mr. President, I call attention to the fact that during this period of only 70 years from February 1871 to July 1940 there were 99 governments of France and 14 Presidents.

## THE FOURTH REPUBLIC

The constitution of 1946 perpetuated the faults of the Third Republic. The center of gravity of political power resided in the lower chamber, which was itself now called the National Assembly. The President of the Republic was elected by the two chambers, and Ministers were responsible to the National Assembly, which was able to bring down a government at will, by a vote of no confidence. Before the threat of civil war raised by the rebellious army leaders and European population in Algeria, the National Assembly voted over its powers to Charles de Gaulle by granting him the right to draft a new constitution, on June 1, 1958.

Mr. President, while the Third Republic changed governments almost as often as a person changes his shirt, the Fourth Republic was scarcely better.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of the governments of the Fourth Republic.

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

GOVERNMENTS OF THE FOURTH REPUBLIC  
PRESIDENTS

Vincent Auriol, 1947-53.  
René Coty, 1953-58.

## HEADS OF GOVERNMENT

1. Charles de Gaulle, provisional, Sept. 1944-Jan. 1946.
2. Félix Gouin, provisional, Jan.-June 1946.
3. Georges Bidault, provisional, June-Nov. 1946.
4. Léon Blum, Dec. 1946-Jan. 1947.
5. Paul Ramadier, Jan.-April 1947.
6. Paul Ramadier, May-Nov. 1947.
7. Robert Schuman, Nov. 1947-July 1948.
8. André Marie, July-Aug. 1948.
9. Robert Schuman, Aug.-Sept. 1948 (7 days).
10. Henri Queuille, Sept. 1948-Oct. 1949.
11. George Bidault, Oct. 1949-June 1950.
12. Henri Queuille, June-July 1950 (4 days).
13. René Pleven, July 1950-Feb. 1951.
14. Henri Queuille, March-July 1951.
15. René Pleven, Aug. 1951-Jan. 1952.
16. Edgar Faure, Jan.-Feb. 1952.
17. Antoine Pinay, March-Dec. 1952.
18. René Mayer, Jan.-May 1953.
19. Joseph Laniel, June 1953-June 1954.
20. Pierre Mendès-France, June 1954-Feb. 1955.
21. Edgar Faure, Feb. 1955-Jan. 1956.
22. Guy Mollet, Jan. 1956-May 1957.
23. Maurice Bourgès-Maunoury, June-Sept. 1957 (followed by a vacancy of 36 days).
24. Félix Gaillard, Nov. 1957-April 1958.
25. Pierre Pflimlin, May 1958 (15 days).

Mr. CURTIS. Mr. President, there were 25 governments of the Fourth Republic between 1946 and 1958.

## THE FIFTH REPUBLIC

The constitution of the Fifth Republic, approved by referendum in September 1958, strengthened the powers of the executive branch and curtailed those of the National Assembly. A constitutional amendment of 1962 further strengthened the position of the President by providing for his election by direct universal suffrage. The Prime Minister is responsible to both the President and the National Assembly. However, a test between the executive and the legislative under the Fifth Republic has never occurred. For the first time in the history

of the French Republics, the executive branch has enjoyed a parliamentary majority, thus insuring the passage of its legislation and the endorsement of its policies.

Mr. President, the Fifth French Republic has shown some improvement over its predecessors. Only two Presidents have been at the helm since 1958. We certainly wish the French success in their quest for constitutional stability, however the record, to date, has not been one to inspire great confidence in this matter.

Mr. President, it is rather significant that so far in this debate, to my knowledge, no argument has been presented that the idea of a runoff election would be a good thing. Many people in and out of the Congress have pointed out the evils of a runoff—its delay, its expense, plus the whole change, the way of campaigning, and the whole departure from our federal system.

I do not want the record to stand and imply that I am suggesting the distinguished Senator from Indiana is advocating that we adopt something out of the French system—not at all. I pointed it out for one purpose, and one purpose only, and that was that the only argument that he has advanced in support of a runoff election was the fact that France had it. Again, I would like to read his words:

I would suggest that if the people of France are sophisticated enough to have an electoral system in which they have a runoff election, the people of the United States, and the Congress in particular, should be sophisticated enough and intelligent enough to pick a date that would work. I would, however, like to point out that if the 40 percent contained in Senate Joint Resolution 1 had been operating in France, that country would not have had to have a runoff.

Mr. President, why have the proponents of this measure inserted a provision that a President, to be elected, had to have only 40 percent of the vote? Did they do it because there is some impelling reason that makes a minority President better than a majority President? Could it be possible that they feared the chaos that would follow if we were thrown into a runoff and that, in order to make sure that that would be unlikely to happen, the principle of having the President of a majority was abandoned and there was written into Senate Joint Resolution 1 another provision that a candidate needed to have only 40 percent?

Mr. President, I am opposed to Senate Joint Resolution 1 for many reasons. I oppose it in the first instance because, in my opinion, it abandons our federal system. I frankly admit that one of the reasons why I oppose it is that it will take away about 20 percent of the voting strength that my State now has in choosing the President. But, in addition to all of that, there are all of these provisions written into the joint resolution which no one defends and which invite chaos.

Mr. President, I think the distinguished Senator from Michigan (Mr. GRIFFIN) should be commended for the remarks he made in the Senate on September 10. Here the distinguished Senator points out another glaring, and I think danger-

ous, defect in Senate Joint Resolution 1. Here is what he said. His remarks are directed to the chairman of the Committee on the Judiciary, the distinguished Senator from Mississippi (Mr. EASTLAND). Mr. GRIFFIN said:

Mr. GRIFFIN. Mr. President, the distinguished chairman of the Committee on the Judiciary made reference to individual views of the junior Senator from Michigan, as set forth in the committee report. Although the distinguished chairman and I do not reach the same conclusions concerning the merits of the pending resolution, I must say that I share his view that it will be necessary and logical if we are to elect the President by direct popular vote, for Congress to establish uniform voter qualifications and procedures for conducting such elections. Indeed, I believe Congress would be derelict in its duty if it did not establish such uniform standards in connection with, or directly following, adoption of a constitutional amendment to elect the President by popular vote.

We may, and we do, differ in our conclusions as to whether such a development would be good for the country—but the logic is unassailable. Furthermore, I can agree that the people of the several States should realize, as we consider this popular vote amendment, that uniform voter qualifications and election procedures will be a necessary and logical result. No one should be fooled on that point.

Mr. EASTLAND. Of course that is the logical result. It is what will happen. I think it is bad for the country. My friend disagrees with me.

Mr. GRIFFIN. I am glad to reaffirm the position and the reasoning set forth in my individual views contained in the committee report.

And, I might say that I believe the amendment referred to in those views, and rejected by the committee, should be presented for the Senate's consideration. I do not know what the Senate will do. But I believe it would be consistent with adoption of the direct election amendment to the Constitution to include a provision requiring such uniform standards.

Mr. President, there are so many parts of this proposal that, in truth and in fact, do invite chaos. This one referred to by the distinguished Senator from Michigan is one of them. As Senate Joint Resolution 1 now stands, the selection of the President would be determined by national totals, but 50 different States would have a major part in saying who is entitled to vote.

The other day I likened this to a situation in a State, and I think it bears repeating. If a State were to elect a Governor or a Senator or any other officer elected statewide, it would not think then of writing into its constitution that the counties or the cities shall determine the qualifications of voters. We have such a situation in Senate Joint Resolution 1.

Is it any wonder that the Washington Post says, in reference to Senate Joint Resolution 1, "There is still room for improvement?" Mr. President, there is lots of room.

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

Mr. CURTIS. I am happy to yield.

Mr. BAYH. The Senator from Indiana, as I think the record will show, has spoken about the runoff more than the one time that the Senator from Nebraska suggested. He feels that the runoff is not really as bad as his friend from Nebraska believes.

But, since some disagreement and concern has been expressed on this issue, the Senator from Indiana is willing to accept another alternative.

If I did so, would the Senator from Nebraska join in the support of Senate Joint Resolution 1, as amended?

Mr. CURTIS. Well, in the first place, I think the Senator from Indiana ought to offer the amendment. If he wants to improve Senate Joint Resolution 1, he should offer an amendment. He has argued here that it should be adopted because there are polls that favor it, and that it should be adopted because the House of Representatives favored it.

I can only conclude that he believes in this amendment. Now, if he is changing his position, I think he ought to offer an amendment.

Mr. BAYH. Will the Senator yield further?

Mr. CURTIS. Let me finish my answer to the Senator's question.

I oppose this proposal for many reasons. One of them is that it is an abandonment of the federal system, in my opinion, whereby we vote by States, giving every State the number of votes that it has Members of Congress.

As a part of that, if that change were made, it would reduce the voting power of my State. That is another reason why I oppose the amendment.

But I say that if the States are to be thus overrun, and this amendment is to be passed, which the Senator has a right to seek to do, he owes it to the country to have a workable and nonconfusing alternative, and Senate Joint Resolution 1 is not that.

Now I yield for a further question.

The PRESIDING OFFICER. The Senator from Nebraska yields to the Senator from Indiana.

Mr. BAYH. I thank my colleague from Nebraska for his courtesy. I do not wish to continue to interrupt him, but I feel it necessary to say a few words, inasmuch as he has spoken at some length and has been particularly critical of the runoff. As I have pointed out to this body before, I have said in conversations with the distinguished Senator from Michigan, who is one of the sponsors of an alternative proposal, that I would be glad to support that proposal, or a reasonable variation thereof that might be acceptable to other Members of this body. I do not think it is necessary for the Senator from Indiana to offer an amendment to that effect himself. I am sure that the Senator from Nebraska would take me at my word if I say I am in favor of accepting that type of thing, and would not suggest that I would be dishonest with the Senate unless I offered the amendment myself.

Frankly, I am trying to get as many people involved in this effort as I can. I have been one of the leading proponents. I do not apologize for that, but I am certainly not going to be arbitrary in saying that if there are places we can change this proposal and make it more acceptable to our colleagues, I am not willing to accept such changes, even if I do not feel that the change might be an improvement as some others suggest.

I have stated before that the runoff, which is used in a number of our States successfully and is not foreign to the American political system, has appealed to me. But if I cannot force the necessary two-thirds of this body to pass it, if it is necessary to get some other Senator's opinion adopted as a part of this amendment, I would be more than willing to accept an alternate proposal.

Mr. CURTIS. I thank the Senator for his explanation. The junior Senator from Nebraska raises no question whatever about the intellectual honesty of the Senator from Indiana. We do disagree as to our conclusions here, but certainly he has proceeded in good faith, motivated by his desire to serve his country in the best way possible.

Mr. STENNIS. Mr. President, if the Senator from Indiana has finished—

Mr. BAYH. Oh, yes.

Mr. STENNIS. Will the Senator from Nebraska yield for a question?

Mr. CURTIS. I am happy to yield.

Mr. STENNIS. Mr. President, first I wish to say that I have thoroughly enjoyed hearing the very fine contribution the Senator from Nebraska has made to this subject—and it is highly involved, and a perplexing subject to a degree. I have never seen anything that brought more earnest attention from virtually all the Members of this body than this entire subject matter of the electoral college, not just this year but in prior years as well.

The Senator from Nebraska always makes a contribution. His address shows a fine knowledge, and more than that, a learning concerning the constitutional processes and the problems we have to try to cover.

I wish to ask the Senator one or two more questions about this runoff matter. As I recall it, the Senator indicated that even among that group in the Senate who favor in a general way the proposal for the election of President and Vice President by a popular vote, he has found a very strong and deep concern about the question of the runoff and the inadequacy of the resolution now before us. Is that not true?

Mr. CURTIS. That is very true, on the part of those who have either criticized or expressed doubts about the wisdom of it. And I know of no one who comes forth and defends it.

Mr. STENNIS. I noticed that the Senator had made that point, and I have had exactly the same experience. Among the Members of this body at this time there are those who favor popular election of the President, but they shake their heads and back off from this provision, as now written, with reference to merely providing that there be a runoff, and more or less a period at that point, leaving everything else to surmise, including what may be done about it in the future.

Mr. CURTIS. Mr. President, I might point out at that point that our Constitution, both in its original drafting and in the 12th amendment, very specifically tells how we elect a President. It provides, after the votes are cast by the States, for the joint session of Congress, how the votes shall be opened, and how

they shall be counted; and then it provides, if no one has a majority, the exact way in which the contest shall be decided. It says:

The House of Representatives shall choose immediately, by a ballot, a President.

It is spelled out exactly how they do it. Mr. STENNIS. Yes.

Mr. CURTIS. All this proposal says is that there will be a runoff. When its proponents are questioned about that they say, "Well, Congress can implement it by law."

I raise the question, When will Congress do that? Will they change the law in November, after the election? They would have a right to do that; after it appeared that there would be a runoff, the Congress then sitting, if it is left to be done by statute, could enact a statute.

At best, the proposal is hazy and inconclusive, and leaves doubt in people's minds; and it has no defenders.

Mr. STENNIS. If the Senator will yield further, we would be writing up in stone, you might say, a provision of the Constitution that would cover half of the presidential election, carrying it half way, and leave it to them to consider, perhaps under great pressure of partisan consideration, and to supply the other half of the machinery—that is, the runoff machinery for the election of the President. As the Senator has said, Congress could have the power, under this provision, to modify or change the law or change the system even after the first election, so-called, had been held.

Mr. CURTIS. That is correct. Assuming that Congress acted in the best possible manner, the proposal still lacks permanence with respect to writing rules of the game as to how the President is to be elected.

Mr. STENNIS. And it would be subject to change at the will of any Congress.

Mr. CURTIS. That is correct.

Mr. STENNIS. If the Senator will yield further, may I ask his opinion about another matter about which I have been concerned? What is the Senator's opinion with respect to splinter parties being encouraged under the popular election system? Does the Senator think it would encourage them or discourage them? What is the Senator's idea as to the impact of the new system? That is one of our great problems. It is a problem under our present system.

Mr. CURTIS. I think it would encourage and increase the likelihood of splinter parties, because, by its very nature, that would happen.

Also, I might cite the fact that a great many of the leading scholars—I am referring now to those who are opposed to this measure—have pointed out that it would increase the chances of splinter parties.

Mr. STENNIS. I believe that the Senator is correct. Frankly, to me, it is something not to be encouraged.

The Senator was a Member of the House of Representatives in 1948, when the Lodge-Gossett plan was proposed, a plan that I would heartily support as a new Member of the Senate. The same

plaguish question was present in that plan as is present in these plans, and that is the question of the splinter parties.

I have listened with satisfaction to what the Senator has said about the undermining of the Federal system, the undermining of the system of States, and the complete removal of them from the electoral process. Are we not fooling ourselves to think if we think there is anything of substance left for the States to do or that they will have to do in connection with these Federal elections for the President and the Vice President if we adopt this plan? It is a total abolition and a taking away of their responsibility, their power, and their prerogative; is it not?

Mr. CURTIS. I think that is very true.

Mr. STENNIS. Without any substitute or safeguard of any kind being supplied in their place.

Mr. CURTIS. I agree with the distinguished Senator.

I might invite the Senator's attention to the testimony of Mr. Theodore H. White, the author and political analyst. Mr. White has given a great deal of attention to the presidential elections and presidential campaigns. He says this:

I would submit that this Senate will consider no more important question in this decade than the matter of how we elect a President. This is the essence of the game. This is a question of leadership in a modern society. This is where I think politics and history join. In modern times, other nations have tried direct election of a president. Germany did. They tried it by direct unitary vote of the nation, and they got Hitler.

Then he cites something else:

I spend time covering Presidential elections. The election of 1960 was carried by one-tenth of one percent of the popular vote. It may amuse you to know that in these years since then, I have never been able to get an official count of the John F. Kennedy margin over Richard Nixon. One count says it is 113,000. The Clerk of the House says it is 119,450. And there is another count of 112,000 and another count of 122,000. There is no way now of collecting a direct official vote in the United States.

When a premium is put on that national total, that it is the determining factor, there will be no end to recounts and lawsuits and contests in many of the 180,000 precincts throughout the United States.

Mr. STENNIS. I think the Senator has answered well.

With all the ferment and dissent and protests and marching we have had in the last few years—which we pray will not continue—there certainly is a possibility of it being stirred up in a nationwide election with a popular ballot. I would think that if we were going to change this plan and make it a popular election, the only sound way to do it would be to put it in on an experimental basis and say that it would automatically be repealed after having been used one time, and then let Congress and the State legislatures decide whether or not they want to renew the system. I believe it is fraught with great danger and could be something that, for the first time, would get our constitutional processes out of kilter.

I thank the Senator.

Mr. CURTIS. I thank the distinguished Senator for his contribution.

Certainly, we do not need to apologize for the success under our existing Constitution. For almost 200 years, things have gone along, and able and good men have been elected President. Should we change this for a method that leaves us in doubt?

I would think that the proponents of Senate Joint Resolution 1 themselves would want to withdraw this proposal, not on the basis of the arguments that other people have made, but on the basis of their own doubts which have been expressed here. We should not make a major change in our Federal system if there is any doubt about how it would work out. We face no deadline. If we are to amend the Constitution, it is better that we have a good amendment in March than an ill-conceived one in September. There is no hurry. For the present, we should continue our discussion of this matter until such time as the proponents correct their amendment and confine their basic changes to a system that can be workable, that is free from confusion, and free from the danger of this country's suffering from a lack of government during the long months it would take for a runoff.

Mr. President, I yield the floor.

Mr. HOLLAND. Mr. President, I have spoken during this debate before in opposition to Senate Joint Resolution 1. I think the RECORD clearly shows that I am opposed to it for various reasons which I think are, at least to me, so impressive that I am not disposed in any way to yield upon them.

First, I think that the resolution downgrades the States terribly. Although I come from a State which is well above average in size—in fact, ninth—I think that the States still have considerable interest in who is elected President or Vice President and that they are interested as States and as individual sovereigns because the relations between those individual sovereign and the Federal sovereign are such that it requires them to have that continuing interest.

Second, I am very sure that this resolution would produce splinter parties and make us weaker, just as has happened in other democratic nations of the world where splinter parties exist and where the other danger exists, which is noteworthy, that of lack of stability in government.

I particularly appreciated that portion of the speech of the distinguished Senator from Nebraska (Mr. CURTIS), who has just preceded me, which showed how clearly the government of our beloved sister republic, France, has suffered from want of stability which results, in the first instance, from the existence of many splinter parties in that country.

I am also strongly opposed to Senate Joint Resolution 1 because of the provision for a second election, and because of the possibility and I think the probability of long and exhaustive contests and recounts and difficulties produced by nonfunctioning election machines and other things of that kind. It is upon that point I first shall dwell in my remarks today.

Mr. President, I was greatly impressed on Friday afternoon by the speech of the distinguished Senator from North Carolina (Mr. ERVIN) opposing Senate Joint Resolution 1. In particular I appreciated his bringing out the dangers that would flow from the placing of said resolution in our Constitution relative to the possibility of nationwide contests and suits affecting any fraud that might be alleged, any miscounting of ballots, and any breakdown of voting machines.

I was particularly impressed by the fact that the distinguished Senator from North Carolina called attention to the fact that this Nation, great as it is now, has 184,000 voting precincts and that the possibilities of error are present in every one of those voting precincts.

It is very evident that the Senator from North Carolina was exactly right in stating that in the event of a direct vote for President and Vice President on a national basis, the possibilities of appeals for recount and contests of results exist in each of the 50 States and the District of Columbia and in every county in each of the 50 States. And these contests might well occur in each and every State or county, but we must remember they would not be an effective weapon as now, that is which is confined only in its application to the vote of the majority party in each State. Under Senate Joint Resolution 1, these contests would be applicable as well to the minority vote, also, since the alleged fraud, miscounting, or malfunctioning of the voting machines would be just as applicable to the minority vote as it would to the majority vote. In other words, the minority vote in any State or county would contribute to the national total and the contest or demand for recount of the minority vote in any State or county would become just as available a weapon as it is now to the majority vote in that State or county.

The net result of this possibility in the event of a close national election is almost impossible to calculate since it might tie up the election of the President and Vice President for indefinite periods of time, much beyond the date of January 20 when the term of the sitting President would come to an end and the term of the new President would begin.

The distinguished Senator from North Carolina quoted the provision of the Constitution which makes it very clear that the term of the outgoing President does end at midday on January 20 and the term of the new President does begin at midday on January 20. I think that the probabilities of a tieup after the first Tuesday after the first Monday in November, which is the date of the general election, that would last beyond January 20, the following year, are so frightening that this point alone should dissuade us from undertaking any such plan or system. Certainly it is made very clear that in the event of a close election, such as the two we had in recent years, the demands for recounts and suits, and all the contests, would make it completely impossible to hold a second election between the November general election and the January 20 following.

I do not know why that thought has not occurred to the sponsors of the joint

resolution, but it seems to me that is one of the things which stands out like a sore thumb, because it calls attention to something which cannot be expected to work in the event of a close national election.

My thoughts immediately turned to what happened after the 1876 election when the Hayes-Tilden controversy raged throughout the Nation and when the final result of the election depended on the electoral votes of three States: Florida, Louisiana, and South Carolina.

As a boy, I was raised on the discussions of what happened in the case of the contest in Florida. A great many good people in our State still have great doubt as to whether that contest was properly decided.

So confused was the situation in each of these States and so variant were the actions of the canvassing officials and courts in these States that the whole contest assumed such proportions as to require finally, in the judgment of Congress, the setting up of a presidential electoral commission, an agency not authorized by the Constitution, to go into the jumbled facts for the Congress and decide these three contests for the guidance of Congress.

Let us remember that the date of inauguration of the new President at that time was March 4 and not January 20 as it now is. On checking with the Library of Congress I find that the presidential electoral commission, after going into all the facts that were available to it, decided by a vote of 9 to 8 the three cases which I have mentioned on the following dates: A decision was made in the Florida contest on February 9 assigning the electoral vote of Florida to Rutherford B. Hayes. In the case of Louisiana, its electoral vote was assigned by the same presidential election commission to Mr. Hayes on February 16. The date of the inauguration was getting very close. In the case of South Carolina, the electoral vote of that State was assigned by the presidential electoral commission to Mr. Hayes on February 28, 1877, or just 4 days before the inauguration. These three decisions decided the election in favor of Mr. Hayes over Mr. Tilden by a majority of one—that is a single electoral vote. The Library of Congress furnished me with these dates and also with the fact that Congress took action on March 2, receiving and accepting the reports of the presidential electoral commission, and counting the electoral votes of the States of Florida, Louisiana, and South Carolina for Rutherford B. Hayes, thus deciding the election on March 2, or just 2 days before the inauguration, and deciding it by a margin of only one electoral vote.

It is obvious from a review of all of the dates above named that no second election of the President could possibly have been held after the first of the decisions, February 9, in the Florida case, just 23 days before the inauguration. And I call attention to the fact that all of these contests related to States of small population and to relatively small units of government within those States. In the State of Florida the contest re-

lated only to the votes cast in two counties: Alachua and Jackson.

With the court's decision conflicting and with two canvassing returns that varied being sent to Congress, I think that every Senator can realize the problem presented in such a case and how difficult it is to decide how the electoral vote shall be counted.

Mr. President, I shall not go into any great discussion of what happened during that recount except that I think it is interesting to note the following fact about it.

At the time the commission was selected by Congress, it was thought that it leaned in the Democratic direction. But between that time and the time that the recounts were decided, one member of the commission, Mr. Justice Davis, of Illinois, resigned in order to be elected to the Senate of the United States from the State of Illinois by action of the State legislature, receiving the votes of the Democrats and the Independents. He was succeeded by the next senior member of the Supreme Court, who happened to be of the opposing political faith.

So, Mr. President, I think it is rather clear that here is a demonstration of what happens when we have serious contests following a close election, even with the time that existed then for those contests to be decided being different, because then we had the time from the first Tuesday after the first Monday in November until March 4. Now we have the time from the same time in November up to January 20.

I think it is rather absurd. In the event of a close election and the occurrence of many contests, there is no way whatever in which the proposed resolution could or would work.

It is terrible to contemplate the confusion that might result if Senate Joint Resolution 1 were adopted and became a part of our Constitution through contests and recounts in any number of States and the District of Columbia, and the complete impossibility of deciding all of these contests finally either by court action or otherwise in time to have a second national election of the President before January 20, the date the presidential inauguration takes place under the present Constitution.

Mr. President, I shall not dwell longer on that point. However, I hope that Senators reexamine the able statement made by the Senator from North Carolina last Friday which embraced a much longer treatment of this particular point than I have given here today, although not taking up the same details with which I have dealt.

I think that a Senator looking at the facts and the law, as amassed and presented by the Senator from North Carolina, will come without question to the conclusion that Senate Joint Resolution 1 simply cannot work in a close election.

Mr. President, on a previous occasion when I appeared in this debate, I stated that if one would study the unusual weather phenomena occurring during the period of the month of November when presidential elections occur, it would be readily seen how adverse

weather conditions could play a part on the fairness of direct elections, and incidentally, if the proposals of the pending amendment were adopted, we should have a second election coming, let us say, in December, in which the chance of disturbance of the weight of the many States would be even more adversely affected as the weather conditions in December are generally worse than they are in November.

In order to show the effect weather conditions could have on the fairness of direct elections nationwide under the pending proposal, 2 years ago when I appeared before the committee so ably headed by the Senator from Indiana (Mr. BAYH), I procured information from the Weather Bureau regarding storm data and unusual weather phenomena occurring during the period November 2 to 8, the period of the month that presidential elections occur.

In researching the 10-year period, 1959-68, we found that during the period November 2 to 8, 1959, all of our State, Florida, most of another State, and certain areas of 16 other States had unusual weather conditions which would have hindered voters from getting to the polls. In 1960, certain areas of three States had such conditions; in 1961, nine States had such conditions; in 1962, all of one State and certain areas of five other States had such conditions; in 1963, all of two States and certain areas of eight States had such conditions; in 1964, certain areas of four States had such conditions; in 1965, all of four States and certain areas of three States had such conditions; in 1966, all of two States and certain areas of 10 States had such conditions; in 1967, all of one State and certain areas of four States had such conditions; and in 1968, all of three States and certain areas of five States had such conditions.

Mr. President, the figures I have given are based on reports to me by the U.S. Weather Bureau, made after a careful check of conditions during each of the 10 years which I have covered in this statement.

It is completely clear that in the event nationwide direct election of President and Vice President had occurred in any of the 10 years covered by the weather statistical material furnished me, the people of one or more States would not have been able to vote their full weight in comparison with other States of the Nation due to no fault of their own. Of course, adverse weather affects voting in each State, singly, and always has, but the State will still have its full electoral strength and the votes actually cast should be fairly representative of the attitude of the people of that State as a whole.

Mr. President, I have repeatedly stated that the electoral college as now set up is by no means an ideal system and have long opposed it. I have supported another method of selection of the President and Vice President, one of which passed the Senate by the very large vote required for submission to the States, but failed of such passage in the House of Representatives. The program at that

time, the fractional method of deciding the vote of each State, was known as the Lodge-Gossett plan.

I am completely out of accord, however, with the adoption of the amendment discussed by the Senator from Indiana for it would simply mean that the Federal Government would take ultimately and necessarily, complete control of our election machinery and processes and would simply strike out any independence on the part of the States as sovereign entities, intended by the Constitution. It would, in the final analysis, call for federalization of our election laws.

I appreciate the fact that the distinguished Senator from Nebraska in his speech just preceding mine quoted rather extensively from the able and distinguished Senator from Michigan (Mr. Griffin) in his statement of a few days ago in which he made it very clear that the only thing that would possibly allow any part of Senate Joint Resolution 1 to work would be the adoption of uniform Federal standards affecting elections; that is, for the registration of electors, for the casting of absentee ballots, for the period of residence and age of voters, and all the other details necessary for the uniform system.

I do not favor that kind of action. I think we already have too big a Federal Government which is not functioning as well as we would like it to function and this would be just another step in stealing from the States something given them by the original Constitution in a compromise settlement which was basic and necessary to the framing of the Constitution. I do not want to see that original compromise interfered with.

That compromise made provision for small States. The first State, now so ably represented by the distinguished Senator now presiding (Mr. Boggs), has always been a small State but a great and fine State. It was one of those States so insistent on the compromise under which each State had two Senators in the Senate, and under which the electoral college consisted of representation, for each State of two electors representing the Senators and one elector for each Congressman from that State representing the population of that particular State.

Mr. President, we would not have had a Constitution if it had not been for that compromise. I hate to think of anybody now seriously discussing a program which would go back to the beginning and disregard the fact that we have lived for 181 years under that Constitution and under which we have become the oldest continuous government of any size on earth. This measure would change that program which was found so necessary to the very existence of the Constitution and the setting up of the Federal Government. I hope we shall not consider doing anything so unwise as that.

And I state, most emphatically, that I do not care to have the long and controlling arm of the Federal Government extended insofar as our election process is concerned, resulting in further centralization of Government and the tak-

ing away from the States the independence our Founding Fathers intended them to retain.

Mr. President, those who are qualified as electors do not vote simply in presidential elections. They vote for Governors of their States. The Senator now serving as Presiding Officer served as Governor of his great State, the State of Delaware. They vote for the legislature which makes the laws—a bicameral legislature in every State but one and a unicameral legislature there—and I glory in the fact that States can be independent in the way they set up what they think is the best form of a representative government to serve the people of their State. They elect State executive officials. In my State all the cabinet members are elected by the people of the State. They elect the county officials. If there is any part of the government close to the people it is the courthouse officials in every county in this country. In many States they elect their judicial servants. That is true in my State, but not in every State. I am grateful again that our form of government is so flexible as to allow our States some freedom of action as to what they think will best serve their ideas of the exercise of freedom and independence.

So, Mr. President, I do not want to see the Federal Government taking over so great a responsibility and taking over the setting up of uniform standards of participation in elections.

I think to do so would be a significant and great departure from our system of government. Do not Senators remember that in section 2 of article I of the Constitution it was provided not that the Federal Government should set up qualifications of electors, but that which would prevail in the election of congressmen would be the system which applied to the most numerous branch of the legislature, showing how fully the constitutional framers were willing to rely on State standards.

Mr. President, one of our colleagues, Senator MUNDT, the author of the so-called district plan for electoral college reform, introduced in the 90th Congress as Senate Joint Resolution 12, made a statement on the floor of the Senate on February 6, 1967, in respect to meritorious and significant criticism of our present electoral college system by the Commission on Electoral College Reform of the American Bar Association. Knowing that the American Good Government Society, for many years had been in the vanguard of those advocating electoral college reform, Senator MUNDT asked Mr. J. Harvie Williams of its Committee on Electoral College Reform to prepare a statement in depth discussing the pros and cons of various proposals to correct the present situation. Senator MUNDT inserted into the RECORD of February 6, 1967, comments made by the Committee on Electoral College Reform of the American Good Government Society on the statement of the Commission on Electoral College Reform of the American Bar Association. Mr. President, while these comments appeared in the RECORD of February 6, 1967, I believe it well that they now appear as a part of the present

debate and I ask unanimous consent that they be printed in the RECORD as a part of my remarks at this point.

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

OBJECTIONS TO PROPOSED DIRECT VOTE FOR PRESIDENT

Mr. MUNDT. Mr. President, as a recent statement by the Commission on Electoral College Reform, of the American Bar Association, presents some highly meritorious and significant criticisms of our present electoral college system. It demonstrates once again the basic necessity for correcting some of the perils and problems presently embedded in the manner in which we now elect our Presidents through the machinery of the electoral college.

Unfortunately, to some of us who have been crusading for electoral college reform for more than a decade, the answer or the cure proposed by the American Bar's Commission on Electoral College Reform creates many more problems than it solves and has some highly undesirable features which argue against its adoption. This is especially true when there are available at least two and possibly more reform procedures which would avoid the unfortunate repercussions and consequences which the direct vote for President proposal would set in motion.

Inasmuch as the American Good Government Society has for many years been in the vanguard of those advocating electoral college reform, I have asked the executive director, Mr. J. Harvie Williams, of its Committee on Electoral College Reform to prepare a statement in depth discussing the pros and cons of various proposals to correct the present situation.

While I happen to be the author and sponsor of the so-called District Plan for Electoral College Reform, now before the Senate as Senate Joint Resolution 12, and while I am gratified that the American Good Government Society along with many other knowledgeable groups are supporters of the district plan for reforming the electoral college, I am submitting this statement not as an argument for the approval of our amendment but as a public service to call attention to some of the pitfalls and the perils involved in departing completely from our traditions by providing for the direct popular vote for President and by discarding our great American concept of majority rule.

Too many foreign governments have already demonstrated the dangers of governments selected by a minority to give me any feeling of confidence, for example, in a proposal advocating that we now adopt a proposal openly recommending that a vote of 40 percent be considered adequate to elect our National Presidents with the inevitable concomitant that a plethora of minority parties would develop to grind away the traditional advantages which our adherence to a two-party system has uniquely provided for the United States.

The Commission on Electoral College Reform of the American Bar Association, in its report to the association, recommends that the President of the United States be elected by 40 percent of the direct nationwide popular vote; that when no candidate receives the required 40 percent of the vote a runoff election be held between the two top candidates; and that Congress have ultimate power over presidential elections, including age and residence requirements of voters.

These recommendations go far beyond what is necessary to achieve a much-needed, long overdue, and proper reform of the electoral college system by which we elect the President and Vice President. They would reshape the foundations on which the Constitution rests. Are we ready to do this?

By giving Congress control of the Presi-

dent's election the commission's recommendations would abolish the doctrine of separation of powers.

By abandoning the majority requirement in the President's election, the commission's recommendations would cut asunder the taproot of the two-party system. As much as the two-party system is revered we should understand clearly that it is imposed on us by the constitutional requirement of a majority vote to elect the President, by the electoral college or by the House of Representatives.

By abolishing the electoral college—that is, the office and person of elector of the President—the commission's recommendations would wipe out both the Federal element and the national element from the President's constituency which is now a representation of States and people—not voters—just as the Senate and House are a representation of both States and people. In their place this proposal, in the words of the eminent Prof. Edward S. Corwin, would "substitute a mathematical constituency, with the evils already cited, for the present geographic constituency. It would also pose a difficult problem of policing."

Heretofore, the direct, nationwide election of the President has been regarded as impossible of accomplishment. It was widely believed that the legislatures of the smaller States would not ratify such a change in the Constitution, and that Senators from these States would oppose submission of any amendment that so changed their constitutional status. I still believe this to be true, for there are 15 States having three or four members of the electoral college. Only 13 States are necessary to defeat a constitutional amendment.

Every worthy charge the commission makes against "the electoral college method of electing a President of the United States can be pinpointed as a charge against the statewide election of those members of the electoral college who exist by virtue of Members of the House of Representatives, Senate Joint Resolution 12, of which I am the sponsor, along with Senators COTTON, CURTIS, DOMINICK, FONG, HRUSKA, JORDAN of Idaho, MORTON, STENNIS, THURMOND, and TOWER, would do all that needs to be done. It would make the President's constituency equivalent to that of the Senate and House of Representatives in joint session, which is exactly what the constitution provides. That provision was distorted erroneously by the State legislators a long time ago. Its correction now does not require a reshaping of our federal system.

Mr. HOLLAND. Mr. President, because the direct election of the President has not heretofore been taken seriously its true character and the problems it would create have not been closely examined. It was to remedy this, in part, that Senator MUNDT asked the Committee on Electoral College Reform, of the American Good Government Society, to examine the report of the bar association's commission and offer any comment that seemed necessary. I ask unanimous consent that this position paper be printed in the body of the RECORD.

The material follows:

#### ELECTORAL COLLEGE REFORM

The American Bar Association published this month *Electing the President*. A report of its Commission on Electoral College Reform.

What follows is an objective commentary on the Report. Where necessary, the comment is critical.

My comment follows a quotation from the Report which is identified by page number.

#### Page 1

"Three of the four basic proposals would retain the system of allocating to each State a number of electoral votes equal to the number of Senators and Representatives to which the State is entitled in Congress."

#### Comment

This language smacks of the language of the Rules of Democratic National Conventions, and of the Southern Wing of the Party. In that convention "votes" are "allocated" to States. In Republican Conventions "delegates" are allocated to the States and Congressional Districts, as the Constitution allocates Electors to the States.

#### Page 1

The "unit vote" proposal would write into the Constitution the present practice of awarding all of a State's electoral votes to the candidate who wins the greatest number of popular votes in the State.

#### Comment

There is no present practice of awarding votes. There is the election of a party slate of Electors who, when they meet vote by ballot. Being party men and having been elected as a party slate in each State, each Elector marks his ballot for his party's ticket. The term "unit vote" derives from Democratic conventions which permit voting under the "unit rule" whereby the majority of a State delegation.

#### Pages 1 and 2

The "district vote" proposal would divide each State into districts comparable to congressional districts; the winner of the popular plurality within the district would receive that district's electoral votes and the two additional electoral votes would go to the candidate receiving a plurality of the popular vote in the State.

#### Comment

Under this proposal the Electors to which a State is entitled by virtue of its Representatives would be elected in districts.

#### THE COMMISSION'S RECOMMENDATIONS

#### Page 3

The Constitutional Amendment should: "provide for the election of a President and Vice President by direct nationwide popular vote."

#### Comment

This proposal would:

(a) Eliminate the federal element from the constituency of the President of the United States of America by eliminating 100 Electors who exist by virtue of 100 United States Senators.

(b) Eliminate representation of people according to numbers by eliminating 435 Electors who exist by virtue of Representatives in Congress.

(c) Substitute a mathematical constituency of voters, which could and would vary from election to election according to weather, counter attractions, ideological issues, "ballet voters," etc., for the geographic-population constituency. Such an Amendment should also change the title of the office to "President of the Voters in America" to square it with the proposed change in the Constitutional foundation of the Executive Power.

(d) Convert the present intrastate election of Electors to an interstate election of Presidential tickets which have been nominated by national party conventions unknown to the Constitution. As no Constitution, not even that of a Ladies Aid Society, is complete without imperative provisions for filling its offices, the entire apparatus of the party system would have to be brought under Federal regulation.

(e) Set the States into competition to expand their electorates by lowering age limits and franchise qualifications.

#### Page 3

"Require a candidate to obtain at least 40% of the popular vote in order to be elected President or Vice President."

#### Comment

This proposal would:

(a) Abandon the majority principle which is the taproot of the two party system. The majority requirement leaves no room for a continuing third party.

(b) Bless Constitutionally a President opposed by three-fifths of the voters.

#### Page 3

"Provide for a national runoff between two top candidates in the event no candidate receives at least 40% of the popular vote."

#### Comment

This proposal would imbed in the Constitution for use in general elections a device developed for use in primary elections of the Democratic party in the one-party States of the South. Experience with it is limited to ten Southern States, and only in primary elections of the Democratic party.

#### Page 3

"Provide that the places and manner of holding the presidential election and the inclusion of the names of candidates on the ballot shall be prescribed in each State by the legislature thereof, with the proviso that Congress may at any time by law make or alter such regulations."

#### Comment

This proposal would:

(a) Violate the principle of separation of powers in that Congress now has no authority in the premises.

(b) Open the way for Congressional regulation of party conventions, and Presidential elections.

#### Page 3

"Require that the voters for President and Vice President in each State shall have the qualifications requisite for persons voting therein for Members of Congress, with the proviso that each State may adopt a less restrictive residence requirement for voting for President and Vice President provided that Congress may adopt uniform age and residence requirement."

#### Comment

This proposal would extend the Authority of Congress to election questions heretofore exclusively in the jurisdiction of the States, further denaturing the federal system.

#### Pages 3 and 4

"The electoral college method of electing the President of the United States is archaic, undemocratic, complex, ambiguous, indirect and dangerous.

"Among other things, the present system allows a person to become President with fewer popular votes than his major opponent."

#### Comment

There are no popular votes for President. The popular vote is for a slate of Electors in a State and the number of popular votes is the number of votes received by the Elector candidates. This is determined by multiplying the number of voters by the number of Elector offices to be filled. This interchanging of "voters" and "ballots" and "votes" confuses the whole subject.

#### Page 4

"Grants all of a state's electoral votes to the winner of the most popular votes in the State, thereby cancelling all minority votes cast in the State;"

#### Comment

What happens is that party slates of Electors run on a statewide general ticket mostly under the names of the party's national ticket. Each Elector candidate is a statewide

candidate and receives a vote from each voter who marks a ballot for his slate. The minority merely loses, as all minorities do. This is not to say that the general ticket is a fair representative system. It isn't. It is everything else.

## Page 4

"Makes it impossible for presidential electors to vote against national candidates of their party;"

## Comment

Of more than 15,000 men and women who have been appointed Elector of the President only 8 are alleged to have voted contrary to the intentions of their supporters.

Only three of these instances have occurred since 1824, one each in 1948, 1956 and 1960. Under close examination these allegations do not stand up. If an issue at all, this is a spurious one, sheer nonsense, unworthy of serious consideration.

## Page 4

"Awards all of a State's electoral votes to the popular winner of the State regardless of voter turnout in the States;"

## Comment

The number of Electors in a State is established by the Constitution—two for the State as an organized political society, and one or more according to its population. The "voter turnout" is irrelevant. In voting, enfranchised Citizens represent those ineligible to vote—minors, aliens, etc.

## Page 4

"Assigns to each State at least three electoral votes regardless of its size;"

## Comment

This is the federal system. Each State has two U.S. Senators and at least one Representative in Congress, therefore three Electors—two *federal* or "Senatorial" Electors and at least one *national* or "Representative" Elector. This is the Federal Union of States in Congress which has the legislative power; and in the Electoral College which elects the President to wield the executive power. Both powers rest on the same base in the electorate. The only distortion—and it is a big one—is the State Legislatures' use of the statewide general ticket for the election of the *national* or "Representative" Electors.

## Page 4

"Fails to take into account population changes in a State between censuses;"

## Comment

No proposed amendment even tries to do this. This idea is indicative of the shallowness and thoughtless character of the Report. Direct popular election would substitute an eccentric fluctuating mathematical constituency of voters for a geographic constituency of people, of voters and nonvoters alike represented by voters. Stormy weather in some parts of the country could wreak havoc in the final outcome.

## Page 4

"Allows for the possibility of a President and a Vice President from different political parties;"

## Comment

This is correctable in the contingent election, by putting it in a joint session of Congress, without upsetting the federal system; in fact this suggestion would be a vast improvement.

## Page 4

"Employs an unrepresentative system of voting for President in the House of Representatives."

## Comment

This, as above, is correctable in the contingent election without upsetting the federal system.

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## Page 4

"Direct, nationwide popular vote is best of all possible methods. It offers the most direct and democratic way of electing a President and would more accurately reflect the will of the people than any other system;"

## Comment

The people have a dual citizenship, in their States and in the United States. Direct popular election of the President would eliminate the State or federal part of this duality, leaving only the national citizenship. This is where the federal element is to be taken out.

## Page 4

"Direct popular vote would eliminate the principal defects of the present system;"

## Comment

It would also eliminate the federal element from the President's constituency and destroy dual citizenship in Presidential elections, but leave them intact for the election of Congress. The footing of the two elective powers, Legislative and Executive, in the electorate would be utterly unlike in the Constitution itself. The principal defect is, of course, the statewide election of "Representative" Electors. This is charged not against the Constitution *per se* but against the State Legislatures.

## Pages 4 and 5

"It would eliminate the unit vote rule . . . which totally suppresses at an intermediate stage all minority votes cast in a State."

## Comment

The Statewide general ticket for "Representative" Electors is wholly unrepresentative. As to suppressing minority votes, which is not the real question here, it is unimportant at what stage they are the losers if the system of representation is fair and just.

## Page 5

"It would do away with the ever-present possibility of a person being elected with fewer popular votes than his major opponent;"

## Comment

"Popular vote" as used in the Report, is not a standard of measurement for anything in our political system except the number of voters. It is no measure of the number of votes they cast.

## Page 5

"It would abolish the office of presidential elector which is an anachronism and a threat to the smooth functioning of the elective process;"

## Comment

The presidential elector is no more out of date than the Constitution itself. No such threat has been demonstrated. How can the constituencies of the President and of Congress be brought close to exactness without the "Senatorial" and "Representative" Electors, properly elected? This is the central question, yet the Commission ignored it.

The national parties and their conventions are extralegal. They are, in national committees and conventions, simply federations of State parties which are legal entities under State laws.

Although the Elector exists because of the Constitution, the courts have held him to be a State officer performing a federal function. He is the connecting link between the States and the United States in the election of the President and Vice President. It is the office of Elector which keeps Presidential elections intra-state, under State election laws, and free from Congressional control.

Although national conventions today make party nominations for President and Vice President, it is the party Elector, by his vote in the Electoral College of his State, who gives that nomination Constitutional status. Removal of the Elector could invite control

of Presidential nominations and elections by Congress, taking this control from the States. If the Elector is removed from the Constitution, something will have to replace him. Some specific provision must be made for the performance of the Elector's separate Constitutional functions of nominating someone for President, and of electing a President when someone has an electoral majority.

## Page 5

"It would minimize the effects of accident and fraud in controlling the outcome of an entire election;"

## Comment

The exact opposite is true. The present system places an undue premium on fraud because of the statewide general ticket. Fraud in Chicago affects the outcome throughout the State of Illinois; fraud in St. Louis or Kansas City affects the entire State of Missouri; fraud in Philadelphia and Pittsburgh is imbedded in the final count in Pennsylvania. None of these frauds would affect the election results in any other State.

The same frauds in a direct, nationwide popular election would all be added into the final results. The premium on fraud would be greatly increased.

As to accidents: A great storm in the Northwestern States could materially reduce the turnout of voters in that part of the Country. The result would shift the center of political gravity of the entire country.

It is always easier for metropolitan voters to attend the polls, a short distance from their homes, than it is for people in more sparsely settled regions where the polling places may be several miles away.

## Page 5

"It would put a premium on voter turnout;"

## Comment

Voter turnout is the business of the political parties. The Constitution should be neutral, neither abetting nor blocking.

## Page 5

"Perhaps the most important objection that has been voiced to direct election is that it would lead to a proliferation of parties and weaken the American two party system;"

## Comment

The two party system is rooted in the majority requirement in the Electoral College; in the contingent election in the House; in the organization of the House, and in the organization of the Senate. The threat to the two party system is in the proposed 40% plurality for the President's election. It is not in the direct election proposal *per se*.

The statewide general ticket for "Representative" Electors is more conducive to third parties as "spillers" since they can effectively shift a large pivotal state from one party to another; or on rare occasions win the electoral vote of a State. In 1948 Henry Wallace's candidacy shunted Michigan, Maryland and New York into Dewey's electoral column. That same year the regular Democratic party in four Southern States supported Thurmond instead of Truman.

## Page 5

"We recommend that a candidate should receive at least 40% of the popular vote in order to be elected President;"

## Comment

By abandoning the majority principle this proposal would weaken and ultimately destroy the two party system, as it would concede the Presidency to a man opposed by three-fifths of the voters.

## Page 6

"We further recommend that there be a national runoff popular election between the two top candidates in the event no candidate received at least 40 percent of the popular vote;"

## Comment

The "runoff" is a device used in Democratic primaries in ten one-party States in the South. It is unsuitable for nationwide general elections, as it would double the cost and most often topple the leading candidate in a three-way race. It would weaken the major parties. Wouldn't an ultimate choice by a joint session of Congress be preferable as the contingent election?

## Page 6

"The president is our highest nationally elected official . . . It is only fitting that he be elected directly by the people."

## Comment

He is "President of the United States of America". The United States is a *federal union* of States with a limited Constitution of Government, or dual sovereignty. For the *legislative Power* the Senate rests on the federal principle of coequal political societies; and the House of Representatives rests on the people of the States. For the Executive Power the Electoral College rests on similar foundations by combining into one voting body the "Senatorial" or *federal* Electors (100) and the "Representative" or national Electors (435). This body is the exact counterpart of a joint session of Congress.

Dual sovereignty of the federal union gives each citizen dual citizenship. He is a citizen of the United States when he votes for a Representative in Congress and the corresponding "Representative" or national Elector. He is a citizen of his State when he votes for two United States Senators and for two "Senatorial" or *federal* Electors.

To pull the federal element out of the President's constituency would be to deprive the States as such of a part in his election, and reduce the quality of State citizenship by half.

To do this by substituting a mathematical constituency of voters for the fixed geography of the States in the President's constituency would make him "President of the Voters of America".

## Page 6

"Under direct election as embodied in our recommendations, states would continue to play a vital role in the elective process. They would continue to have primary responsibility for regulating the places and manner of holding presidential elections for establishing qualifications for voting in such elections and for controlling political activities within their state boundaries."

## Comment

"Primary responsibility" is not *ultimate* responsibility. This ultimate responsibility is proposed to be given to Congress in violation of the principle of Separation of Powers.

## Page 7

"In summary, direct election of the President would be in harmony with the prevailing philosophy of one person, one vote. The conception of political equality from the Declaration of Independence, to Lincoln's Gettysburg Address, to the Fifteenth and Nineteenth Amendments can mean only one thing—one person, one vote." This equality in voting should extend above all to the Presidency."

## Comment

This unquestioning acceptance of undemonstrable assertions is the major weakness of the Commissions Report. For example, under the Nineteenth Amendment the vote of a New Yorker for United States Senators cannot be equated with the vote of an Alaskan for United States Senator. Under the federal principle of State representation in the Senate the comparison is irrelevant.

Nor is there any evidence that there is a "prevailing philosophy of one person, one vote".

In conclusion, every relevant and valid charge against "the electoral college method of electing a President of the United States" is, in fact, a charge against the statewide election of those members of the Electoral College who exist by virtue of members of the House of Representatives. The question is not one of voter equality but of *representation*, of the shape of the President's constituency.

When in 1842, in order to prevent use of the general ticket for Representatives, Congress first enacted a law requiring that House members be elected in single member Districts, John Quincy Adams (who had been President and Senator) had this to say, as Chairman of a Select Committee of the House of Representatives:

"The representation of the people by single districts is undoubtedly the *only* mode by which the principle of representation, in proportion to numbers, can be carried into execution.

"A more unequal mode of assembling a representation of the people in a deliberative body could not easily be contrived than that of one portion chosen by general ticket throughout the State, another portion by single districts, and a third portion by single and partly by double, treble and quadruple districts.

"This forms, in the mass, a representation not of one representative for the common standard number throughout the whole Union, but of States, and cities, and sectional divisions, in knots and clusters of population, of different dimensions and proportions . . .

"Should the general ticket system universally prevail, it is obvious that the representation of this House will entirely change its character, from a representation of the people to a representation of States, and transform the constitutional government of the United States into a mere confederation like that which, fifty-four years ago, fell to pieces for the want of ligatures to hold it together."

Should it be necessary to do violence to the structure of our Constitutional system in order to correct partisan political errors of the State Legislatures?

J. HARVIE WILLIAMS,

Director, Committee on Electoral College Reform, American Good Government Society.

JANUARY 26, 1967.

Mr. HOLLAND. Mr. President, I think at this time, since we all know that the Senator from South Dakota (Mr. MUNDT) is absent on account of prolonged illness, we should recognize he has been one of the great students of electoral reform and that he has participated most actively, and I hope none of us will ever forget his very great opposition to popular election of the President and Vice President.

Mr. President, I also ask unanimous consent to have an article appearing in the Christian Science Monitor dated September 11, 1970, entitled "Electoral Reform: Now" printed in the RECORD as a part of my remarks at this point.

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

## ELECTORAL REFORM: NOW

Are the people of the United States prepared to reform the way they choose their president? Time and again, Congress has marched up the hill toward revamping—or abolishing—the anachronistic Electoral College. And then the troops have drifted away.

Now a new Senate debate has begun, in desultory fashion. The time for enacting a constitutional amendment, before the presidential election of 1972, is so short that

only a Herculean effort could obtain the necessary approval of three-fourths of the states by that date. But this is no reason for abandoning the reformist effort, 1976 follows 1972.

Most everyone agrees that reform is needed. The Alabama primary victory of George C. Wallace has revived the worry that a third-party candidate could stalemate the Electoral College throwing the election into the House of Representatives and generating a rulerless confusion. And there is always the possibility in a narrow contest, that a candidate will receive an Electoral College majority but a minority of the popular vote, which is hardly democracy in action.

Beyond lethargy, the main hurdle to speedy action is an understandable uncertainty as to what proposal is best for the nation. The main push is behind an amendment to abolish the Electoral College and choose as president the candidate receiving the largest popular vote. This is simple. It is direct democracy. The president, standing for all the people, would be chosen by all the people. This amendment passed the House last year. Two-thirds of the Senate must now approve. Months ago Sen. Birch Bayh, chief sponsor, could count up to 60 supporters. He needs 67.

But there are substitute proposals, also up for consideration. These should be tackled with equal urgency. One would retain the Electoral College and apportion its vote among candidates, in any given state, on the basis of the state's popular vote. (No winner-take-all, as at present). Another would apportion the electoral vote according to the state's congressional districts. Both proposals retain some element of "states' rights," but eliminate the chance that a minority-vote candidate might become president.

These are somewhat more complicated propositions than the simple direct-vote proposal. But they could be less upsetting. And they are less likely to encourage the upspringing of a multiplicity of splinter parties which, in a simple-majority-wins arrangement, could keep any candidate from amassing a winning total.

We say that now is the time to vote election reform. The nation needs it. America's young people will narrowly eye postponement and apathy. Any of these reforms is better than no reform. The Senate should get on with it.

Mr. HOLLAND. Mr. President, I shall quote only two paragraphs of this article, which calls attention to the pending proposal.

But there are substitute proposals—

And I digress to say substitute proposals for Senate Joint Resolution 1—also up for consideration. These should be tackled with equal urgency. One would retain the Electoral College and apportion its vote among candidates, in any given state, on the basis of the state's popular vote. (No winner-take-all, as at present). Another would apportion the electoral vote according to the state's congressional districts. Both proposals retain some elements of "states' rights," but eliminate the chance that a minority-vote candidate might become president.

These are somewhat more complicated propositions than the simple direct-vote proposal. *But they could be less upsetting. And they are less likely to encourage the upspringing of a multiplicity of splinter parties which, in a simple-majority-wins arrangement, could keep any candidate from amassing a winning total.* (Italics added.)

Mr. President, I have always been accustomed to giving a good deal of prominence to and having a good deal

of confidence in the editorial opinion by the editorial staff of the Christian Science Monitor, and here is a direct expression from them referring to both the proportional system as a substitute and the district system, and I quote again this part from that able editorial:

But they could be less upsetting. And they are less likely to encourage the upspringing of a multiplicity of splinter parties which, in a simple-majority-wins arrangement, could keep any candidate from amassing a winning total.

Mr. President, I should like now to quote from an article appearing in the September 19, 1970, issue of Human Events, entitled "Election Reform Near Decisive Vote:"

While Baker and Bayh—

This means our distinguished colleagues, Senator BAKER and Senator BAYH—

were singing the praises of scrapping the electoral college, columnist James Jackson Kilpatrick provided a horrifying view of what would happen with adoption of the Bayh plan:

Consider for a moment, the changes that would occur in the whole business of nomination and qualification for the ballot. Under existing law, political parties hold national conventions and nominate their presidential and vice presidential candidates. Then state parties, acting under state law, undertake to get those tickets listed on state ballots.

It is at this point that the machinery of federalism begins its delicate braking action. . . .

The machinery of state-by-state qualification, coupled with electoral voting by states, has worked to inhibit the power of third parties. Only four times in this country has a minority party won electoral votes. The Socialists, Progressives, Prohibitionists, Constitutionists and others—

Many others could also be mentioned—have sputtered ineffectively within their state compartments. And because each of the two major parties has been compelled to make a broad appeal, the United States has benefited from political stability and prudent compromise.

Under the pending resolution, this machinery would be junked. No matter what its sponsors say, the direct election amendment would require (and its language so permits) that ballots be uniform throughout the United States.

Nothing else would make sense. An entire new system would have to be created by which any group calling itself a political party filed the names of its candidates with a federal board of elections. We could reasonably expect a Black People's party, a Peace party, a Revolutionary party, a Young Americans party. I am myself a Whig, and might run. In a nation so large and so passionately diverse, a dozen "parties" surely would bid for a footnote in history.

Then what? State lines no longer would matter. We are now thinking of cumulative votes, across the nation as a whole. It requires no great work of the imagination to conceive that such an aggregation of States Righters, New Leftists, Anti-Fluoridationists, and Ban-the-Bombers could drain enough votes to prevent either of the major parties from winning 40 per cent of the total. . . .

Is this what we want? Is this prospect of chaos truly better than the (obsolete) but functioning system that now exists? The questions are squarely before the Senate now.

Mr. President, an editorial appeared in the Florida Times Union, under date

of September 11, 1970, entitled "A Simple Idea—Too Simple," that I believe is well worth reading for the benefit of the Senate:

The proposal to abolish, rather than reform, the Electoral College, and substitute a direct popular vote for President, is a simple idea which seems, at first glance, both logical and fair, and as American as mom's apple pie.

But when one pauses and probes below the surface—as it is to be hoped the Senate will do—there becomes apparent both alarming defects and potential threats to the stability of the republic.

It doubtlessly was, indeed, the very simplistic nature of the idea which explains the quick lopsided vote in the House and the polls showing support in large and small states alike. It truly is a noble and pure theory—like Prohibition—but it also is as unworkable as that earlier oversimplification of a complex problem.

The main reason most people want the direct vote is simply to prevent one candidate getting the most popular votes but the other man winning the election. Assuredly this would be undesirable—but wouldn't it be just as undesirable for some candidate to lose 80 percent of the states but, by sweeping the big cities, win? Could such a victor truly be considered "President of all the people"?

The basic Electoral College system achieves a highly desirable balance (thoughtfully and deliberately put there by our Founding Fathers) between the large and small states, the metropolitan and rural states, the various areas of this diverse nation with their differing outlooks and philosophies.

May I say that, different as our original 13 States were one from the other, that difference has been greatly increased now that we have 50 States, including Alaska and Hawaii, and extending, of course, from Maine to California and from Washington to Florida, containing our contiguous 48 States.

The editorial continues:

To abolish this would strike a possibly fatal blow to the basic concept of a "federation of states" and further reduce the nation to a massive centralized monolithic bureaucracy.

Another very real danger is that the direct vote would encourage splinter parties and weaken the two party system—which has accounted historically for the stability of our government in contrast to those nations where many weak parties make strong, coordinated government impossible.

Extremist candidates on both fringes could easily deny any candidate a 40 percent majority (and cause a runoff) without these small parties carrying a single state. The possibility of a "divided country" would be much greater than at present.

Another very real danger, as warned by Theodore White, the highly-informed author of the "Making of a President" series, is the increased danger of a stolen election through vote fraud. For with the electoral system gone, the danger will no longer be confined within state lines, or, so to speak, compartmentalized.

In areas of the nation, White warns from first-hand knowledge, "votes are bought, paid for and, in all too many cases, manipulated and miscounted by thieves" . . .

Imagine a national recount in a close election (in '60 just one miscounted vote in every other precinct could have reversed election results) in which ballot boxes had mysteriously "disappeared" in some precincts and were proven stuffed in others.

Could the aggrieved candidate sue, if so, whom, and indeed in what court would such a matter be justifiable and how long could appeals drag on? Any decision would be

bitterly disputed and as the election outcome dragged on, for weeks or months, national chaos could well result.

Aside from these quite valid reasons, there is the practical consideration that a direct vote amendment may well never be ratified by the necessary 38 states—for seldom in history has power been relinquished voluntarily and this is exactly what the small states (the most numerous kind) would be doing.

Accordingly, the sole result would be nothing actually accomplished—and more years—

Seven of them, Mr. President—

without the single glaring flaw, the "winner take all" aspect which does indeed distort the popular vote, being removed from the Electoral College.

The obvious solution is to reform the present, proven, sound system—either a proportional vote or a congressional district system would accomplish this—and do it without further wild goose chases.

Mr. President, another article entitled "The Politics of Electoral College Reform" written by Mr. Kevin P. Phillips datelined Washington and appearing in the Florida Times Union of September 11, 1970, is, I believe, also worthy of being included in the RECORD:

On Tuesday the Senate began debate on an amendment to the U.S. Constitution that would abolish the Electoral College (state-by-state) method of choosing a President in favor of direct, nationwide popular election.

Two-thirds support will be necessary to push this change through the Senate, and a close fight is expected. The balance of power is generally thought to rest with an undecided bloc of Farm Belt Republicans (Dole, Pearson, Young, and Miller), small-state Northeastern Republicans (Prouty, Cotton, Boggs and Williams), Southern Democrats (Spong, Byrd, Fulbright, Hollings and Long) and Rocky Mountain Democrats (Cannon, McGee, Moss and Anderson).

Such indecision is surprising because the amendment in question, pushed by the Senate's leading liberals, would operate to reduce the national political muscle of the more conservative South, Farm Belt, Rocky Mountains and other lightly populated states. The detriment to these areas can be measured in three ways: (1) diminished local power in presidential elections; (2) reduced representation and influence in both parties; and (3) decreased local orientation of national party platforms and administration.

To illustrate the Southern and Western loss of power, consider that in 1968 (per the 1960 census), Connecticut, Oklahoma and South Carolina each enjoyed eight electoral votes, but in terms of popular vote, Connecticut sent 1.26 million to the polls in 1968, Oklahoma 943,000 and South Carolina only 667,000. Changeover to direct election would favor high turnout areas in the industrial North and the Pacific at the expense of the poorer, low-turnout areas of the South and West. Rural America would also lose the extra weighting that the Electoral College gives sparsely populated states.

Secondly, the change to direct election would greatly affect the regional distribution of power within the two parties, especially at presidential conventions. Delegates are now apportioned to states on the basis of Electoral College strength, with bonuses for partisan performance. Abolition of the Electoral College would presumably shift delegate apportionment to a system based either on total vote cast in the prior election or total vote cast for the party's nominee.

In the Democratic party, such a change, which may come regardless as "reform," would greatly weaken moderate-to-conservative influence.

A delegate reapportionment of this magnitude would put the Democratic party in the hands of left-liberals whose stance would injure party candidates in the South, Border, Plains and Rocky Mountains.

Under present ideological circumstances, now that American politics is no longer divided by the Civil War, the Electoral College favors a Republican coalition based in the South, Midwest, West and small states. GOP Senators from these areas would be foolish to abandon a system that has a built-in bias toward such a coalition in favor of one which, at best, sacrifices these regional advantages.

For these reasons, Southern, Farm Belt, Rocky Mountain and other small states have good reason to oppose abolition of the Electoral College, and if such a constitutional amendment passes the Senate, it will probably not be ratified by the states.

Mr. President, I ask unanimous consent to have printed in the RECORD an article written by Mr. Richard Wilson, entitled "Direct Election: A Clear and Present Danger," appearing in the Washington Star under date of September 11, 1970, as a part of my remarks at this point.

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

**DIRECT ELECTION: A CLEAR AND PRESENT DANGER**

Some people have assumed the conclusion that the Senate's refusal to approve an amendment for the direct election of presidents is a stubborn, illiberal act of an old establishment trying to protect itself.

And that, save for illiberality, is quite true. The reason the Senate's action is good is that it affords an opportunity for people who have blindly accepted direct election as an expression of pure democracy to study the matter further and find out what the American system of government is all about.

It is not a pure democracy, never was intended to be and probably never will be. If people wish to change the form of government to go in that direction they at least should know what they are doing. It is a fair guess that not one person out of ten has the slightest conception of what the amendment would finally mean.

There is a far greater chance that the American system would end up—literally end—in riotous confusion if this amendment is ever adopted than that the time-honored electoral system would fust on the country a president who had not won election by popular vote.

This amendment is far worse than the women's rights amendment so cavalierly adopted by the House in the sense that its effect would be more damaging than the condition it is intended to correct.

Women will lose rights under the women's rights amendment and the American electoral system will lose its representative character if the direct election amendment ever goes into the Constitution.

Instead of polarizing (that's a good word) opposing views of political leadership into a reasonably clear choice between two candidates, the direct election amendment would fragment the process of election of a president, inflict a runoff, ultimately destroy the present method of composing the U.S. Senate, and doom a two-party system which is the political wonder of the world.

A multiplicity of presidential candidates and parties and the sure necessity of a runoff between the top two is enough in itself, without all the other complications, to show that direct election is a poor way to select a leader for four or eight years.

The leadership selection process has, in fact, worked remarkably well under the elec-

toral system and this was never better illustrated than in 1968. The two major political parties, after great travail, picked the two men best fitted by training and experience—Humphrey and Nixon—and despite the third party candidate, Wallace, made a clear choice between Humphrey and Nixon.

Make no mistake about Wallace's bid for the presidency. If an election is ever to be thrown into the House of Representatives, in modern times it would certainly be under the conditions of Wallace's candidacy.

And, for that matter, what is so bad about picking a president through the House of Representatives? All of its members are subject to direct election; they sit in the House in proportion to the population of the country. There would be deals. But who says there wouldn't be deals among a dozen parties offering candidates for president in a direct election, much as there are deals now in New York State, which has four parties so fragmenting the vote that this year there is grave doubt a majority candidate can be elected?

The worst that could happen under the electoral system would be the House of Representatives choice of a president. But the worst that could happen under direct election would be the choice of a president who really did not represent anybody or anything, without political discipline and coherent conviction, but the creature solely of his ability to use and pay for exposure in the mass media.

Why do you suppose it is that we are lately getting so many United States senators who have little natural aptitude for their jobs?

This is not a case of opposing change for the usual conservative reason that change itself is to be shunned. This is a case of clear and present dangers of "the most deeply radical amendment which has ever entered the Constitution of the United States."

Merely as an afterthought, there would be no reason in constitutional logic for a Senate made up of two members per state if the direct election amendment is ever adopted. Under that theory the biggest state, California, ought to have 15 or 20 senators, or whatever figure represented its proportion of the nation's population.

Mr. HOLLAND. I wish to quote one or two paragraphs of this article:

Some people have formed the conclusion that the Senate's refusal to approve an amendment for the direct election of presidents is a stubborn, illiberal act of an old establishment trying to protect itself.

And that, save for illiberality, is quite true. The reason the Senate's action is good is that it affords an opportunity for people who have blindly accepted direct election as an expression of pure democracy to study the matter further and find out what the American system of government is all about.

This amendment is far worse than the women's rights amendment so cavalierly adopted by the House in the sense that its effect would be more damaging than the condition it is intended to correct.

Mr. President, a column by Mr. John Chamberlain, entitled "Electoral College Advantages Shown," appeared in the Melbourne (Fla.) Times of September 21, 1970. Since the column shows most clearly the adverse reaction that will take place in the event of passage and ultimate ratification of the proposal now before the Senate, I ask unanimous consent that the entire column be printed in the RECORD.

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

**ELECTORAL COLLEGE ADVANTAGES SHOWN**

Sen. Birch Bayh of Indiana, author of the proposed Constitutional amendment that would abolish the Electoral College and establish direct popular choice of the U.S. President, claims he represents the "will of the people" in putting forth the bill now under consideration by the Senate. He quotes Gallup and Harris, the pollsters, as saying that "80 per cent" of the electorate are in his corner.

The question, however, is whether the "80 per cent" have ever had the opportunity to understand the issue. Up to now only a few intellectuals have explored the ramifications of the proposed extension of "one man, one vote" to the problem of Presidential selection. How many people know that the most imposing case for retaining the Electoral College has been made by certified liberals who are for "one man, one vote" in almost every other instance?

Theodore White, the author of "the making of the President" books, has, for example, weighed in with the argument that if a Chief Executive is to be chosen by "raw vote" instead of by vote of the Electoral College in accordance with a local "winner-take-all" unit rule inside each state, it would inevitably mean that the venal big city machines of the Northeast would dominate our politics from here on in.

Richard Goodwin, an old Kennedy man, echoes the White diagnosis and adds his own variation to the analysis: he says that direct election of the President by a 40 percent popular plurality, as provided for by the Bayh amendment, would saddle the whole U.S. with something analogous to the four-party politics of New York State, where the Liberal Party and the Conservative Party practice a politics of blackmail, offering endorsements and making deals that end by distorting the will of the majority.

Another liberal who condemns the Bayh proposal is Prof. Alexander Bickel of the Yale Law School, who defends the present method of choosing the President because it incorporates "the federal principle within the Presidency itself" by "requiring a sectional distribution of the vote" that makes possible "combinations that . . . give advantage to the smaller states."

Relying on the "liberals" of the Northeast for support, the conservative minority on the U.S. Senate Judiciary Committee makes several important if not incontestable points. Direct popular election of the President would "destroy the party system and encourage splinter parties; undermine the federal system; alter the delicate balance underlying separation of the powers; radicalize public opinion and endanger minorities; encourage electoral fraud; lead to interminable recounts and challenges; and necessitate national control of every aspect of the electoral process."

Candidates would cease to make appearances in small, underpopulated states such as Nevada, New Mexico, Colorado, Wyoming, Montana; instead, they would conduct "bull's eye" campaigns designed to win in Chicago, New York City, Philadelphia, Cleveland and Boston. They would no longer be any reason for a candidate to present a broadly based platform within each separate state.

To quote Theodore White, "our Presidential campaigns right now are balanced in each party to bring a compromise, to eliminate the extremes of both sides, and create a man who has at least the gift of unifying his party and thereafter the nation.

"Once you go to the plebiscite form of vote you get the more romantic, the more eloquent and the more extreme politicians, plus their hacks and TV agents polarizing the nation rather than bringing it together.

"It is that fundamental erosion of the U.S.A. that horrified me. . . . If states are

abolished as voting units, TV becomes absolutely dominant. Campaign strategy changes from delicately assembling a winning coalition of states and becomes a media effort to capture the larger share of the 'vote market.'

"Instead of courting regional party leaders by compromise, candidates will rely on media masters . . . the heaviest swat will go to the candidate who raises the most money to buy the best time and most 'creative' TV talent."

Mr. HOLLAND. Mr. President, there is one further point I wish to make by way of contrasting what goes on now with what is proposed.

Do the numerous small population States, particularly in the West, want to be overwhelmed by the Eastern big States and big cities?

The four Northwest Central States of North Dakota, South Dakota, Nebraska, and Kansas, together with the eight Mountain States of Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Arizona, and Nevada represent over one-third of the geographical area of the contiguous United States, and have a total of 53 electoral votes. But the total population of these 12 States is only some 13 million people, by 1960 figures, Mr. President; and therefore, under Senate Joint Resolution 1, they could be outvoted by just one State—the State of New York—or by the five eastern cities of Boston, New York, Philadelphia, Baltimore, and Washington.

I cannot conceive that the 12 rural States would want to have their voices in selecting a President completely overshadowed by the group of eastern cities which I have mentioned, or by the one great State of New York, or, for the same reason, by the one great State of California.

I have attended, in years past, a meeting between the Western Governors' Conference and the Southern Governors' Conference. Mr. President, I found that the most active subject existing in the minds of the western Governors was the question of what States would get the water, and how much.

I can assure Senators, if they do not know it already, that those eight Mountain States will not want to be overshadowed by the one city of Los Angeles in California, much less by the State of California as a whole, because that is where the battle exists, and that is where the battlelines are drawn.

Mr. President, I shall not further prolong this colloquy, but the fact is that this amendment is drawn so as to allow great concentrations of population to completely control sovereign States, which, under our Constitution, still have to handle a large part of the legislation and a large part of the Government which affects the daily lives of our citizens.

To say that the States, as such, no longer have any interests or no longer have any recognizable concern over the right to be participant in the selection of the President and Vice President is an absurd statement. The distinguished Presiding Officer (Mr. Boggs), who has been Governor of his own State, knows

how many times there are joint matters between the States and the Federal Government that have to be settled on a give-and-take basis. He knows how many times there are matters in which the Federal Government calls upon the States for assistance; and, having had some experience in that field myself, I know that this frequently happens. To say that the States as such—with their tremendous responsibility to handle so many fields of law, life, and Government that affect the daily living of every person in the United States and every family in every hamlet, every town, every city, and every school district—would have no interest to continue, as they always have, in having a part in the selection of the President and Vice President by having assigned to them two votes in that electoral weight that gives the State weight as such, is simply ridiculous, because it just does not happen to be the case.

The States have an enormous interest in having a say, as such, in the selection of our President and Vice President, and I do hope the Senate does not lose sight of that, because I think if it does, we will find it will be a troublemaker back in the States for every Senator who supports any such idea by supporting Senate Joint Resolution 1.

Mr. ALLEN. Mr. President, will the distinguished Senator yield?

Mr. HOLLAND. I yield.

Mr. ALLEN. I have been greatly impressed by the eloquent and persuasive address of the distinguished Senator from Florida; and I do not wonder that no Senator who advocates the passage of Senate Joint Resolution 1 rises to take issue with the logic of the Senator's argument.

The distinguished Senator from Nebraska, earlier today, called attention to an editorial published this morning in the Washington Post, in which it was suggested that there would be, in the event debate on this issue is cut off, an opportunity to perfect Senate Joint Resolution 1, indicating that it needs perfecting.

But the editorial went on to quote eminent authorities—whose names were not disclosed—to the effect that the runoff provision of Senate Joint Resolution 1 would probably never have to be used in 100 years, or in 100 presidential elections.

I would like to ask the distinguished Senator from Florida if he agrees with the assessment, that the application of the runoff would be a rarity rather than the rule.

Mr. HOLLAND. Mr. President, of course, it is impossible to answer categorically, but my own feeling is that this amendment encourages the formation of splinter parties, encourages the formation of pressure groups to do some trading in a runoff no matter how that runoff is held, and that this resolution greatly increases the opportunity to deprive any candidate of getting as much as 40 percent of the vote in the first election.

It is my own view that there will be many occasions for the use of the runoff, or the second choice provision, however

that could be worked out; and I think that anyone looking at what has happened would come to that conclusion.

I recall that one of our most noted liberals came to exactly that conclusion, and I quote now from that liberal, Mr. Alexander M. Bickel, as follows:

Popular election—again, whether under the original House-passed proposal, or under the Tydings-Griffin amendment—is capable also of producing in a close race horrors of vote counting and recounting, and of charges and counter-charges of fraud, with consequent litigation and endless delay. The electoral college system counts by states focuses the closeness of the race on one or a few states—the result in most is plainly beyond doubt, however narrow the national margin of victory—and insulates recounts and other difficulties within those states. That is why our national elections, even the closest ones, have always been almost instantly decisive. Those of us who sat anxiously before our TV sets through the night of November 5 in 1968 should try to imagine what it would feel like to sit there on and off for weeks.

The direct election proposal may well be called a political tower of babel.

I think that answers the Senator's question.

Another liberal, Mr. Goodwin, is quoted by Senator ERVIN in his speech of Friday in this paragraph:

These lessons of history must have been particularly persuasive in the presidential election of 1968. Richard N. Goodwin described the impact of the electoral college on the temptations of many antiwar critics in 1968 to mount a fourth party drive for the White House. In an article appearing in the Washington Post, of October 6, 1969, Goodwin stated that recognition of the extreme difficulty in winning any electoral votes despite the prospect of a large popular vote was the primary reason that he and others at similar political views did not challenge the major party presidential candidates. The effect of a "peace candidacy" would most likely have been, in Goodwin's judgment, a further enhancement of the election prospects of the Republican candidate. As Goodwin himself suggests, the encouragement that direct election would give to minor party candidates could not come at a worse time than now, "when the tendency to political fragmentation and ideological division is reaching new heights."

Mr. President, a short reply to the Senator from Alabama would be that, in the opinion of the Senator from Florida, there would be times—and probably a good many times—when the second election, by whatever process determined, would have to be resorted to, because this is an open invitation to splinter parties and splinter ideological groups to have candidates and mount races so that they will be in a position to trade when the runoff time comes.

Mr. ALLEN. I thank the distinguished Senator from Florida. If the Senator from Florida would be kind enough to yield further, I should like to ask him this question. I believe he read a moment ago from one authority, Mr. Goodwin, that the present electoral college system has a built-in safeguard or protection against splinter parties, in that in order for any party, be it large or small, to register in the electoral college, it must, at least from a practical point of view, carry the votes of at least one State.

Mr. HOLLAND. The Senator is correct, of course. Mr. Goodwin made the point and so did the other authority, Professor Bickel, that the electoral college insulates the contest, insulates the problem, insulates the administration of the election and the fixing of the election machinery State by State; so that when there is trouble, as there was in 1876 and 1877, it boils down to just a few States, in that case three very small States—Florida, the State which I represent in part, Louisiana, and South Carolina. I stated earlier in my remarks today what happened at that memorable time. It was enough to cure any of us, all of us, of the idea of bringing on direct elections nationwide, which does away with the insulation of the States and instead pools us all together in one precinct, as the Senator from North Carolina stated so colorfully Friday, where all our votes are thrown together; and if there is any contest, Lord save us.

Mr. ALLEN. If the distinguished Senator would allow me to pursue the subject further with him. I should like to inquire whether under the direct system it would not be possible for a candidate for the nomination of one of the major parties, on being dissatisfied with the outcome at the convention and on losing the nomination, to start himself a splinter party which would have the possibility of gaining several million votes throughout the country, and still not carry the electoral votes of a single State. Would that not be a possibility?

Mr. HOLLAND. Not only would that be a possibility, but also, it has happened, even under the electoral college system, and it would be easier to happen under the system proposed in Senate Joint Resolution 1.

Mr. ALLEN. I should like to ask the Senator a further question, not on the matter of proliferation of splinter parties necessarily, but on the success that might attend the efforts of a splinter party in a presidential election. Would it not be possible for a voter who might have some geographical or ideological affinity with the candidate of a splinter party to vote for that splinter party candidate in the first election, knowing full well that, because of the proliferation of splinter parties, he would have an opportunity to vote in the runoff for the real candidate of his choice?

Mr. HOLLAND. Of course, that would be possible; and, in my judgment, it would occur in many, many instances. Human nature is such that many, many people would want to vote for their first choice, if he did not happen to be in accord with their own party choice, knowing that they would have another chance later on if they failed in the first instance.

Mr. ALLEN. The junior Senator from Alabama recalls quite vividly the 1968 presidential election. He recalls some of the public opinion polls that were held prior to that election. As he recalls, about a month before the election in November, the third-party candidate, Governor Wallace of Alabama, was shown to have some 21 percent of the popular vote throughout the country. Yet during the

last 4 or 5 weeks of that campaign, there was a steady erosion of his strength, indicating to the mind of the junior Senator from Alabama that the electorate felt he had no chance to be elected and they wished to vote, knowing that they had only one opportunity to vote, for one of the candidates who in their opinion had a chance. Would it not have been possible for the adherents of the cause of Governor Wallace to have voted for him the first time, knowing that they would then have an opportunity to vote later on for Mr. Nixon or Mr. Humphrey.

Mr. HOLLAND. Certainly, it would have been possible and much more difficult weening away the nearly 8 percent of the vote that was weened away in that short period of time from Governor Wallace, which the Senator has adverted to.

The Senator from North Carolina, in his eloquent and excellent address on Friday last, called attention to this situation in this paragraph, if I may read it:

Similarly, the appeals to Wallace supporters not to waste their vote—by Republicans in the South and by Democrats in the North—significantly lowered the popular vote for Wallace in 1968. His appeal was running consistently at about 20 percent of the vote in September of 1968. But his final vote percentage was 13.6 percent. The decrease is generally attributed to the drives by both major parties to persuade voters that a vote for Governor Wallace was a wasted vote since the Governor could not gain sufficient electoral votes to affect the results of the election.

Mr. President, this illustrates completely the point so ably made by the Senator from Alabama.

Mr. ALLEN. Would this not seem to indicate that a third or splinter party candidate like Governor Wallace, really would benefit by the direct election plan, insofar as getting votes would be concerned?

Mr. HOLLAND. Well, I think he would. Let us leave Governor Wallace. I think that there have been other attempts to form splinter parties where the results would have been even more favorable to them. I am thinking about Henry Wallace's party, back a few years earlier, and other occasions which the Senator will recall. There is not a doubt of it, that the electoral college system, meaning the kind giving the electoral weight, as under the original Constitution, to the States, but not necessarily a continuance of the electoral college system as such, which I do not favor, but giving the electoral weight portion to the State on the basis of its total representation in Congress, insulates that State from the rest of the Nation and makes it difficult for a third party to come into any State, except on a tight regional basis, where the candidate is particularly well known and admired, as was Governor Wallace, in a small part of the Nation, and make any real headway, to make it difficult for such a candidate to make headway nationwide, as the Senator has suggested. I thoroughly approve of that suggestion. That is what I think about it also.

Mr. ALLEN. I should like to ask the distinguished Senator from Florida a further question. If we assume one of

the major candidates is a conservative and the candidate of the other major party is a liberal, would it not be possible, throughout the 50 States, for the conservatives in one State to encourage a splinter liberal ticket in that State, in order to draw away from the liberal candidate certain of his liberal strength in that State, which might be repeated in 50 States, thereby drawing from the liberal candidate many millions of votes, and thereby helping assure the necessity of a runoff?

Mr. HOLLAND. The Senator is so right. Exactly the opposite of that is true.

Mr. ALLEN. Yes.

Mr. HOLLAND. The liberal group would be inclined to have a conservative whom they felt they could control, or felt would be appealing to a large part of the conservative voting strength in their State to come out in the hope of breaking down the general conservative group. The thing works both ways. Both are against stability.

Mr. ALLEN. That is exactly correct. I should like to call to the attention of the distinguished Senator from Florida a quotation from the report of the Commerce Committee on the Pastore bill limiting expenditures by candidates for radio and television. In that report, it is pointed out that in the 1960 presidential election there were at least 14 other presidential candidates in addition to the candidates of the two major parties.

They list them here as: The Conservative Party; the Constitution Party; the Tax Cut Party; the Prohibition Party; the Socialist Workers Party; the Farmers Labor Party; the Socialist Workers and Farmers Party of Utah; the National States Rights Party; the American Vegetarian Party; the Socialist Labor Party; and the Industrial Government Party, and others.

Would it not be correct that no matter how many parties we might have in a presidential election—and it is easy to see that they might soon pass 100 very easily—any party that got even 100 votes would have a direct bearing on the outcome of the election, because that 100 votes might make the difference between the leading candidate getting 40 percent and 39.999 percent? Would not the votes of these other candidates have a direct and definite bearing on the outcome of the election?

Mr. HOLLAND. The Senator is exactly right. I would go further and say that the results of every splinter party lead toward no substantial, no stable government. The fact that we have not had any great success by splinter parties, the Senator from Florida attributes entirely to the system under which we operate, where the electoral weight is distributed among the States and distributed on a basis which recognizes both State sovereignty and State populations.

Splinter parties have not thrived in this country. We have as many different ideologies as France, Italy, or other countries. The difference is that under our system they have not been able to thrive. They have not been able to deal

any adverse blow to our stable governmental system. I attribute that entirely to the provisions in our Constitution dividing the presidential weight among the various States. I want us to keep on with that division, although I much prefer its being in such a way as to allow every voter's vote to be recorded in the final analysis.

Mr. ALLEN. Speaking of the one man, one vote, do we not really have an application of the one-man, one-vote principle under the electoral college system, in that each person in each State has the same weight to his vote as any other voter in that State, as to how the electoral vote of that State shall be determined and cast?

Mr. HOLLAND. The Senator is correct as far as he has gone, but if he gets to the winner-take-all conclusion now followed under the present Constitution, it seems to me that the votes of those who constitute a minority in any particular State, in any particular presidential election, would be excluded in the final tabulation, whereas under the fractional system, they would all be counted in the final result.

Mr. ALLEN. I thank the distinguished Senator. I would like to suggest the following comment with respect to splinter parties and the weight splinter parties would have under the direct election system as compared with the electoral college system. Is it not correct that, under the present electoral college system, a splinter party would have influence or the possibility of gaining votes only in those States where it qualified as a party and went through the necessary motions to get its candidate on the ballot in that particular State. On the other hand, under the direct system, even though a splinter party was on the ballot in only one State, they would have to count those votes in adding up the overall total of all votes cast throughout the Nation for a candidate for President.

Mr. HOLLAND. The Senator is correct. The Senator from Florida is inclined to agree with the Senator from Michigan. As surely as night follows day, if this amendment were submitted and then adopted, uniform standards would have to be set up for qualification for voting on a Federal basis. And that is one of the reasons, because the Senator from Florida fears such a system, that he is implacably opposed to the amendment.

Mr. ALLEN. This has not been spelled out. It is left for the distant future and the uncertainty of the future as to what plan is going to be provided by Congress. Is that correct?

Mr. HOLLAND. The Senator is correct. That is one of the things that disturbs the Senator from Florida, because if the imagination of Congress this time is viable and it goes for this particular amendment, and if it then be ratified and adopted, there is no telling what the next step would be. The Senator from Florida wants to avoid the first big step if he can do so.

Mr. ALLEN. Mr. President, I call the attention of the distinguished Senator

from Florida to a bumper sticker that I received in the mail just Saturday. It is entitled, "Long John—the Whig." This is a bumper sticker of a candidate for Governor of the Whig Party in the State of Alabama in the November election.

The Whig Party has been reactivated in Alabama for the purpose of the gubernatorial election. This party was formed at a convention in the State attended by nine persons. They set up the Whig Party. The name of that party goes on every ballot in the State of Alabama.

Under a direct system, it would go on the ballot in Alabama and I assume—but we do not know under the plan that they may have—that if splinter parties qualify in any States, it might automatically go on the ballot of all States. We do not know what Congress will provide.

Mr. HOLLAND. Mr. President, we do not know what Congress will provide, although the Senator from Florida thinks it will provide uniform standards. Until and unless uniform standards were adopted, the Senator from Alabama is so right. There would be a splinter party in every State of the Union. They might go into several States or they might be confined to one State.

I do not think the Senator from Alabama is perhaps of an age that reaches back to the existence of the Populous Party in our part of the country. The Senator from Florida can remember a little of that. It was quite an active organization while it lasted. It got on the ticket in a good many States, as the Senator from Alabama knows.

Mr. ALLEN. Yes, indeed. It came very close to carrying several elections. Its influence and appeal is still very much felt in the State.

Mr. President, the junior Senator from Alabama would gather from this colloquy that the distinguished Senator from Florida is of the opinion that the direct election method of choosing the President would endanger the very existence of our party system of national politics by the creation of numerous third parties.

Mr. HOLLAND. Mr. President, the Senator from Alabama is exactly right.

The Senator from Florida feels that it would endanger the two-party system and, what is more important, it would endanger and in part destroy the federal system as we know it.

On both counts, the Senator from Florida does not like the resolution.

Mr. ALLEN. Mr. President, I thank the Senator from Florida for his answers to the questions of the junior Senator from Alabama.

Mr. HOLLAND. Mr. President, I thank the Senator from Alabama. He has contributed very greatly to the debate.

Mr. President, I yield the floor.

Mr. MILLER. Mr. President, in 1937 the late President Roosevelt sent to Congress a proposal that Congress adopt a statute to authorize the President to appoint one additional Supreme Court Justice for every incumbent Justice over the age of 70. At that time five of the nine Justices were over 70.

The purpose of this measure, which was called the Supreme Court packing proposal, was, of course, to give the Presi-

dent a majority of Justices who believed in his philosophy. Of course, those additional Justices would be very carefully selected for that purpose.

The Supreme Court packing proposal had been discussed on several occasions on the Senate floor, beginning in February 1937, when President Roosevelt sent over the proposal. However, it was not until July 6 that it was called up for formal consideration. On that date, Senator Robinson of Arkansas, one of the proponents, said:

I am prompted to make reference to the subject of a threatened filibuster. It would not seem to me appropriate to do so at this time if it were not for the fact that some of my dear friends who are in the opposition have been quoted in the press as saying that they are determined that the Senate shall never be permitted to register its conclusion on this legislation. . . . I do not believe that a filibuster will find justification in the conscience and judgment of those who believe in democratic institutions.

Senator O'Mahoney, a Democrat and one of the opponents, remarked the same day as follows:

I objected a moment ago merely that I might have the opportunity of pointing out the conditions under which we are operating, to call attention to the fact that Democratic leadership of this body is endeavoring to throttle debate upon one of the most fundamental issues that has been presented to the Senate of the United States in two generations; and the effort is being made to lead the country to believe that all the business of the Senate is being stopped, that all of the business of the country is being held up by these vicious filibusterers who are opposed to the Court bill, whereas the fact is that the majority leadership is itself responsible for the condition that exists.

Senator Robinson's remarks echoed from the past when the junior Senator from Indiana said on September 23—last Wednesday—"It is the filibusterers who are bringing this country's business to a standstill, selfishly denying the Senate the opportunity to take an up or down vote" on the constitutional amendment abolishing the electoral college.

Well, Mr. President, in the first place this is not a measure to abolish the electoral college. If that is all there were to it, we would have passed it a long time ago, because most of us feel that the electoral college is as obsolete as the Model T Ford.

Doing away with the electoral votes for each State is another matter, and that is what the Senator from Indiana seeks to do. If he had his way, the 1968 presidential election would have seen the State of Massachusetts, which cast 2,360,000 votes offset 16 other States which cast a combined total of 7,600,000 votes. The reason is that Massachusetts gave Hubert Humphrey a plurality of 702,000 votes, whereas the 16 other States gave Dick Nixon a plurality of 691,000 votes. I must say I do not understand the fascination the State of Massachusetts holds for the Senator from Indiana, but, while I appreciate the historical importance of the State of Massachusetts, I cannot bring myself to vote for a proposition which would give one State such tremendous power in the selection of a President.

Of course, this business about "selfishness" is a two-way street. One could just as well talk about the selfishness of the proponents of this unsound proposal who have taken up so much time of the Senate in advancing it. It would have saved all of us a great amount of time and divisiveness if they had, instead, concentrated their proposal on doing away with the abuses of the present system—doing away with the electoral college and doing away with the terribly unfair "winner take all" system of counting the electoral votes. But, oh, no, it is this or nothing. And this is worse than nothing.

I ask unanimous consent that an article by the distinguished columnist, Richard Wilson, entitled "Direct Election: A Clear and Present Danger" and an article by the distinguished columnist, James J. Kilpatrick, entitled "The Most Deeply Radical Amendment" be placed in the RECORD in further support of my position on the pending proposal.

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

**DIRECT ELECTION: A CLEAR AND PRESENT DANGER**

(By Richard Wilson)

Some people have formed the conclusion that the Senate's refusal to approve an amendment for the direct election of presidents is a stubborn, illiberal act of an old establishment trying to protect itself.

And that, save for illiberality, is quite true. The reason the Senate's action is good is that it affords an opportunity for people who have blindly accepted direct election as an expression of pure democracy to study the matter further and find out what the American system of government is all about.

It is not a pure democracy, never was intended to be and probably never will be. If people wish to change the form of government to go in that direction they at least should know what they are doing. It is a fair guess that not one person out of ten has the slightest conception of what the amendment would finally mean.

There is a far greater chance that the American system would end up—literally end—in riotous confusion if this amendment is ever adopted than that the time-honored electoral system would foist on the country a president who had not won election by popular vote.

This amendment is far worse than the women's rights amendment so cavalierly adopted by the House in the sense that its effect would be more damaging than the condition it is intended to correct.

Women will lose rights under the women's rights amendment and the American electoral system will lose its representative character if the direct election amendment ever goes into the Constitution.

Instead of polarizing (that's a good word) opposing views of political leadership into a reasonably clear choice between two candidates, the direct election amendment would fragment the process of election of a president, inflict a runoff, ultimately destroy the present method of composing the U.S. Senate, and doom a two-party system which is the political wonder of the world.

A multiplicity of presidential candidates and parties and the sure necessity of a runoff between the top two is enough in itself, without all the other complications, to show that direct election is a poor way to select a leader for four or eight years.

The leadership selection process has, in fact, worked remarkably well under the electoral system and this was never better illustrated than in 1968. The two major

political parties, after great travail, picked the two men best fitted by training and experience—Humphrey and Nixon—and despite the third party candidate, Wallace, made a clear choice between Humphrey and Nixon.

Make no mistake about Wallace's bid for the presidency. If an election is ever to be thrown into the House of Representatives, in modern times it would certainly be under the conditions of Wallace's candidacy.

And, for that matter, what is so bad about picking a president through the House of Representatives? All of its members are subject to direct election; they sit in the House in proportion to the population of the country. There would be deals. But who says there wouldn't be deals among a dozen parties offering candidates for president in a direct election, much as there are deals now in New York State, which has four parties so fragmenting the vote that this year there is grave doubt a majority candidate can be elected?

The worst that could happen under the electoral system would be the House of Representatives choice of a president. But the worst that could happen under direct election would be the choice of a president who really did not represent anybody or anything, without political discipline and coherent conviction, but the creature solely of his ability to use and pay for exposure in the mass media.

Why do you suppose it is that we are lately getting so many United States senators who have little natural aptitude for their jobs?

This is not a case of opposing change for the usual conservative reason that change itself is to be shunned. This is a case of clear and present dangers of "the most deeply radical amendment which has ever entered the Constitution of the United States."

Merely as an afterthought, there would be no reason in constitutional logic for a Senate made up of two members per state if the direct election amendment is ever adopted. Under that theory the biggest state, California, ought to have 15 or 20 senators, or whatever figure represented its proportion of the nation's population.

**THE MOST DEEPLY RADICAL AMENDMENT**  
(By James J. Kilpatrick)

The United States Senate launches itself this week into one of the most fateful debates in American constitutional history. By the end of this month—by early October at the latest—the Senate will have voted up or down a resolution proposing the direct national election of Presidents.

"I think a case can be made," Yale's Prof. Charles Black has said, "for the proposition that direct election, if it passes, will be the most deeply radical amendment which has ever entered the Constitution of the United States."

That assessment is shared by many others, both lawyers and non-lawyers, who see in the direct election proposal a fundamental alteration in the structure of American federalism. Yet the resolution has passed the House already; it reportedly commands strong popular support; and the action to be taken by the Senate has this unrecognized meaning: If the Senate approves, and the resolution goes out to the States for ratification, any further effort at electoral reform would be effectively blocked for seven years. That is the period allowed by the resolution in which three-fourths of the states must ratify or fail to ratify.

Consider, for a moment, the changes that would occur in the whole business of nomination and qualification for the ballot. Under existing law, political parties hold national conventions and nominate their presidential and vice presidential candidates. Then state parties, acting under state law, undertake to get those tickets listed on state ballots.

It is at this point that the machinery of federalism begins its delicate braking action.

Major parties ordinarily have no trouble in getting their candidates on the ballot in every state. The petition process makes it more difficult for third parties. George Wallace, it will be recalled, had a terrible time in 1968 before he could get his American Independent Party qualified. When Strom Thurmond ran in 1948, he made it to the ballot in 15 states only.

The machinery of state-by-state qualification, coupled with electoral voting by states, has worked to inhibit the power of third parties. Only four times in this century has a minority party won electoral votes. The Socialists, Progressives, Prohibitionists, Constitutionalists and others have sputtered ineffectively within their state compartments. And because each of the two major parties has been compelled to make a broad appeal, the United States has benefited from political stability and prudent compromise.

Under the pending resolution, this machinery would be junked. No matter what its sponsors say, the direct election amendment would require (and its language so permits) that ballots be uniform throughout the United States. Nothing else would make sense. An entire new system would have to be created by which any group calling itself a political party filed the names of its candidates with a Federal Board of Elections. We could reasonably expect a Black Peoples party, a Peace party, a Revolutionary party, a Young Americans party. I am myself a Whig, and might run. In a nation so large and so passionately diverse, a dozen "parties" surely would bid for a footnote in history.

Then what? State lines no longer would matter. We are now thinking of cumulative votes, across the nation as a whole. It requires no great work of the imagination to conceive that such an aggregation of States Righters, New Leftists, Anti-Fluoridationists, and Ban-the-Bombers could drain enough votes to prevent either of the major parties from winning 40 percent of the total.

In 1968, even with the machinery of federalism working, it was Nixon 43.5 percent; Humphrey 42.8; and Wallace 13.5, with two-tenths split among Gene McCarthy, Eldridge Cleaver, a Communist named Mitchell, the Prohibitionist Munn, and others. Given a similar situation, under the pending amendment, a run-off would be held between the top two—probably the first week in December—amidst wild cries of "deal" and "sell-out."

Is this what we want? Is this prospect of chaos truly better than the "obsolete" but functioning system that now exists? The questions are squarely before the Senate now.

**ORDER OF BUSINESS**

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HANSEN. 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. HANSEN. Mr. President, a number of Senators have expressed their grave concern that, under direct election, the Nation will be subjected to a series of disastrous recounts and challenges.

The distinguished senior Senator from Florida spoke at length earlier this afternoon on this very point. He went into considerable detail to document valid reasons for his concern. He called attention to what would follow in the wake of recounts and challenges, how it would disrupt confidence in our system of gov-

ernment. I hope Senators will take occasion to read and study carefully what he has said.

This concern has been pooh-poohed by the proponents of direct election, and they have made no attempt to reply to the merits of the charge. Their failure to come to grips with this issue underscores what the minority report of the Judiciary Committee had to say about the proponents of direct election—namely, that they were notable more for what they did not say than for what they did.

But this Senator does not see how this matter of challenges and recounts can possibly be ignored. I do not see how any Member of this body can refuse to acknowledge what the Senator from North Carolina pointed out so well last Friday—namely, that if the votes from 184,000 polling places are all pooled together without regard to State jurisdiction, we are virtually guaranteeing that we will have national political paralysis.

This is no mere idle speculation, Mr. President. It is a prediction based upon everyone's commonsense familiarity with the technical problems which necessarily attend the casting of ballots. These problems may arise from out-and-out fraud or attempts to rig elections; or they may arise from plain old human error or ordinary negligence. But whatever their cause, their effects in a national presidential plesbiscite could produce an electoral crisis the likes of which this Nation has never seen.

Under the present system, the Nation as a whole is insulated against charges of irregularity arising in local precincts, for they can be dealt with at the State or local level without threatening to affect the national outcome. Under direct election, however, any irregularities anywhere could affect the entire Nation. A challenge anywhere would become a challenge everywhere; a recount anywhere would become a recount everywhere.

Challenges and recounts, Mr. President, are frequent and common occurrence in American politics. Fortunately, we have seldom if ever had to deal with them at the national level. But our imaginations need not work very hard to conjure up the nightmare that would take place if we did have to deal with charges of irregularity at the national level.

Just in the last week, Mr. President, major charges of irregularities came to light in no less than 10 States, local, or congressional primary elections. And I might add that these 10 instances are only those that have come to my attention in the pages of the Washington Post and the New York Times. They are therefore almost exclusively concerned with races in the greater Washington or New York areas. As to others which may have arisen elsewhere in the past few weeks, I have no actual knowledge; but if the Washington and New York examples are any indication, I think it fair to assume that similar charges and counter-charges have been aired elsewhere. But the total number of such cases is, in a sense, irrelevant, because under direct election of the President, any

one of them would be sufficient to set off a chain reaction elsewhere; any one of them could spell the difference between victory and defeat; any one of them could cast doubt upon the outcome of a presidential election; any one of them could precipitate a crisis in presidential succession.

Of the 10 instances I have mentioned, four of them have arisen in New York, four in Maryland, and one each in Colorado and Wisconsin. They involved:

First. The primary in Maryland for State Comptroller;

Second. The primary in Maryland for Commissioner of Prince George's County;

Third. The primary in Maryland for the Seventh Congressional District;

Fourth. The primary in Maryland for the Fourth Congressional District;

Fifth. The primary in Colorado for the First Congressional District;

Sixth. The primary in Wisconsin for the First Congressional District;

Seventh. The primary in New York for the 44th Assembly District;

Eighth. The primary in New York for the 51st Assembly District;

Ninth. The primary in New York for the 78th Assembly District; and

Tenth. The primary in New York for the 21st Congressional District.

Comment on each of these cases is in order, Mr. President, because the difficulties that arose in each are but a small and random sample of what we might have to cope with under a system of direct election of the President.

In the Republican primary for Maryland State Comptroller, it turns out that the man who had been declared the unofficial winner on September 15 actually lost the election. According to the chief clerk of the Baltimore County election board, the wrong figure had been transmitted by the news media on election night. What had originally been reported as a 2,203-vote victory for one man became a 208-vote victory for the other. But even these returns are still in doubt, for they are based upon a re-examination of the canvass in only one county. The State administrator of election laws cautioned against taking these revised figures as final, because a subsequent canvass of the other 22 Maryland counties and the city of Baltimore could turn up other discrepancies. As to how the wrong figures were obtained by the news media in the first place, no one seems to know. You can imagine, Mr. President, what might happen under direct election if CBS, or NBC, or ABC were to make a similar error in a presidential race.

In the Prince Georges County Commissioner race, a candidate who finished 21st in a field of 25 in the Democratic primary filed suit on September 23—more than a week after the election—charging that massive voting machine malfunctioning had fouled the election. According to the Washington Post for September 24:

Voting hours had to be extended two hours at eight polling places in the county's Second Election District for Republican voters who had been turned away earlier in the day due to erroneously prepared and thus inoperative voting machines.

The article adds:

Election officials also reported that at least 25 percent—

Consider that, Mr. President, 25 percent—

of the county's 614 machines had failed in one way or another during the September 15 primary.

The cause of this breakdown was ascribed to human error. Human error, however, comes in many different sizes and shapes and forms. Whether the human error in this case was the result of neglect, misfeasance, or malfeasance, no one yet has any idea; nor are we likely to find out for a long, long time—if, indeed, we ever do. A new election would seem to be called for, since, as the candidate who filed suit stated, there is no way "to determine what the actual outcome of the primary election would have been had the voting machines been properly prepared."

In the Democratic primary for the Seventh Congressional District of Maryland, we behold a classic case of charge and counter-charge, the kind that involves party officials and candidates on all sides up and down the line. According to unofficial returns last week, the incumbent, Congressman SAMUEL FRIEDEL won by a 182-vote margin. The supporters of his chief opponent, Mr. Parren Mitchell, however, reported scores of alleged irregularities which they claim came about because of a conspiracy to defraud Mitchell of election victory. Among the irregularities charged, according to the Washington Post, were voting machines not delivered, or delivered to the wrong address; certain machines with Mitchell levers that would not work; polling places opening 3½ to 4½ hours late; and last-minute changes of location of polling places. In the aftermath of these allegations, one of the candidates for Governor has called for a Baltimore grand jury investigation, and the president of the Baltimore board of election supervisors has resigned.

Moreover, the Maryland advisory committee to the U.S. Civil Rights Commission has called for a new primary in at least 10 of the district's 125 precincts, and has requested an investigation by the Justice Department. In the meantime, on the basis of a canvass by an official auditor, Mr. Mitchell is now claiming victory. The primary election, in short, is enveloped in a cloud of dispute, and it may be weeks or months before the dust settles.

In yet another Maryland incident, a candidate for the Fourth Congressional District Republican nomination has charged that his name was left off the ballot in eight precincts. This irregularity could be crucial because he apparently lost the overall count by only eight votes.

In the First Congressional District of Wisconsin, it at first appeared that Douglas LaFollette had won the Democratic primary on September 8. A recount was called for by his chief opponent, however, and 2 weeks later, it turns out that LaFollette had actually been defeated.

In the First Congressional District of

Colorado, the incumbent Congressman, BYRON G. ROGERS, contested the 30-vote plurality of his chief opponent and petitioned the courts of his State for relief. The petition, apparently, has been turned down, on the grounds that Congress alone has jurisdiction in such matters. It is not clear from the newspaper report what the basis of Congressman ROGERS' charges was, but for my purpose here, it makes no difference. What matters is that there was a dispute, a dispute which—if it had taken place in a presidential election—might well tie up the election results for weeks on end.

Mr. President, turning now to the 44th Assembly District race in New York, it appears that the winner in the June primary polled considerably more votes than his opponent, but, owing to a number of irregularities, the courts have ordered a rerun. In the 51st Assembly District of New York, according to the *New York Times*:

Joseph Ferris, a Reform Democrat, and Marvin Kessler, an insurgent from the regular Democratic organization, both piled up more votes than did the organization candidate. Unofficial returns showed Mr. Ferris the winner by a narrow margin; the official canvass gave victory to Mr. Kessler by an even narrower margin, only nine votes.

As a consequence, a rerun has been ordered. On the other hand, in a disputed primary election in the 78th Assembly District of New York—where no less than 263 balloting irregularities were found—the New York Court of Appeals has ruled that a new primary was not called for.

I should point out in passing, Mr. President that the primary in each of these cases was held in June, and that the disputes are only now—better than 3 months later—being determined by the courts. And these cases are but small potatoes compared to what might arise under a presidential plebiscite. We could not afford the luxury of a 3-month delay in settling a presidential election; but as to whether a dispute could be resolved in less time under direct election, I have my doubts. Election challenges, charges, and countercharges, pose knotty problems to the courts. Witnesses must be called and evidence presented. The courts must weigh the evidence as best they can, and they must come forth with a reasonable opinion on the dispute. All these things take time—much more time than we are likely to have available in a presidential race, where the country is anxious to rally behind an undisputed winner.

Last, but by no means least, Mr. President, I would refer to the disputed primary in the 21st Congressional District of New York. An intermediate court in that State has ordered a new primary to be held, with all six candidates originally in the field once again appearing on the ballot; but this ruling is yet subject to appeal, and it may turn out that the dispute—involving some 800 votes out of some 25,000 that were cast—will be resolved in a different way. Meanwhile, the Democratic voters in the 21st Congressional District will simply have to bide their time.

I mention these examples, Mr. President, because they are typical of what

happens in many areas of the country at election time. I have no idea as to whether any of these charges or allegations is meritorious, and I trust that the courts or electoral commissions will in time sort them out in a just manner. What matters here and now is not whether any of these charges is meritorious, but the simple fact that charges were brought. For once charges are brought, the entire outcome must be held in limbo until the dispute can be resolved one way or another. Any of the charges I mentioned—any one of them—if it occurred in a presidential race under direct election could spell disaster for the Nation. Charges of electoral fraud, mismanagement, or impropriety are as American as apple pie in many sections of the country, and I am appalled that the proponents of direct election dismiss that fact in such a cavalier way. The problem is real; the problem is ever present. And it ought to be dealt with by something more than dreamy assurances. There is not one thing in Senate Joint Resolution 1, or in any of the other direct election proposals, to protect us against such incidents on the national level. Not a single argument has been made by the proponents of direct election, either in their report or on this floor, as to how they propose to deal with this problem.

There are over 184,000 polling places in the United States, Mr. President. Irregularities in only a few of them under a system of direct election could thrust the entire Nation into a massive electoral squabble, with charges and counter charges being hurled back and forth in a dizzying display of rhetorical fireworks. Every candidate would accuse every other of misdeeds and foul designs. And the country would be ripe for assault on the part of those who oppose her, either at home or abroad.

Any one of the examples I have cited here—a mistake by the news media in reporting the returns, the intentional or accidental malfunctioning of voting machines, the closing or relocation of polling places, and the infinite variety of what one election official so blithely called human error—any of these things under direct election could reduce this country to a shambles. It would be, in the words of Theodore H. White, nothing short of a nightmare.

Mr. President, I ask unanimous consent that newspaper reports referred to in my remarks be inserted at this point in the RECORD.

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

[From the Washington Post, Sept. 25, 1970]

CROSS TAKES LEAD FOR COMPTROLLER

(By John Hanrahan)

Harold E. Cross of Bethesda, a retired Bethesda Navy captain who waged a Warren Harding-style campaign by staying mainly at home, apparently has won the Republican nomination for Maryland comptroller.

The official canvass in Baltimore County yesterday showed that Cross, 63, had picked up 2,400 votes to move ahead of Howard F. Wiedey, 54, the GOP organization-backed candidate who earlier had been declared the unofficial winner in the Sept. 15 primary.

Nathan Goldstein, chief clerk of the Baltimore County election board, said yesterday that the error had not been made by his office.

Apparently, he said, the wrong figure had been transmitted by the news media on election night.

Originally, Baltimore County reports showed only 464 votes for Cross and 9,808 for Wiedey. The canvass yesterday showed 2,028 for Cross and 8,961 for Wiedey. Statewide, the original figures reported were 43,440 for Cross and 45,643 for Wiedey. Now, these unofficial figures read 45,004 for Cross and 33,796 for Wiedey.

Willard A. Morris, state administrator of election laws, cautioned yesterday against declaring Cross as the winner. He noted that the canvass in the other 22 counties and Baltimore City, due next week, could turn up other discrepancies that would affect Cross's apparent 208-vote lead.

Wiedey could not be reached for comment yesterday. Cross was ecstatic, but said he had figured all along that the canvass would prove him the winner. He said he knew he had been short changed on the vote in Baltimore County on the original report.

"If I was blind, stupid tied up and in the gutter . . . I'd have to get more than 464 votes out of Baltimore County, since my name was up there on the top line of the ballot right between Blair and Beall," Cross said.

Wiedey was running on the official Republican organization slate that included C. Stanley Blair for governor, Herbert J. Miller Jr. for Lieutenant Governor, Thomas M. Anderson Jr. for attorney general and Rep. J. Glenn Beall Jr. for U.S. Senator. Anderson and Miller had no primary opposition, Blair and Beall won easily and Wiedey was expected to win easily since he was campaigning with the ticket and Cross was sticking close to home.

Cross acknowledged yesterday that he had ventured out of Bethesda for only three primary campaign appearances. If he wins the primary, he said he expects to be more active in the General election campaign against Democratic incumbent Louis L. Goldstein.

The Blair ticket was caught by surprise by yesterday's disclosure, but said that it would be a simple matter to replace Wiedey's name with Cross's name on future campaign brochures—if Cross is declared the winner. Members of the Blair ticket said they have met Cross, but scarcely know him.

[From the Washington Post, Sept. 24, 1970]  
BALLOTING MACHINES CITED IN COUNTY SUIT  
(By Stephen Neary)

A Prince Georges County Commission candidate who finished 21st in a field of 25 in last week's Democratic primary yesterday filed suit asking for a new primary contest. Flora Daun Fowler charged that massive voting machine malfunctioning had fouled the election.

"Lord knows what will come out of it, probably nothing," commented Mrs. Fowler, who, acting as her own attorney although she is not a lawyer, filed the suit in the county's Circuit Court.

Mrs. Fowler said she had "waited all week" for someone else to take legal action against the election before deciding to file her own suit.

Voting hours had to be extended two hours at eight polling places in the county's Second Election District for Republican voters who had been turned away earlier in the day due to erroneously prepared and thus inoperative voting machines.

"HUMAN ERROR"

Election officials also reported that at least 25 percent of the county's 614 machines had failed one way or another during the Sept. 15 primary because of what they called "human error" in setting up the machines.

In addition to asking the court to order another primary election, Mrs. Fowler's suit asks for an injunction forbidding elections officials from "tampering" with the presently impounded machines in any way until "the irregularities have been thoroughly explained to the voters."

"Tampering," Mrs. Fowler's suit said, "includes either the formal count of the primary election, which is currently being carried out, or beginning to prepare the machines for the Nov. 3 General Election."

#### "NO SURE WAY"

"There is apparently no sure way of determining the extent of damage done to the candidates and to the voters by this deprivation of the constitutional right to vote: nor is there any way in which to determine what the actual outcome of the primary election would have been had the voting machines been properly prepared . . ." Mrs. Fowler's suit said.

Mrs. Fowler's suit, for which no court dates for arguments have been set, also said that "the massive failures of the voting machines may be a clear indication of neglect—misfeasance and/or malfeasance—on the part of the board of supervisors of elections who supervised, or of the custodians who programmed, the machines."

[From the Washington Post, Sept. 18, 1970]

#### BLAIR BLAMES MANDEL FOR BALLOT FLAWS

C. Stanley Blair, the Republican candidate for governor of Maryland, said yesterday that Gov. Marvin Mandel is partly responsible for irregularities reported in mainly black precincts in Baltimore during last Tuesday's primary election.

Blair called for immediate investigation of the election-day problems by the Baltimore grand jury.

He said it was "more than coincidental" that most of the election troubles were made in the precincts "where Mandel's running mate, Sam Friedel, was expecting his strongest opposition from Parren Mitchell. His reference was to Rep. Samuel N. Friedel, veteran Baltimore congressman.

Mitchell, seeking to become Maryland's first black congressman, has claimed victory in the Seventh Congressional District Democratic primary, despite an unofficial count giving Friedel a 182-vote edge. The official count is to be completed this week.

Mitchell's supporters reported scores of irregularities, which they claim came about because of a conspiracy to defraud Mitchell of election victory. The Mitchell camp has not accused any specific individual.

#### IRREGULARITIES CLAIMED

Among the irregularities, they claim, were voting machines not delivered or being delivered to wrong addresses, certain machines with Mitchell levers that would not work, polling places opening 3½ to 4½ hours late and last-minute changes of sites of polling places. All of this, they said, either prevented or discouraged many Mitchell supporters from voting.

In a statement yesterday, Blair said he has sent a telegram to the Baltimore grand jury asking for an investigation of "the apparent malfeasance, misfeasance and non-feasance of the Baltimore city election board" in the handling of the primary.

"The election board," Blair said in the telegram, "either intentionally or unintentionally, deprived some voters of their right to cast their ballots in the election."

In the telegram, Blair expressed concern "that some action or lack of action by the election board will jeopardize Republican and Democratic reform candidates' chances for election" in November.

#### PREPARED STATEMENT

In a prepared statement Blair castigated the "highly political" election board as being

"directly responsible for the chaos" last Tuesday. And, focusing again on Mandel, he said:

"I think it is more than coincidental that Gov. Mandel installed the present system when he seized control of the election process immediately after he took office."

This was a reference to a Mandel-backed bill that gave control of the board, an appointive body, to the Democrats. With Spiro T. Agnew as governor, the Republicans were authorized by law to control the board.

At a press conference Friday, Mandel would not place specific blame on the board for the problems and said there is no evidence of any conspiracy to defraud Mitchell and his supporters. Friedel was the only opposed Democratic congressional candidate that Mandel openly endorsed in the primary.

[From the Washington Post, Sept. 26, 1970]

#### NEW BALTIMORE VOTE ASKED IN SEVERAL BLACK PRECINCTS

(By Lawrence Meyer)

Maryland's advisory committee to the U.S. Civil Rights Commission called yesterday for a new primary in several predominantly black precincts in Baltimore where it charged that irregularities effectively deprived more than 200 persons of their right to vote.

The irregularities, according to the committee's report, were concentrated in at least 10 of the 125 precincts in the Seventh Congressional District where Parren J. Mitchell, a Negro candidate, lost to Rep. Samuel N. Friedel by 182 votes, according to an unofficial count.

In order for a new primary to be held in those precincts, a court would have to order the election. No suit has been filed yet seeking a new primary.

In a sweeping condemnation of the conduct of the primary election Sept. 15, the committee recommended that the "present board of supervisors of elections of Baltimore City be relieved of further responsibility for the November general elections."

The committee also asked the commission to request an investigation by the U.S. Justice Department to see if any federal laws were violated.

Discussing the committee findings yesterday, chairman Herbert L. Fedder said, "The limited information gathered did not disclose any indications of fraud or a conspiracy, but it did show a shocking pattern of neglect—and in any event, the result was just as damaging as if there had been deliberate efforts to circumvent established procedures.

"The black community was short-changed. There is no getting around this fact," Fedder said. "Through its ineffectiveness in the primary, the board has forfeited any confidence it once might have enjoyed in the community and in its present form is virtually worthless."

Betty Silbert, president of the board, resigned Thursday, defending the board's conduct of the primary. Gov. Marvin Mandel said yesterday that Baltimore civic leader Charles P. Crane has accepted an appointment as board president through the Nov. 3 general election.

The committee report includes several excerpts from the testimony of 37 persons who complained of being delayed, harassed or deprived of their right to vote.

Mitchell has retained two lawyers—William L. Marbury of the Baltimore firm of Piper and Marbury and Larry S. Gibson—to represent him.

He said he had been counselled to make no comment on possible litigation pending the results of the official canvass, which is expected to be completed Monday. Mitchell said he thought the committee's recommendations were "very good."

In addition to Mitchell, Samuel N. Culotta, a candidate for the Republican nomination in the Fourth Congressional District, has claimed that his name was left off the ballot in eight precincts. Culotta lost by

118 votes to David Fentress. The board's acting chief clerk, Stanley Weiner, has verified Culotta's claim.

Willard Morris, administrator of state election laws, said he knew of no precedent in Maryland in which a new primary had been ordered by a court.

In addition to the testimony of the 37 persons testifying about irregularities, the report said that, "Police estimates in approximately 11 to 14 precincts located in the western part of the city indicated that more than 200 people were not able to vote on election day morning."

Deputy Maryland attorney general Robert F. Sweeney said that his investigations, which are not yet complete, found "delays in 11 of those precincts and that 10 of those 11 precincts appeared to me to be in predominantly black residential areas."

Sweeney, who testified before the committee during its 13-hour, one-day hearing last Friday, declined to comment on the report.

The committee also noted "that voting machine delivery went very smoothly in the (Baltimore) County and that black people are aware how much better municipal services seem to be in all-white areas."

According to the report, "The committee was told that the black community was deeply disturbed by what they felt was a 'systematic, deliberate conspiracy,' and a coalition of community organizations charged that there was a 'blatant manipulation of the vote in Northwest Baltimore.'"

In addition to asking for a Justice Department investigation, the committee also requested that the commission seek federal observers to oversee the conduct of the general election in Baltimore.

Other recommendations included: determining polling place locations at least 30 days prior to an election; notifying registered voters by mail at least one week before an election of the location of their polling places, and publication of the location of polling places in local newspapers at least twice within the week preceding the election.

[From the Washington Post, Sept. 27, 1970]

#### MITCHELL SAYS FRIEDEL LOST IN OFFICIAL COUNT

(By Lawrence Meyer)

Parren J. Mitchell claimed victory by 466 votes over Rep. Samuel N. Friedel in Maryland's Seventh Congressional District Democratic primary after an official auditor released his canvass of the Baltimore City vote yesterday.

An unofficial tally of the Sept. 15 primary had shown Friedel the winner by 182 votes. The canvass of the Baltimore City vote, combined with the Baltimore County votes for the district and absentee ballots, provided an apparent reversal of 648 votes for Mitchell, who is seeking to become Maryland's first black congressman.

The canvass results will not be official until certified by the Baltimore City board of elections supervisors, which is expected to take action Tuesday.

The announcement of the apparent reversal came from Mitchell himself who was present while the official auditor, Able Temporaries, a tabulating firm, counted the votes. Mitchell took ward results, added them to the final returns from Baltimore County and asserted that the canvass showed him the winner.

Herman Goldberg, a principal auditor of the official canvass, said he could not confirm Mitchell's figures without checking them against his tally sheets and that he had no time to do so. "I'm sure that they're right, give or take one or two one way or the other," Goldberg said. "These professional politicians go over the figures themselves and they're so close it's not even funny. I'm sure that it's not an idle boast."

Mitchell's figures, combining Baltimore city

and county, give him 23,942 and Friedel 23,476.

Mitchell's victory claim came one day after the U.S. Civil Rights Commission's Maryland Advisory Committee condemned the handling of the primary by the board of elections supervisors because of numerous irregularities, especially in black wards. One of the committee's recommendations was that a new primary be held in precincts where voters were disenfranchised.

Herbert L. Fedder, chairman of the committee, said yesterday he doubted any action would be taken on a new primary since a court suit would have to be brought and Mitchell would not be expected to bring suit under the circumstances.

George Minor, Mitchell's campaign manager, said, court action to challenge the primary is now a moot point.

Fedder said the committee would stand by the rest of its recommendations, including a federal investigation of the primary, federal observers for the general election and relieving the board of its responsibility for the Nov. 3 balloting.

The Republican candidate in the Seventh Congressional District is Peter Parker, former people's counsel before the Maryland Public Service Commission.

The district is in the midst of a profound racial transition. Once overwhelmingly white and heavily Jewish, the area—in Northwest Baltimore and the adjoining sections of the county—now is 40 per cent black and 40 per cent Jewish. Friedel, chairman of the House Administration Committee, had represented the district since 1954.

Some Baltimore Democrats are apprehensive that a Mitchell victory will drive many white voters who vote Democratic to support Parker and other Republicans Nov. 3. Mitchell, who ran his primary with the support of several white liberals, said, I don't think there will be any major defections to the Republican Party. I think there will be some, but I don't expect any substantial numbers.

Mitchell said he had been unable to reach Friedel but I certainly would welcome his support." Friedel could not be reached for comment.

If Mitchell's victory claim is certified by the board, it will be the second primary in which an entrenched Baltimore congressman was beaten in the 1970 primary. Paul S. Sarbanes, a 37-year-old state delegate, defeated Rep. George H. Fallon, chairman of the House Public Works Committee and the Fourth District Congressman since 1945.

In both the Sarbanes and the Mitchell race, support was given by the antiwar Movement for a New Congress which also supported Royal Hart in his victory over former Rep. Hervey G. Machen in the Fifth Congressional District Democratic primary.

Mitchell said that the help of the Movement for a New Congress was tremendously impactful in terms of volunteers. No question about it."

[From the Washington Post, Sept. 25, 1970]

#### BALTIMORE ELECTIONS CHIEF QUILTS (By Lawrence Meyer)

The president of Baltimore's board of elections supervisors, which has been criticized strongly for its handling of the Sept. 15 primary, resigned yesterday while defending the board's conduct.

Gov. Marvin Mandel accepted the resignation of Betty M. Silbert and announced that he had asked Charles P. Crane, a Baltimore businessman and civic leader, to serve as board president through the November elections. Crane said he would consider the request.

Herbert L. Fedder, the chairman of the U.S. Civil Rights Commission's Maryland advisory committee, which conducted an investigation of the primary, said he was not

aware of Mrs. Silbert's resignation, "but I welcome that. It should have happened long ago."

The principal criticism of the board's conduct of the primary concerned more than 60 alleged irregularities that occurred in the black areas of the Seventh Congressional District. Parren J. Mitchell, who apparently lost his bid to become Maryland's first black congressman, has charged that the incidents were "not accidental."

Mitchell opposed Rep. Samuel N. Friedel, a close friend and political ally of Mandel's, who won the primary by 182 votes, according to an unofficial tally. The official canvass of the election still was being conducted yesterday afternoon.

Mrs. Silbert, whose resignation takes effect next Tuesday, said that "no member or employee of the board . . . acted in any manner that would in any way bring discredit upon the board."

She said that the problems Sept. 15 resulted from inexperienced low bidders winning contracts to prepare for the primary. She said the bidding process had been insisted upon by the city's board of estimates.

Fedder has called a press conference for this afternoon to release a report of his committee's inquiry.

Although Fedder declined to discuss the report, he said that the number of incidents in the black areas—including last-minute changes of polling places with no posted notice, machines delivered late or not at all and jammed machines—"leads one to speculate on the care or concern about the black citizens' right to participate."

He said that his committee's inquiry did not find evidence of any fraud or conspiracy, adding that intent must be shown to establish fraud and "the investigation didn't have enough depth to establish intent."

Fedder said the board was guilty of "maladministration" and that the report recommends "punitive action." Asked if the report filed with the U.S. commission, recommends criminal action against the board, Fedder said it does not, "but we don't preclude it."

In a separate incident, Samuel N. Culotta, candidate for the Fourth Congressional District Republican nomination, charged that his name was left off the ballot in eight precincts. Culotta lost by 18 votes to David Fentress.

Stanley Weiner, acting chief clerk of the board, said Culotta's charges were correct. Asked how many machines were used in the Fourth District, another board employee said he did not know and was too busy to find out.

[From the Washington Post, Sept. 22, 1970]

#### COLO. PLEA LOST BY REP. ROGERS

DENVER.—The Colorado Supreme Court today turned down a petition by 70-year-old, 10-term Congressman Byron G. Rogers (D-Colo.) contesting the 30-vote plurality of 34-year-old peace candidate Craig S. Barnes for nomination by Democrats for the Denver congressional seat.

The 7-0 Supreme Court ruling, stating that Congress alone has jurisdiction in such matters, apparently ended Rogers' long political career, which included years in the State Legislature and the attorney generalship of Colorado.

[From the Washington Post, Sept. 24, 1970]

#### WISCONSIN RECOUNT

KENOSHA.—A ballot recount requested by Leslie Aspin indicated that he won the Sept. 8 Democratic nomination to oppose Republican Rep. Henry C. Schadeberg.

Douglas La Follette had been declared the unofficial victor in the First District primary by 26 votes.

The recount gave a 20-vote margin to Aspin, who was a member of President John F. Kennedy's Council of Economic Advisers,

later served as a Defense Department economic adviser, and is currently an instructor at Marquette University in Milwaukee.

[From the New York Times, Sept. 22, 1970]

#### ELECTORAL RE-RUNS

Botched electoral procedures and inordinate judicial delays have combined to produce several re-run primary elections today in the Bronx, Brooklyn and Queens. Some of these races concern only party leadership posts. Two, however, involve Democratic nominations for State Assemblyman and have an importance that transcends their district lines.

In Brooklyn's 44th Assembly District, Melvin Miller polled considerably more votes in the June primary balloting than did his opponent. Mr. Miller, a Reform Democrat, beat the regular organization designee by a margin that would normally preclude a re-run. The courts have nonetheless ordered one. The difficulty is that few people will even be aware the polls are open.

In Brooklyn's 51st Assembly District, Joseph Ferris, a Reform Democrat, and Marvin Kessler, an insurgent from the regular Democratic organization, both piled up more votes than did the organization candidate. Unofficial returns showed Mr. Ferris the winner by a narrow margin; the official canvass gave victory to Mr. Kessler by an even narrower margin, only nine votes. This result justifies a general re-run in the absence of procedures confining a run-off to the two leaders.

The risk in a re-run, however, is that organization candidates will almost always emerge triumphant for the simple reason that while many voters don't even know there is an election, the organization can be counted on to get its supporters to the polls. In today's balloting both Mr. Miller and Mr. Ferris deserve preference as reform elements are needed to bring a breath of fresh air into the musty Democratic councils of Brooklyn that are run by backroom leaders who have shown little regard for the public welfare.

Beyond today's balloting, electoral procedures require reform. Election inspectors must be selected on the basis of merit rather than party fealty as at present. In weighing election disputes, fast courtroom action is needed. A challenge to Herman Badillo's Congressional primary victory still unconscionably languishes in the courts. It is also essential that judges, many of whom owe their designations to the organization, maintain scrupulous nonpartisanship.

It must not be necessary for reform candidates to beat regulars twice, once on Election Day and again either in the courts or on a second Election Day.

[From the New York Times, Sept. 24, 1970]

#### RERUN IN THE 21ST

After an inexcusable delay, the Supreme Court in Queens has handed down an inexplicable opinion. Yesterday, three months after the June party primaries and one day after rerun races in several boroughs, the court ruled that former President of the Borough of the Bronx Herman Badillo would have to undergo a rerun contest in his quest for the Democratic Congressional nomination in the city's new triborough 21st Congressional District.

The rerun election has been scheduled for Thursday, Oct. 8. It will be held then, with all six candidates originally in the field once more appearing on the ballot, unless the appellate division of the Supreme Court reverses yesterday's ruling. Mr. Badillo's margin of primary victory in this ethnically diverse district was only about 600 votes out of 25,000 cast—but it was large enough in a crowded field to have precluded the need for a rerun contest. For a polling inspector to have failed to initial a voter's card, as was alleged, is the sort of technical flaw that

courts normally overlook. There was never even any charge that these "flawed" votes went to Mr. Badillo. In fact, the inspectors owe their jobs to the regular party organization, while Mr. Badillo is a Reform Democrat.

The problem of a rerun is that many voters may not even know it is taking place. The advantage always goes to the candidate supported by the regular organization. In another rerun contest held this week, the organization candidate who had finished last in a field of three in June finished first, as expected. The voters in the 21st owe it to themselves to see that this typical result is not duplicated in their district.

Mr. Badillo stands head and shoulders above his challengers. A vigorous and experienced public servant, he deserves support. Reform politicians and students interested in seeking peaceful change through the political process would do well to flock now to his cause.

[From the New York Times, Sept. 22, 1970]

#### BRONX ELECTION APPEAL LOST

ALBANY.—The State Court of Appeals held today that there was no reason to conduct a new Democratic primary in the 78th Assembly District, in the Bronx. The appeal to state's highest court was filed by Assemblyman Edward A. Stevenson, who finished second in a three-way primary for the Democratic Assembly nomination. The winner of the primary was Louise Nine, who received 715 votes, Mr. Stevenson 642, and Albert Brooks 502, but 263 balloting irregularities were found.

[From the New York Times, Sept. 25, 1970]

#### BADILLO SAYS JUDGE BARRED TESTIMONY

Herman Badillo said yesterday there was only a "one-in-a-billion" chance that irregular votes could have affected his victory in the June 23 primary in the 21st Congressional District, but that a Queens Supreme Court justice prevented introduction of testimony to this effect before voiding Mr. Badillo's nomination.

The justice, John J. Leahy, could not be reached for comment on Mr. Badillo's charge.

Justice Leahy held on Wednesday that 798 votes in the six-man race had been irregular or void. This was 211 more than the plurality of 587 credited to Mr. Badillo, a former Bronx Borough President, in the official recount. The justice ruled that the void votes, "within a reasonable degree of probability, could have affected this election."

Mr. Badillo said at a news conference yesterday at the Overseas Press Club, 54 West 40th Street, that Justice Leahy had "directed" his lawyer to rest his case before he could introduce testimony on the odds of the voided votes affecting the outcome of the race. He called the judge's action "fascism."

The suit against the primary count was brought by the runner-up, Peter F. Vallone of Astoria. The district takes in East Harlem, South Bronx and Astoria and Corona in Queens.

[From the New York Times, Sept. 24, 1970]

#### QUEENS COURT VOIDS VICTORY BY BADILLO

(By Peter Kihss)

Former Bronx Borough President Herman Badillo's Democratic nomination for Congress in the new three-borough 21st District was voided yesterday on the ground of irregular votes. A Queens Supreme Court justice ordered a new primary to be held Oct. 8.

The successful challenge had been made by the runner-up in the six-man June 23 primary, Peter F. Vallone, of Astoria.

Justice John J. Leahy held that 798 votes had been irregular or void. This was 211 more than the plurality of 587 credited to Mr. Badillo in the official recount.

"Considering all the evidence," Justice

Leahy ruled, "it appears that the void votes here, within a reasonable degree of probability, could have affected this election, making it impossible for the court to determine who was the successful candidate."

Mr. Badillo immediately announced an appeal to the Appellate Division. Branding the decision "outrageous," he asserted: "It is absurd to claim that I was responsible for irregularities committed by election inspectors supporting my opposition."

#### SCHUEER ASKS INQUIRY

Bronx Representative James H. Scheuer, Democrat-Liberal candidate from the 22d District and a Badillo ally, telegraphed the State Judicial Conference to ask for an investigation of the decision, made three months after the primary.

"This decision seems calculated only to serve the interests of the Queens regular Democratic organization and is inimical to the democratic electoral process," Mr. Scheuer charged.

Mr. Vallone, a lawyer and civic leader, said:

"I know that I won the June primary, and I'm confident that the special election will conclusively show that I am the people's choice throughout the triborough district."

He said he had submitted evidence that registered Republicans and Liberals had voted in the primary, which he said the decision had sustained, as well as other challenges based on alleged forgeries in voter signatures and lack of inspector signatures. The latter challenges did not enter into the final count of irregularities, he said.

The new district has about 45,000 enrolled Democrats in its Bronx portion, 20,000 in Queens and 10,000 in Manhattan, Mr. Vallone estimated. He said the ethnic breakdown was about 30 per cent each Puerto Rican and Italian, but he declared:

"The big issue is that people should vote for a man for Congress because they think he will represent them best in that capacity and not because he wants to run for Mayor and not because he is Puerto Rican or Jewish or Irish or Italian or Greek."

#### RESULTS OF RECOUNT

The recount had reported the primary vote as totaling 25,552—Mr. Badillo, 7,732; Mr. Vallone, 7,145; the Rev. Louis R. Gigante, a Bronx Roman Catholic priest, 5,621; Ramon S. Velez, director of the Hunts Point Multi-Service Corporation, 2,644; former State Senator Dennis R. Coleman, 1,508, and Joseph A. Loubriel, a Correction Department driver, 902. All would be involved in the rerun.

Mr. Badillo said, "It is not enough to prove irregularities, for they happen in every election." He contended the 798 allegedly irregular votes would have all have had to go to him to affect the result—"which is logically impossible."

The decision, he said, "would set a dangerous precedent that every insurgent who seeks election will have to win twice to be elected—first at the polls and then in the courts."

Mr. Badillo's counsel is Remo J. Acito, who is also law chairman of the Bronx Democratic organization. Mr. Vallone's counsel is Fabian Palomino, professor at Brooklyn Law School.

(The following colloquy, which occurred during the delivery of the address by Senator HANSEN, is printed in the RECORD at this point by unanimous consent.)

Mr. BAYH. Mr. President, I should like to reiterate what I mentioned a while ago in a colloquy with our distinguished colleague from Nebraska. I am willing—in fact, I am committed—to work with the Senator from Michigan, the Senator from Maryland, perhaps the

Senator from Kansas, and anyone else who might be concerned about the runoff provision. I do not want to suggest that anyone needs to be dissuaded by my concern, but I think it is important for us to have some basic electoral reform. I have said repeatedly that, in my judgment, despite its shortcomings, the runoff is superior to the other contingencies. I am prepared not just to lend perfunctory support to such a change of the contingency, manner, but rather to support enthusiastically another contingency plan. I am not wed to any specific contingency. I would like to see us get the best one we possibly can, perhaps a combination of the electoral college and a joint session of Congress; or perhaps simply a joint session of Congress.

Mr. President, I interrupt my good friend, the distinguished Senator from Wyoming, in this manner just to point out that, although the Senator from Indiana is the principal sponsor of Senate Joint Resolution 1, he has no particular pride of authorship. He wants as many Members of this body as possible to become involved in this matter, to make it better, and he is willing to lend what little influence he may have in this body to that end, so that we will have some basic, necessary electoral reform before the end of this session.

I appreciate the courtesy of the Senator from Wyoming.

Mr. HANSEN. Let me say that I find encouragement in the fact that this debate is focusing attention on some of the facts that we should consider in discussing such a tremendous change in our constitutional processes as would be contemplated by the adoption of Senate Joint Resolution 1. I can only conclude that the distinguished Senator from Indiana recognizes some of the things that are wrong, some of the flaws that would exist in the direct election process. His willingness now to say that if we have to have a runoff, we will not use that system, or at least to imply that, suggests to me that this debate has indeed been a very helpful exercise.

I take encouragement in believing that every Member of this body is dedicated, is sincere, is earnest, and wants to improve things. But, as oftentimes is the case, what may first catch our attention as being a step in the right direction, upon closer examination does not always represent forward motion at all.

So it is with some satisfaction and truly great admiration and respect for the distinguished Senator from Indiana that I find that he, too, recognizes some of the things that could go wrong with direct election. His statement that he would be willing to talk with others about ways in which we could improve upon the very system he has proposed, indicates to me that he is indeed a man of good will, who has the best interests of this country at heart—and I think the same about the other 99 Members of the Senate—and I welcome his observations.

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

Mr. HANSEN. I am happy to yield.

Mr. BAYH. Mr. President, I appreciate the kind remarks of the Senator from

Wyoming. I think it is possible for each of us to feel very strongly that a certain position is right. The Senator from Indiana recognizes the need to take into consideration the points of view of other Members of this body who are equally sincere, and he realizes that although legislation is a certain art in and to itself, the final success or failure of such pieces of legislation relies very heavily on the mathematics of the vote. The Senator from Indiana is always willing to work with others, to give and take a bit, so long as we are moving forward, in order to get enough votes. I would be glad to work with the Senator from Wyoming, and, hopefully, he will come up with a contingency plan that will be agreeable to others, and thus he can lend his support to the direct election proposal. I know that he has not closed his mind to this possibility from now until the end of time.

Mr. HANSEN. Mr. President, as all of us must be, the junior Senator from Wyoming, too, is concerned with votes. I would hope that my constituents may find merit in my position from time to time, at least sufficient merit 2 years from now, to give me an extension of my services to the State of Wyoming and to the Nation, in this great body. I would hope, though, that all of us, as we vote tomorrow on the vitally important issue of cloture, would be motivated more by what we believe to be in the long-range best interests of this country than by any other consideration.

I certainly agree with my distinguished friend, the Senator from Indiana, that votes are important; and I know that in this matter he is hoping that his side of the argument may be able to muster the necessary two-thirds. I hope that he shall be denied that victory.

I must say that long ago I found that we are short-sighted, indeed, if we do not recognize always the possibility of right in others. I do not mean to imply any omniscience, any ability to read the future and to know what is best for our country. Rather, I have had to restrict myself to an inspection of the past, an inspection of the greatness of this country, an examination of how well the processes by which we are governed and by which we choose electors has served us; and I can only say that such an examination confirms for me the judgment that our system, despite its defects, despite the occasional flaps it brings about in our body politics, has served us well.

Without being able to see in the future but, rather, trying to peer into the past and particularly into the more recent past, I would hope that we do not fall prey to the argument of some that simply because an institution or a system is old, it is wrong or outmoded. We have many old things that we respect and admire and revere, and quite properly so, in this country as the distinguished Senator from North Carolina pointed out the other day, old constitutions are the best constitutions, for they have withstood the test of time.

I do not think we have to look very far back to realize that we are much better off in America than are many other countries, because we have not

incorporated into our system of choosing leaders those processes which have characterized all too many foreign countries and brought their constitutional systems to ruin.

Thus, I say, Mr. President, there is great virtue in some of the old things in this country. There is great virtue in our Constitution. I say there is great merit and virtue in the electoral vote system. While I would be the first to agree that we can make some changes in it, I must say that only minor changes would be required.

The principle that there shall be represented in the choosing of a President the expression of the States as political entities, undergirds the whole federal system of this country. Were we to reject this significant characteristic of the electoral college, we would be taking a major step down the road which would eventually abolish the Senate itself. It would provide those who would destroy our system, which has served us to well, with a reason for asking "Why should there be a Senate? Why should each State have two persons equal in this body with every other State?"

I do not think it is necessary to illustrate how good our Government and our legislative system have been. It seems quite obvious to me that such an exercise would be completely useless, because there is not a single one among us today who could not call attention to more reasons than I would have time to enumerate this afternoon that ours is, indeed, a workable and worthwhile system of government.

Accordingly, I say, Mr. President, I do not think I need attempt to explain, that merely because things are old they are outworn, outmoded, or no longer serviceable.

I am sure that every Member of this body has taken time regularly and frequently to read the Bible. I do not believe that the words of Moses are any less relevant today than they were when he brought the message down. I do not believe that the admonitions contained in the Ten Commandments are any less applicable to an ordered kind of life today than they were when they were first given to us.

I am not impressed at all with those who assert that our system of Government was designed and brought into being when things were different, when we did not have the ready communication we now have, when we had no television set to turn on, no radios, or even newspapers on a nationwide scale. Whereas today all we have to do is flick a button and we can see pictures of the war in Vietnam that were taken this morning. It is true, of course, that we could not do that when the Constitution was being framed, but I hope that we will not escape the realization that ours is, indeed, a long heritage, that our success is no accident, and that our constitutional system—far from being outmoded—has been responsive to our needs. It has proven itself fully capable of the flexibility that has been demanded by changing times, by increasing population, by instant communication, by the emergence of strong powers throughout

the world, and by the necessity of being able to deal effectively and quickly with other nations.

Despite all of these changes which have come about, we find the Constitution fully as capable today as it was when it was first adopted to meet these changes.

So I cannot buy the argument that we must now discard it simply because it is old. Rather, I would hope that out of this debate, out of the excellent presentations that have been made, might come a greater appreciation and a greater awareness of how great this document is—and of how its unique principles are incorporated into the electoral vote system.

While there are those who say that the times must change and that we need to elect our leaders by a direct vote, I do not think that makes sense. Rather, I think a case has been made for continuing to choose a President by reflecting the presence of a federal system in our Government.

(This marks the end of the colloquy which occurred during the delivery of the address by Senator HANSEN and which by unanimous consent was ordered to be printed in the RECORD at the conclusion of the address.)

Mr. STENNIS. Mr. President, I wish to commend the Senator from Wyoming. Except for a few moments when I had a pressing matter outside the Chamber I listened to his entire speech. I enjoyed the extra philosophy he provided with reference to the men who wrote our Constitution.

The Senator has made a fine contribution to this debate. I especially call attention to some of his points of logic on constitutional law. I appreciate the fact that the Senator has worked so diligently on this subject, as he does on every subject, as his time permits. I thank him for being here today before this crucial vote which will be taken tomorrow.

The Senator has proven that he is a good rough-and-tumble debater and that he is good at deliberate debate. I appreciate the Senator's participation in this matter.

Mr. HANSEN. Mr. President, I appreciate the very kind remarks made by the distinguished Senator from Mississippi (Mr. STENNIS). He has been a great leader in this battle. I have been an admirer of his for a long time.

For those who may not know, he has a great following in the State of Wyoming. He is the recipient of the highest award the board of trustees of the University of Wyoming can bestow. He was given an honorary doctorate by that institution. I was a member of the board at that time.

We find great merit in the actions, leadership, and quality of statesmanship that are the hallmark of the Senator from Mississippi. I am most humbly appreciative for his kind observation.

Mr. STENNIS. Mr. President, there is nothing I could appreciate more than the Senator's great institution, what he has said, and the fine friendship, fellowship, and support I have had from the Senator from Wyoming since he has been here.

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

Mr. HANSEN. I am happy to yield to the Senator from Hawaii.

Mr. FONG. Mr. President, I regret exceedingly that I was not here to listen to all the remarks made by the Senator from Wyoming. I was in attendance during the last few minutes of his speech and I heard the conclusion of his speech.

I come from a small State, as does the Senator from Wyoming. We know what direct election would do to the voting power of the small States. How it would cut down tremendously the voting power of all these small States, in some instances by as much as 80 percent to 90 percent.

I was very interested also in the observation of the distinguished Senator from Wyoming that there are approximately 184,000 voting precincts. There may be fraud in any number of these 184,000 precincts. If there were fraud, under direct elections those votes would be sealed off within the particular State in which the fraud occurred. If we did not have the electoral college system they would not be sealed—the fraudulent votes in any one of the 184,000 precincts would affect the total national vote and the vote of each candidate. The effect of voting fraud under direct election is horrendous to contemplate. It would result in chaos.

I wish to commend the Senator for his very fine address on this point.

Mr. HANSEN. Mr. President, I again express my appreciation to the distinguished Senator from Hawaii. I can think of no more appropriate time to call attention to one of the great strengths of our electoral college system than by what is brought to my memory now by his presence and by what he has just said.

Under the electoral college process it has been my contention that minorities find the greatest opportunity for effective presentation of their particular beliefs, interests, and feelings. When I think of the contributions that some of the ethnic minorities in the great State of Hawaii have made, I will do all I can to assure that this great Nation of ours shall never be denied the contribution that the Japanese people and the Chinese people have made. Those of us who serve in this Chamber are proud and appreciative that this is a great Nation composed of minorities. I am a member of a minority. I am a Dane and they tell me I am one of the few Danes who has ever slipped in here. I am glad the word did not get around before I was elected.

Mr. President, we must bear in mind that if we did not have the electoral college system, those people of many places, such as the great State of Hawaii, would not be able to cast the two extra electoral votes they now have the privilege to cast to assure that their ideas will be represented not only in the halls of Congress, but as well, in the Chief Executive of the United States. I know that not only President Nixon but other Presidents have been deeply conscious of the contribution made by the distinguished Senator from Hawaii and they want to do their best to see that we maximize the contribution these people can make,

and that we understand their concerns. I think we are best assured of the important contribution they can make and have made through the electoral college.

I am grateful to my wonderful friend from Hawaii. I recognize him as a great scholar and a very well-educated man. He holds several degrees, one from the most prestigious of our law schools in the United States, and I am certain Harvard University proudly claims him as its own.

Mr. FONG. Mr. President, I thank the Senator for his very fine remarks concerning my State and me. With reference to his remarks about the place of minorities in the scheme of the electoral process, the speech which I intend to make this afternoon deals directly on this problem of how the electoral college system affects the minorities in the States. If we had a direct election of the President the minority's power, whether it is ethnic, religious, educational, social, or any other kind, would be fragmented and diluted so that presidential candidates would not look at the needs of these minorities. The minorities even by joining with other minorities would not have the influence on candidates and their parties that they now have.

I thank the Senator again for his fine remarks. I consider him one of the most able men in this body.

#### MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1933) to provide for Federal railroad safety, hazardous materials control, and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2264) to amend the Public Health Service Act to provide authorization for grants for communicable disease control and vaccination assistance.

The message further announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 6778) to amend the Bank Holding Company Act of 1956, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PATMAN, Mr. BARRETT, Mrs. SULLIVAN, Mr. REUSS, Mr. WIDNALL, Mr. JOHNSON of Pennsylvania, and Mr. STANTON, were appointed managers on the part of the House at the conference.

#### ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled joint resolution (H.J. Res. 1366) to provide for the temporary extension of the Federal Housing Administration's insurance authority.

#### HEARINGS ON SOVIET ACTIVITIES IN CUBA

Mr. CHURCH. Mr. President, as chairman of the Senate Subcommittee on Western Hemisphere Affairs, I have called for a special briefing, to which all members of the full Committee on Foreign Relations will be invited, as soon as arrangements are made, the purpose of which will be to obtain all available facts concerning the reported construction of a possible Soviet submarine base at Cienfuegos Bay on Cuba's southern coast.

Because of mounting concern that shipping and construction work in this area may have a military purpose involving the Russians, a special hearing with the best informed members of the executive branch should be held without delay, in order that Senators may receive a full and detailed exposition of all particulars.

In October 1962, the American public learned, after the fact, of Soviet missile bases being installed on Cuban soil. The resultant crisis brought the world closer than it has ever been, before or since, to a nuclear holocaust. That is why I am asking the State Department, Pentagon, and CIA to testify in executive session with the request that a full disclosure be made of all intelligence information now in possession of the Government on what could be a potentially serious development. If necessary, we must act in timely fashion, if we are to avoid the kind of nuclear showdown that occurred 8 years ago.

In this connection, I ask unanimous consent to have printed in the RECORD an article entitled "Cuban Missile-Crisis Hint Looms," written by Mr. James Nelson Goodsell, Latin-American correspondent of the Christian Science Monitor, and published in today's edition of the Monitor.

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

#### CUBAN MISSILE-CRISIS HINT LOOMS (By James Nelson Goodsell)

The specter of a possible new Cuban missile crisis is haunting the Nixon administration.

Washington sources speculate it could develop over the reported construction of a Soviet naval facility at Cienfuegos on the south coast of Cuba.

As if to underline its concern and to warn both Soviet Leaders and Cuban Premier Fidel Castro of Washington's attitude, the White House Friday recalled the 1962 understanding between President Kennedy and Soviet Premier Nikita S. Khrushchev that ended the original Cuban missile crisis.

The White House also pointedly drew attention to a statement by President Kennedy Nov. 20, 1962, when he said: "... if all offensive weapons are removed from Cuba and kept out of the hemisphere in the future under adequate verification and safeguards, and if Cuba is not used for the export of aggressive Communist purposes, there will be peace in the Caribbean."

#### ACTIVITY REPORTED

Actually, Washington is not clear on just what is being set up at Cienfuegos. Unusual construction activity is reportedly under way and Soviet vessels have been making much more use of the port in the past few months than they had previously. In fact, four Soviet Naval vessels are there now.

But Soviet naval presence in the Caribbean, and particularly in and around Cuba,

is nothing new. For more than 15 months, Soviet vessels, including nuclear submarines, have been freely plying Caribbean waters.

"It would be logical for the Soviet Union to seek some sort of deep-water anchorage in Cuba for its fleet," a United States diplomatic source said in Washington.

#### REFUELING FACILITY

The Nixon administration, of course, would prefer it otherwise, but the growing Soviet naval presence in the Caribbean is reluctantly accepted as a tit-for-tat arrangement in view of the United States naval activity in and around waters adjacent to the Soviet Union.

Moreover, the mere construction of a naval facility for refueling and refitting does not cause too much concern in Washington.

But construction of a strategic submarine base, perhaps for the use of missile firing Polaris-type craft, would markedly alter the picture, and this is what concerns Washington.

#### CONSTRUCTION CONTINUES

The White House statement Friday, given reporters in the course of a background briefing arranged to discuss President Nixon's upcoming European trip, was clearly intended to discourage Moscow from carrying out any strategic construction.

At this point, it is obvious that the Soviet activity in Cienfuegos is not of the magnitude as that eight years ago when the Soviet Union placed offensive missiles on the island.

At that time, the Soviet Union had no Polaris-type submarines. Today it has at least 13 such submarines, armed with 16 missiles each. More are under construction. A base in Cuba would enable the Soviets to keep more submarines on station for longer periods without returning to home ports for servicing and resupply.

The United States, for example, maintains such facilities at Holy Loch, Scotland; Rota, Spain; and on Guam in the Pacific.

Information on the Soviet activity is understood to have come from United States U-2 reconnaissance planes, the same aircraft that furnished the first concrete proof of Soviet missiles in Cuba in October, 1962.

Washington says there are no submarines in Cienfuegos now, but a submarine tender is there along with three other vessels, all of them part of a Soviet naval task force including nuclear submarines that arrived in the Caribbean last month.

#### THE DOVES ARE WINNING

Mr. CHURCH. Mr. President, on Saturday, September 26, I delivered the opening address at the Colorado National Politics Institute, held at Colorado State University. The forum of students faculty, and administrators was mannerly, alert, and concerned. They were of real credit to the growing university community at Fort Collins.

I ask unanimous consent that the full text of my remarks, entitled "The Doves Are Winning—Don't Despair," be printed in the RECORD.

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

#### THE DOVES ARE WINNING—DON'T DESPAIR

During the momentous summer months in Washington, it was my pleasure to work with many college students who came to the Capitol with the mission of bringing an end to the war in Vietnam. As the Summer passed without a single dramatic break-through in Congress, I watched too many of these students leave Washington, disillusioned and

embittered. They returned home convinced that the military-industrial complex dominated American politics, and that the "system" had placed insurmountable roadblocks across the road to peace.

Not only do I understand, but to a certain degree I share the dismay of these young people. I have opposed our war policy in Indochina for a long, long time. It was seven years ago, in September of 1963, when I first spoke up for changing that policy. If anyone is entitled to feel frustrated, I should qualify.

There are, moreover, legitimate reasons of fresh vintage to deepen the discouragement of those who have worked so hard for peace, the most poignant of which, no doubt, was the recent defeat in the Senate of the McGovern-Hatfield amendment to end the war.

As for those students who have volunteered their help in election campaigns, the results have been inconclusive, at best. Robert Kennedy's drive for the Presidency in 1968, was shot to death, while the aspirations of Eugene McCarthy were trampled to shreds on the streets of Chicago. Lately, however, particularly at the Congressional level, some light flickers at the end of the electoral tunnel, as indicated by the showing of Craig Barnes in Colorado, by Joe Duffy's race for the Senate in Connecticut, by Father Drinan's victory in Boston, and by Paul Sarbanes' upset in Maryland. These primary races signify something more hopeful than the accidents of age and reapportionment.

It is for the purpose of sounding a more hopeful note that I come to speak this afternoon. Even though the fighting continues in Vietnam, the truth is that our efforts have not been in vain. The government is not as immovable as it sometimes seems. The campus protest against the war has neither gone unheard nor unheeded in the nation's capital. Admittedly, the official response has been both sluggish and reluctant, but profound changes have taken place, nonetheless. Let me illustrate by asking a few rhetorical questions.

Whatever happened to all those ferocious hawks? They used to darken our political skies, poised to plunge down on any dove reckless enough to take wing.

How long has it been since we've heard their shrill battle cries: "Bomb Hanoi!" "Blockade Haiphong!" "Win the War in Vietnam!" Where has all that bravado gone?

Look closely.

The hawks are still about but quite subdued. They perch on strange new standards which proclaim: "No Precipitous Withdrawal." "No Humiliating Defeat." "Peace With Honor."

These are cynical standards, contrived for political effect. No responsible war critic has ever urged precipitous withdrawal, or called for humiliating defeat, or advocated peace without honor. These slogans are crafted for one purpose only: to give protective cover to the hawks; to conceal from public view the fact that they have largely lost the argument over Vietnam. The doves may not yet realize it, but they are winning.

No longer are we being told that our presence in Vietnam is required to "contain" communism. Six years of American warfare in Southeast Asia has succeeded only in extending communist penetration outward from Vietnam into the rest of Indochina.

Seldom, anymore, are we reminded that we went to Vietnam to prop up the "dominoes," for, even though we still remain in massive occupation of South Vietnam, the "dominoes" are falling next door. The larger parts of Laos and Cambodia have passed into communist hands.

If our purpose was to prove, as we were once solemnly told, that communist-induced "wars of national liberation" would not be tolerated by the United States, then we have managed only to prove the opposite namely

that Asian civil wars, whatever their coloration, cannot be successfully suppressed by foreign intervention.

Mercifully, nowadays, we are spared the embarrassment of hearing that the SEATO treaty obligated the United States to go to the rescue of Saigon. Forgotten is the improbable argument of Dean Rusk that we were unilaterally bound by our SEATO commitment to fight for South Vietnam, despite the fact that such other major signatories as France, Pakistan and the United Kingdom disagreed. They construed the treaty according to its terms. As submitted to the United States Senate for ratification, the SEATO treaty provided only that we would "consult" in cases of communist subversion—where those could be defined.

In like manner, the other reasons once offered to justify our original intervention in Vietnam have faded away. Where can one find a reputable general to argue, with a straight face, that the defense of the United States is rooted in the jungles of Indochina? Who still pretends that Saigon stands guard over Seattle? Who honestly accepts the corrupt and repressive Thieu-Ky regime as a champion of freedom in Southeast Asia?

The truth is that even the hawks have lost their fervor for this senseless war. How often these days one hears the remark, "Of course, I think we should have stayed out of Vietnam in the first place, but now that we are there. . ."

Now that we are there, these are the code words that mark the chastened hawk, the formula words for shifting the discussion away from the perplexing *why* to the pressing *how*. "The urgent question," President Nixon counsels us, is "not whether we should have entered on this course, but what is required of us today." Never mind about why we entered the war, what matters now is how we end it.

Let it not be forgotten that it was the very question of how to end the war that originally prompted the lengthy debate between the doves and hawks. The issue was sharply drawn and well understood in the country. The hawks espoused the popular, if simplistic, view that the only way to end the war was to win it, while the doves favored a negotiated peace. At the beginning of the debate, the country, accustomed to imposing unconditional surrender on its enemies, turned a deaf ear on all talk of settlement, an attitude which accounted, doubtlessly, for the paucity of doves.

I remember it well. When Senator George McGovern and I took the floor of the Senate on February 17, 1965, to call for a political settlement of the war, *negotiation* was an unspeakable word in Washington. The liberal press was shocked; the conservative, scornful. "There is nothing to negotiate about," snorted the Secretary of State. And no less a figure than the late Everett Dirksen, President Johnson's favorite spear-carrier in the Senate, took charge of the rebuttal. With a grand display of trembling indignation, he repudiated negotiations as "simply a proposal to run up the white flag before the world and start running away from communism."

Just a few weeks later, however, it was President Johnson himself, speaking at Johns Hopkins University, who proposed "unconditional discussions" as evidence of his desire for peace, and offered a billion dollar aid program for Southeast Asia when a negotiated settlement was obtained. "We would hope," said Mr. Johnson, "that North Vietnam would take its place in the common effort just as soon as peaceful cooperation is possible." As it was now the President's proposal, no one breathed a word about "running up the white flag" or "running away from communism."

The Johnson offer, to be sure, was no more

than a ploy at the start. Our "unconditional" negotiating position turned out to be "we'll quit, if you quit." Victory in the field was still the real goal of the hawks.

As this became clear, the doves more and more protested that the war—essentially political in character—could not be "won" by conventional military methods. We argued that the great buildup of American men and materiel in the South could not be decisive in an area where Vietnamese enemy could scarcely be distinguished from Vietnamese friend—but where the American soldier, the foreigner, was an easy target on every count. Only the Vietnamese, themselves, we said, could win a guerrilla war.

As for the massive bombing of North Vietnam, we contended that experience and common sense showed it wouldn't batter the North Vietnamese into submission. Rather, it would weld them together and give new fire to a revolutionary movement which had already been fighting for more than two decades. The only way to settle such a war, therefore, was not on the impossible terms the hawks had offered, but on terms that related to what the war was all about—the political composition of the government in Saigon.

In this connection, it was the late Robert Kennedy who, in February of 1966, had the perception to realize and the courage to proclaim that a political settlement between the two Vietnamese sides would have to be based on a sharing of power: in short, something in the nature of a coalition government. This suggestion was at once denounced by then Vice-President Hubert Humphrey as a proposal for "putting the goat in charge of the cabbage patch." The Saigon government's reaction was less picturesque, and much more savage; Vietnamese citizens landed in prison for even uttering the forbidden word, coalition.

Although lip service was paid, from time to time, to various heavily hedged formulas for peaceful initiatives before March of 1968, the lines in fact remained clearly drawn between doves and hawks. No matter how the hawks dressed up their true feelings, one constantly found their goal unchanged: they were still pursuing the will-o-the-wisp of "military victory."

But what has happened over the past two years? Nothing less than a complete reversal of position on the part of the hawks. It has finally been borne in on them that the Vietnam war cannot be "won" after all.

Who would have thought in the Fall of 1967 that a year later the bombing of North Vietnam would have ended and that representatives of all four parties to the conflict—including the unrecognized Vietcong—would be arguing about the shape of a negotiating table in Paris? President Nixon put his seal of approval on this reversal by acknowledging that we seek "no military solution" on the battlefield. Here, again, it is obvious that the doves have won their point about the essentially political, rather than military, character of the war.

And what of the course of the negotiations? Once more we find that the hawks have moved steadily toward the position of the doves. Lyndon Johnson's original "We'll-quit-if-you-quit" has given way to Nixon's "Anything-is-negotiable-except-the-right-of-self-determination-for-the-people-of-South-Vietnam-even-if-they-choose-communism." What a far cry from the hawks' initial explanation for entering the war—the "containment" of communism within the perimeters of the then-existing "communist world."

Actually, President Nixon has gone even further: during a televised news conference on May 8, 1970, he said that if the people of South Vietnam choose other leaders, or a coalition government, it will be acceptable

to the United States so long as that government is not forced upon them.

It is almost as if the President were reading from the late Senator Robert Kennedy's floor speech of 1966—a thought which should set hawk feathers to fluttering!

Meanwhile, actions as well as statements seem to indicate possible movement toward breaking the negotiating stalemate at Paris. It is inconceivable to me that a statesman of the caliber of Ambassador David Bruce would have agreed to represent us at the talks if he had not been given greater latitude than his predecessors to find the subtle formula necessary to produce a compromise settlement. The return to Paris of North Vietnam's chief delegate, Xuan Thuy, together with the new proposal offered by the Vietcong's Madame Binh, at least sustains a somewhat more optimistic view of the negotiating sessions than has been possible since the overthrow of Sihanouk. Despite the continuing deadlock at the conference table, it looks very much as if the dovish position on negotiations is in the process of being adopted by our government.

And yet all observers have always recognized that North Vietnam, after 20 years of bitter warfare, might very well refuse any settlement we could accept. Confronting that possibility some years ago, the doves began to argue for a planned but deliberate policy of American disengagement. Apart from our basic objections to the character of the war, by its very nature bound to be inconclusive, we urged disengagement for two major reasons. In the first place, we felt a phased withdrawal of American troops would force the Saigon government to take negotiations seriously, knowing it could no longer rely indefinitely on U.S. forces to keep it in power. Secondly, it was clear to us that conditions here at home would not permit a war without end in Southeast Asia. There are, after all, limits to what one government can do for another. At fantastic cost in men and money, the United States had waged the longest war in its history just to furnish the Saigon government with an American shield, behind which to build its own military strength and political stability. At our sole expense, the United States had trained and equipped a South Vietnamese army five times larger than the combined forces of the Vietcong and North Vietnamese arrayed against it, and one with far greater fire power. Saigon had been placed in a position to take back its war. If the army wouldn't fight, we couldn't save the government anyway; if its army would fight, the government could save itself.

At first, any mention of withdrawal was anathema to the hawks. Nothing stirred up their bile so. They abused the doves for being "cop-outs." LBJ fumed "We're not going to tuck tail and run." Red-blooded Americans were appealed to on grounds of hyperpatriotism; veterans' organizations were rallied figuratively to the bugle call for yet another charge up Hamburger Hill.

Doves were castigated as "giving aid and comfort to the enemy." Efforts were even mounted in some cases (mine being one) to recall dovish Members of the Congress for "treason." And U.S. forces in South Vietnam continued to increase to a level above a half-million men, until that memorable March day in 1968 when Lyndon Johnson announced his abdication, ended the futile bombing of the North, and followed up by sending Averell Harriman to Paris to get peace talks underway. Still, the American military buildup continued, reaching a peak figure of 542,500 in February, 1969.

And what did Richard Nixon, once the most baleful and assertive of hawks, now Republican nominee for President, have to say about all this? He said he had "a secret plan to end the war." Once he was installed

in office imagine what the Nixon secret plan turned out to be? *Withdrawal!*

A hundred-fifty-thousand American troops have already been withdrawn. Another hundred-thousand more are scheduled to be pulled out by next May.

President Nixon has an artful, if cumbersome, name for his no-longer-secret plan; he calls it "Vietnamization." Its purpose, he explains is to turn the war back to the Vietnamese—the very objective the doves stood for all along!

As the position of the hawks has converged on that of the doves, the Administration's rhetoric keeps escalating to conceal this reality behind a clever word-screen. Mr. Nixon takes great pains to separate himself from his critics by stressing his steadfast opposition to "precipitous" withdrawal (which nobody in authority ever urged upon him in the first place). He thus has succeeded in shifting the argument from *Whether to when*. Suddenly, withdrawal is no longer the issue; instead, it is the time-frame for withdrawal that the President dangles out as bait.

The doves, I must confess, have risen to the bait. We fell at once to criticizing the President for unduly prolonging the process of disengagement; dozens of bills were introduced in Congress setting deadlines which Mr. Nixon could repudiate as "revealing our hand." Meanwhile, Vice President Agnew has had a field day, brandishing the proposed timetables as proof that their sponsors are "architects of surrender," "appeasers," and "defeatists."

Of course, such charges represent the politics of bombast and baloney. Any sensible examination of the bills introduced in Congress will reveal that the deadlines proposed—far from being "precipitate"—differ only slightly from the pace of withdrawal which the Nixon Administration has already placed in effect.

And as for timetables, it is also clear that the Administration has long since adopted one of its own. More than a year ago, Army Secretary Resor said that "Vietnamization" of the war was ahead of schedule, thus revealing there is a timetable in existence about which Saigon would have to know. Since anything Saigon knows is quickly grapevined to Hanoi, only Congress and the American people have been left in the dark.

The diversionary tactic of turning serious discussion of the war into a squabble over timetables underscores the baffling refusal of President Nixon to reach for the very prize which now lies within his grasp, the forging of a new American consensus on coming out of the war. He seems to have forsaken his campaign theme of "togetherness" in favor of dispatching his Vice President on a deliberate mission of keeping the dispute inflamed and the truth obscured.

As Mr. James Reston pointed out in the *New York Times* on August 19, the Administration ". . . didn't concede that there was something to the argument for a deadline on American involvement in Vietnam, which some of its own supporters had recommended. It attacked McGovern and Hatfield as if they were traitors to the Republic . . . According to the Vice President, the McGovern amendment was 'irresponsible' action which would assure a 'humiliating defeat.' Mr. Agnew gave no indication that the idea of a withdrawal deadline had been seriously debated within the private counsels of the Administration itself."

Apparently the President has decided that the care and feeding of the restive hawks obliges him to keep flailing away at the doves, even as he occupies their premises. If so, the time is long overdue for the doves to stop playing Mr. Nixon's game, to point out that we have been proven right about Vietnam, and that our pleadings have actually been

adopted, albeit covertly, as official policy. Above all, let us avoid the pitfall of being pushed by Administration strategists into the error of adopting extreme and untenable prescriptions for instant peace.

Having achieved our basic objective of serious negotiations tied to an orderly withdrawal, what tasks remain for the doves to perform? There are two major undertakings left. First, we must keep up the pressure so that President Nixon's withdrawal from Southeast Asia will remain as "irreversible" as Secretary of State Rogers says it is. Secondly, in the absence of a political settlement in Indochina, we must work to prevent a Korean-type prolongation of our Vietnamese misadventure.

On the first count, the sudden aberration of the Cambodian invasion illustrates the danger that Mr. Nixon might yet be tempted to reverse gears and re-escalate the war, if the Vietcong and the North Vietnamese fail to lie low. Already the Administration is having to eat most of its words of reassurance to the American public, as it keeps getting edged into further involvement in Cambodia. An entire speech would scarcely do justice to that subject. Suffice it to say now that the current situation makes it overwhelmingly clear why the Cooper-Church amendment, passed by the Senate on June 30, needs to be enacted into law. It would prohibit any full-scale return to Cambodia without Congressional consent.

On the second count, it should be painfully evident that we must avoid the trap of keeping a vestigial military presence in South Vietnam for the indefinite future. An American military foothold there is unnecessary to our security, unduly expensive, and disruptive to a final resolution of the Vietnam—or Indochina—problem. Moreover, it would militate against any improvement in relations with China over the long term, which should be the central objective of American foreign policy in Asia.

The Korean example should be proof and warning enough of this thesis. Eighteen years after the end of the fighting, we are still locked into Korea. At great expense, we have kept a sizeable army there all these years. Now, as fiscal pressures compel a reduction in this force, an indignant Korean government demands another \$3-billion in military assistance as severance pay.

Nevertheless, the pressures mount for making the same mistake all over again in Vietnam. Writing from Saigon, *Washington Post* correspondent Lawrence Stern recently warned in an article datelined August 26, 1970, that: "President Nguyen Van Thieu will press the case for maintaining a 50,000 man 'residual' American military presence in South Vietnam during his talks with Vice President Spiro T. Agnew.

"This, as far as Thieu is concerned, will be 'Topic A' in the conversations at Independence Palace, according to qualified official sources here.

"So far there has been no official communication between Presidents Thieu and Nixon on the size of the American troop commitment to South Vietnam in what the presidential palace has begun to call the "post-war" period.

"In a recent dinner with a few Western correspondents on July 30, Thieu first floated his proposal for a 50,000-man American military force in South Vietnam to 'guarantee the peace' after 1973—what might be described as the post-Vietnamization period. . . .

"We still have many things to ask of you," Thieu said to American correspondents during the July 30 dinner.

"U.S. Ambassador Ellsworth Bunker is known to feel that Thieu's position is a reasonable one and has, in private conversation, cited the precedent of South Korea where the United States maintained a 'peace-keeping' force of about 60,000 troops for 18 years."

In my view, the adoption of the McGovern-Hatfield amendment—as it had been refined—would have demonstrated that we had learned something from past experience, and that we were determined to sever the military umbilical cord which fastens us so tightly to the Saigon government. It would have removed the gnawing suspicion that Vietnamization might be intended to promote a lingering, though lessened, American military presence in South Vietnam for the indefinite future. It would have guaranteed the withdrawal of all remaining American troops by setting a deadline beyond which they could not be retained without Congressional approval. It would thus have made certain that we would neither re-escalate our involvement in Vietnam, nor permit our engagement there to be transformed into another Korean-type garrison for American troops on the mainland of Asia.

Even though the amendment failed, it may point the way toward the finding of an acceptable legislative device that could lead, at last, to a reconciliation on the war. If we could find the formula for a political accommodation, joining the Congress and the Presidency together, in a common declaration of national purpose to achieve a full and complete military disengagement from Vietnam, then we could come out of this war on the basis of a broad, bipartisan consensus. The risk of dissension and recrimination at home in the aftermath of our withdrawal, concerning which President Nixon has rightly warned, would be reduced to a minimum.

Last, but not least, the few remaining feathers would be pulled off the well-plucked hawks, and the long, acrimonious debate over the misbegotten war could be drawn to a close.

#### DEATH OF PRESIDENT NASSER OF EGYPT

Mr. STENNIS. Mr. President, I have just been advised, and I know Senators and their friends in the galleries will be interested to hear that the AP and UPI are carrying dispatches to the effect that Mr. Nasser of Egypt has just died. I hope that is not true. I hope it is not true for several reasons. A personal reason is for him, but as a whole I think as a leader of the Arab world since 1952 or 1953, his leadership has been superior to anyone who would have been in power. I never had more than one contact with him and that was when he came to power. He was thought to be a comer as a leader in the Arab world, which he certainly has proved to be. I hope that it does not mean upheaval and turmoil among those countries. I have reason to believe it will not. Certainly, it is a critical time, and I hope the people of Egypt will take time to select a leader.

I recall that our President is in that area of the world. Certainly, the situation over there is volatile and highly uncertain. I am sure that time will serve the people there in finding a way, and I hope those people will find a way for the proper kind of leadership.

Mr. GRIFFIN. I think the Senator from Mississippi for bringing this matter to the attention of the Senate. Certainly, Mr. Nasser's death comes at a most unfortunate time—a time of crisis in the Middle East—a time when there is already too much instability in that area of the world. It is a most unfortunate turn of events. I trust and hope that calm will prevail, and that this event will not compound the difficulties which are so serious and so complex.

#### STAR PRINT OF H.R. 17604, AN ACT AUTHORIZING CONSTRUCTION AT MILITARY INSTALLATIONS

Mr. STENNIS. Mr. President, H.R. 17604, an act authorizing construction at military installations, and for other purposes, was inadvertently reported from the Committee on Armed Services with numerous committee amendments rather than as a complete strikeout and substitute. It was the intention as reflected in the committee report, that the bill be reported as a complete strikeout.

I therefore ask unanimous consent that a star print be made of H.R. 17604 and that such print reflect a complete strikeout and an amendment in the nature of a substitute for the stricken material.

This is purely a matter of procedure and to meet a parliamentary situation.

The PRESIDING OFFICER. Is there objection to the request. The Chair hears none, and it is so ordered.

Mr. STENNIS. I thank the Chair.

#### WARM RECEPTION GIVEN PRESIDENT NIXON IN ITALY

Mr. GRIFFIN. Mr. President, in the swirl of international events which move so rapidly these days, I believe one event that took place today should not go unnoticed.

As the President left the Vatican today after visiting with the Pope, he ordered his driver to take an unplanned, unscheduled tour into the city of Rome. Earlier today I received a report from the White House concerning this trip by the President—a report which was most encouraging. Despite earlier concerns about the kind of reception the President might have in Italy, it is noteworthy that the people of Rome greeted him in a way that was all but unprecedented. The UPI reports that it was the warmest reception given any American President since Dwight D. Eisenhower visited Rome in 1959.

I am told that thousands and thousands of people suddenly appeared on the streets, shouting words of greeting and affection to the President. He stopped the car at several points and got out and shook hands with people; and there was no hostility whatsoever. This is a very encouraging and heartening development—one that will not go unnoticed in the rest of the world.

#### DIRECT POPULAR ELECTION OF THE PRESIDENT AND THE VICE PRESIDENT

The Senate continued with the consideration of the joint resolution (S.J. Res. 1) proposing an amendment to the Constitution of the United States relating to the election of the President and the Vice President.

Mr. ALLEN. Mr. President, the distinguished Senator from Mississippi has called attention to the untimely death of Mr. Nasser and the upheaval that this may cause in the Arab world. As we in the Senate consider the advisability of amending a tried and true provision of our Constitution, I wonder if the distinguished Senator from Mississippi would

agree with the junior Senator from Alabama that one of the great strengths of the American system of government is the fact that the same Constitution which provides for our electoral college system of choosing our President and Vice President also provides for the orderly succession to the Presidency in the event of a vacancy in the office of President which is different from almost any other country in the world. For example, take Russia. If there were a vacancy in the highest office there, it might cause a revolution, whereas in America, under our Constitution, the change takes place instantly.

Is not that one of the great strengths of our Government and one of the great strengths of our Constitution?

Mr. STENNIS. Undoubtedly it is, and especially for the times in which we live. During events that have most unfortunately happened here in the last few years, we have seen that transfer of tremendous power occur automatically, and the verdict that had already been made accepted unanimously, one might say. Things moved without any interruption. I think it is one of the greatest possible tributes—and it impressed me at the time—to our system of government and its practical operation.

Mr. ALLEN. Just as we should take a long time to consider whether we should change the constitutional provision for a definite and orderly succession to the Presidency, should we not also take a long time to consider whether we should change the method of the election of the President and Vice President as it is done today?

Mr. STENNIS. The Senator speaks so well. Things may not look perfect on paper, and we do find flaws in our system, but if we go to setting it aside and entering into one that is untried, then we will reap the fruits of the whirlwind. The Senator made a fine analogy between the situation overseas and our own blessing.

Mr. ALLEN. I thank the Senator.

Mr. STENNIS. Mr. President, I do not have at this time any greatly extended remarks on the pending subject, with which I am vitally concerned. I think there is a growing concern among the membership of this body with reference to the far-reaching, drastic proposal which is Senate Joint Resolution 1.

I want to refer first to page 5, line 4, thereof, and to these four lines, which I quote. This I underscore with emphasis:

If no pair of persons has such number—

Meaning 40 percent of the whole number of the votes—

a runoff election shall be held in which the choice of President and Vice President shall be made from the two pairs of persons who received the highest number of votes.

Mr. President, I heard the remarks, a few minutes ago, of the Senator from Indiana, who, in all frankness and good faith, mentioned his lack of complete satisfaction with that provision, and that it would be possible to write into his proposal instead one of the alternative proposals that are now before us.

I told him before he left the floor, in a personal word or two, that under the old

common law pleading, as used in England and still used in a few of our States, his remarks would be what we called in common law pleading a plea of confession and avoidance.

It is a wholesome thing to do. But here is a proviso, Mr. President, that even the author of it now has decided would fail to carry out the purpose, it would fail to be workable, it would probably cause great havoc and great stir, and no doubt cause great injury. That is the provision for the runoff election, which we have referred to as being one that seems to have no defender, but to elicit more and more concern on the part of Senators.

Whatever else may be said about other provisions of this proposal, this one in itself is enough to consign it to fatal treatment here. I make the additional point that to adopt this amendment, without more certainty and with nothing more definite about when the runoff shall be, how it shall be held, and something more binding and definite about it in the Constitution would be a great tragedy. It would leave Congress with the power, it is true, to make certain rules and regulations or laws with reference to the elections, but there would be nothing in the Constitution about it. It would be like making a vehicle with two wheels, and then leaving off the hind wheels and saying, "Somebody else can put these on later."

Congress, under all kinds of pressure, and in all the kinds of turmoil that could be generated by the failure of an election to choose someone, having to operate under the worst kind of conditions and the greatest of pressure, could very well change, and be urged to change, the rules in the middle of the game. It just shows, Mr. President, how vital this matter of electing a President and Vice President of the United States is. And that Vice President is highly important, as the Senator from Alabama has pointed out and as we have had occasion to learn, unfortunately, as lately as 1963, on the succession following the lamented passing of our late President, John F. Kennedy.

These are not just theories. They are dealing with practicalities of life, one of which is that nothing that happens under our system of Government is more important than the election of a President—and a Vice President—of the United States.

So what time has been spent here has been well spent. I have been in the Senate since 1948, when I voted for the first time on one of these plans, not to set aside our present system but to bring it into a more workable condition. That time, by the way, in 1948, the resolution was called the Lodge-Gassett amendment.

That amendment passed this body by a two-thirds vote plus one. That was 22 years ago. It did not pass the House of Representatives. But this very problem has been given a great deal of time and thought and attention since then, and most of those—not all, but most of those who have really wrestled with the subject and made a deep study of it—have been more and more convinced that

what we need is some modification of our present system to bring it up to date, but certainly not an abrogation or setting aside or junking of it by just saying, "Heads I win, the majority will control," and vote through on that without regard to the States.

The amendment before us would pass off the matter of the States' responsibilities, or those of the voters to the State, and suggest solving the difficult problem of what is going to happen if the leading candidate does not receive more than 40 percent of the total popular vote by just saying, "We shall have a runoff election."

This matter needs further work, Mr. President, and I believe that to vote tomorrow, or during this session of Congress—until we recess, anyway—tomorrow or thereafter, under this pressure of time, in the few days remaining, will not bring about a sound plan, but that in time we will bring up one that is modern, safe, sound, and largely tested already, and it will do the job.

I emphasize again that we could not have had this underscored any better than by the remarks of the Senator from Alabama, when he referred to what apparently is the unfortunate situation in Egypt now, with the sudden passing of Mr. Nasser.

Mr. President, the provisions of Senate Joint Resolution 1, the so-called direct-election system of electing the President and Vice President would substitute the system given us by the framers of the Constitution and used all these years with a national plebiscite.

As we consider this question it is very important that we focus on the specific issue which we are to decide. The question is not whether our present system of electing the President and Vice President of the United States is perfect and without any flaws or defects. Rather, the question is whether the proponents of the direct election system can sustain the burden of proof of demonstrating that their proposed change would be better than our present system.

It is the system we would be changing with this resolution, Mr. President. It is not just parts of the system, or bringing matters up to date, but it is the sweeping aside, with one flash of the pen, of a complete system, and substituting another.

For reasons upon which I will elaborate, I believe that the supporters of this direct election system have failed to carry this burden of proof which the proponents of any change in our Constitution are duty-bound to bear. In fact, in my judgment, such serious questions have been raised as to the workability and the underlying philosophy of the direct election system that its rejection by the Senator would be proper.

I wish to say frankly what I think is the driving wedge on this matter. We are just afraid that we will have an election in which the winner would be uncertain for a time. Say that it would be thrown into the House of Representatives; honorable men though they are, I think it would be far better to let all of the elected representatives of the people in Congress, both Representatives and

Senators, have one vote each on that matter, and change it from each State having a single vote. That is the major change I would advocate. That is not the abandonment of a system, but it is a major change in our present system that I think would remedy, in a practical way, any difficulty which exists in our present system.

In considering this important matter, we should also remember that once a provision is inserted in the Constitution, it is very difficult to remove it. If we adopted a direct election system, and experience shows, as I believe it would, that its operation was detrimental to our political values and institutions, then the entire amending process of obtaining a two-thirds vote in each House of Congress and ratification of three-fourths of the States would be required. One of the witnesses who testified before the Judiciary Committee on Senate Joint Resolution 1 was Mr. Richard N. Goodwin, a former assistant to Presidents Kennedy and Johnson. Mr. Goodwin spoke of the points I have raised in the following language:

The American Constitution is the foundation of the oldest system of government in the Western World. One of the reasons for its stability has been our unwillingness to change it except when malfunctions had already occurred or abuses had become so manifest that there was widespread and continuing public demand. Today, we propose for the first time to amend the Constitution simply because we think something might go wrong at a future date. We will exchange a mechanism which is clumsy but has worked for an ideal construction of political theory whose consequences can't be foreseen. This, it seems to me, places a heavy burden of proof on the proponents of the measure. For it is difficult to predict the results of structural change in our democratic institutions. It is not enough to demonstrate that direct elections will probably be an improvement. It must be shown beyond all reasonable doubt that the adverse consequences which are predicted by many, including myself, will not occur. I do not believe that this burden of proof can be sustained.

At a later point in his testimony, Mr. Goodwin made the following statement which we would be wise to ponder:

If we were starting a new country we might well do things differently. In fact, the idea of an electoral college would probably never occur to us. But that is not our privilege. We are trying rather to continue and improve a system of government which lasted longer than any other in the history of the world. Times change, of course, and so must we. I myself believe we need radical changes in our social and economic policies. But when it comes to modifying the structure itself, the process by which change comes, then we can only afford to act when we are certain of improvement. The theoretical and remote chance of what at worst would be a rather minor malfunction does not warrant a change which might have large and unforeseen consequences. And once made, of course, there is no return. And of one thing we can be certain. Unless we are wiser than any generation that ever lived, the results of abolishing the electoral college will be different from what its advocates now honestly expect. Our history is strewn with the wreckage of democratic reform—such as the initiative, referendum, and recall—which not only defeated expectations but often turned out to benefit those interests which they were designed to protect against. It is this

uncertainty, the consciousness of fallibility, that has restrained past generations from changing the mechanisms of government except in cases of obvious and urgent necessity. Hopefully it will also restrain us.

Mr. President, I do not always agree with the ideas expressed by Mr. Goodwin, but I think we would do well to heed the warning he has given us, and to remember that once a provision is inserted in the Constitution, it is very, very difficult to remove it. I have said that if we were really going to do this now and try out a popular election and are just bent on adopting an amendment, if the American people want that—and I do not believe they do—the only reasonable way to do it would be to say that we are going to try it for one election, and put a termination date on it that would apply only for that election. Then, if we could look it over and liked it, we could say it shall continue indefinitely. I certainly do not want to throw everything on a firm, final constitutional amendment, because I believe it would prove to be like loaded dice and would not work as the proponents hope.

The Honorable Nicholas De B. Katzenbach, former Attorney General of the United States, concluded his statement to the Judiciary Committee in the following manner:

And so, as I have said before, I strongly feel that on a matter so basic to the confidence and structure of the country, we ought not to abandon the familiar and workable for the new and untried without the clearest demonstration of need. In my judgment, no such demonstration has been made. We should not substitute untried democratic dogma for proven democratic experience and this is no time to tinker with success.

Mr. President, I agree with sentiments expressed by these gentlemen. Why should we abandon a system of electing the President and Vice President which has worked well for 182 years because we are told that something might go wrong with it in the future? And, in the name of reason and conscience, if we are to change or modify our system of electing the President and Vice President why should we substitute for it a system which is subject to many real and valid objections both as to the underlying philosophy and workability?

Among the cogent objections which have been made to the direct election system are that direct election of the President and Vice President would, first, destroy the two-party system and encourage the formation of a host of splinter parties.

I believe that is undoubtedly true. Among various geographical areas; among various ethnic groups; possibly—but we would certainly hope not—among various religious groups; among various economic groups; and among all kinds of groups, in this day of marching and demanding, many people would be led to believe that marching and clamoring long and loud would be the method to use. Others would be more astute, but many would believe that this was a new start and the opening of a door and that if they tried hard enough, they would make a showing. I think this proposal would open the door to just such a possibility and that it would be a grave

problem, indeed, and would generate more problems as we held more elections.

Second, it would undermine the federal system by removing the States as States from the electoral process. "Undermine" is too mild a word. I think a stronger word is needed, in that it would absolutely take away, it would obliterate, the federal system in making this selection, which is the most important thing we do every 4 years. It is the most important process we go through in our entire system. The States, which were created for the balance, for the preservation of certain rights and responsibilities to the people, and for many other functions, would be absolutely left out and obliterated.

Third, it would create a strong likelihood of electoral fraud. That has been developed on the floor in this debate by Senators and by quotations from witnesses who were well versed in the matter from long years of observation in that field, and I will not seek to develop that further.

Fourth, it would lead to interminable electoral recounts and challenges. I think that is undoubtedly true. The whole matter then would be a national affair, a Federal affair, and all the complicated election problems that are presented throughout the Nation would be thrown into one hopper.

I recall that when I first came to the Senate, I was assigned to the recounting of some votes in an election contest, and I was very impressed with what a tremendous undertaking it would have been if the Rules Committee had had even one more contest.

Fifth, it would necessitate the national direction and control of every aspect of the electoral process. Let us not fool ourselves. If we are going to have a nationwide election and then the runoff, we are going to have to pile one bale of new Federal laws on top of another bale, and we will have innumerable codes of law and of regulations, and everything will be determined by Federal law, right down to the *n*th degree, as to how elections should be held and the ballots should be counted.

As a judge, I had to pass on several election contest cases that went into the vitals of holding an election, tabulating the returns, and every other little something that occurred. If we are going to have an election altogether Federal, nationwide, in the case of over 200 million people, all operated by the Federal Government—and that is what it will come to—rather than by the States and their subdivisions, we will be borrowing trouble that we do not deserve and, in my humble opinion, we will be creating an interminable mass of procedures and regulations that cannot be promptly followed and taken care of, thus causing confusion and, more than that, delay in determining the people's choice.

Mr. President, I believe that a strong case has been made that direct election would result in these unfortunate consequences.

Before discussing some of these unfortunate consequences of direct election, it should be emphasized that, in my opin-

ion, Senate Joint Resolution 1 is not a true reform of our electoral system. Instead, such a drastic revision in our method of electing the President and Vice President would accomplish radical change, not reform.

If we are interested in reforming our system of electing the President and Vice President, this can certainly be accomplished without abandoning part of our federal system, which would be the result of converting to a system of direct election.

If the problems of the so-called faithless elector and the contingent procedure for election of the House of Representatives are deemed to be defects of the present system, this can be cured by the adoption of the so-called Ervin-Katzenbach or automatic plan. The automatic plan would abolish the office of electors and award the electoral votes of each State to the candidate for President and Vice President who have received the most votes in the State. The automatic plan would also modify the contingent election procedure, which presently calls for the election to be made in the House with each State having one vote to a provision for the contingent election to be held in a joint session of Congress, with each Senator and Representative having one vote.

If there is concern about the winner-take-all feature of awarding the entire electoral vote of a State to the candidates who receive the most popular votes, this can be cured by the adoption of either the "proportional plan" or "district plan." Under the "proportional plan" we would retain our system of electoral votes, but each candidate for President and Vice President would be automatically awarded the proportion of the electoral vote of a State which he received of the total popular vote in that State. Under the "district plan," the legislature of each State would divide the State into a number of districts equal to the number of members in the House of Representatives from that State. Each voter would vote for three electors, one representing his district and the other two representing his State's two senatorial electors.

Personally, I consider the "winner-take-all" aspects of our present electoral college system to be one of its worst features. It gives the large, urbanized, heavily populated States with huge blocks of electoral votes an undue advantage over the smaller, less populated States. By way of contrast to the direct election proposal, the "automatic plan," "proportional plan," and the "district plan" have one important characteristic in common. They each retain the elements of federalism in the process of electing the President and Vice President which were written into the Constitution by the wise men who drafted it. To convert to a system of direct popular election, however, would represent a complete abandonment of those portions of our federal system which were embodied by the framers in our process of electing the highest officers in the land.

For this reason, among others, it seems to me that this radical revision in our

electoral system is one of the worst changes that could be made.

Mr. President, before discussing some of the serious questions raised by the direct election system, there is one particular provision of Senate Joint Resolution 1 which deserves comment and analysis. That is the provision which states that candidates for President and Vice President can be elected with a 40-percent plurality of the national popular vote. It is, indeed, strange that although the stated purposes of Senate Joint Resolution 1 are to make the election of the President and Vice President more democratic and to apply the concept of "one person, one vote" to presidential elections, that provision is made that the President and Vice President can be elected with as little as a 40-percent plurality of the popular vote.

Mr. President, I strongly agree with the statements made and the minority views of Senators EASTLAND, McCLELLAN, ERVIN, HRUSKA, FONG, and THURMOND in discussing this question. I believe it is one of the best written reports, even though it is a minority report, that I have read since I came to the Senate:

Moreover, we cannot but think it somewhat disingenuous to condemn the electoral college for being "undemocratic" while at the same time embracing a 40 percent requirement under direct election. For that figure, turned upside down, says that the man who is not the choice of 60 percent of the electorate shall be President. To this, proponents of direct election like to reply that under the present system, Presidents have been elected with less than a simple majority of the popular vote even while winning a majority of the electoral vote. What this argument fails to recognize is the essential difference between the size of a plurality and the manner of its composition. A 43 percent vote under direct election, for example (assuming it could be acquired), represents a very different kind of popular plurality from a 43 percent popular vote under the electoral college. The popular vote under the electoral college, even when it is less than a simple majority, is always widely dispersed geographically and ideologically and is distributed, moreover, throughout all the States. Thus, even when the winning percentage is less than a popular majority, it is still possible for the electoral vote majority winner to govern. Under the direct election scheme, which is indifferent to the way in which majorities are formed or where they are located, there is no guarantee that a winner will actually be able to govern.

Mr. President, if we ought to have a system of direct popular election of the President and Vice President, the requirement that the winning candidates have to attain only a 40-percent plurality of the national popular vote in order to avoid a runoff should be amended to provide that the winning candidate must receive no less than 50 percent of the vote in a first election in order to avoid a runoff. If the national total of raw popular votes is to be the sole determining factor in the election of the President and Vice President, then let us at least assure that the will of the majority of the voters is given effect. The will of the majority could be quite easily frustrated under the 40-percent plurality system.

Even if an amendment were adopted

to change the 40-percent plurality standard for attaining election to a standard of 50 percent, I would still be opposed to the direct popular election system because of the objections above mentioned. I do believe, however, that if we are to have a system of direct popular election that it would be far better to require candidates to receive 50 percent of the votes rather than a mere 40-percent plurality.

Mr. President, one of my chief objections to Senate Joint Resolution 1 is that its addition to the Constitution would inevitably result in strict Federal control and supervision of presidential elections. Supervision and control under our present system is properly left to the States. State control and supervision of these elections is in perfect harmony with our system of federalism, the keystone of which is power and responsibility divided and apportioned between the Federal and State governments and the three branches of the Federal Government.

My concerns about this important issue are expressed in the minority views of the report of the Judiciary Committee on this measure, as follows:

There is no question the rigid uniformity must be an integral part of the direct election proposal if the one-man, one-vote rule is to be truly implemented. If the President is to be popularly elected in a nationwide election, State boundaries and jurisdictions will become inconveniences. All States would, of necessity, have to conform their election laws to a single Federal standard.

Serious questions must be raised concerning the new election machinery and standards which must be created in order to have a smoothly-run national plebiscite.

Federal laws or guidelines would have to be enacted to regulate, among other things, the eligibility of parties and candidates; the counting of ballots and the declaration of the winner; the validating and counting of absentee ballots; the penalties and prohibitions applicable to elections; the rules concerning recounts; the forum for the consideration of contested elections; the registration deadlines and a host of related matters now covered by State laws. Indeed, it is possible to envision a Federal Election Board charged with total responsibility for running the election down to and including the staffing of 180,000 polling places.

Beyond the question of enacting Federal election legislation, the matter of financial responsibility for the plebiscite must be considered. At present each State bears its share of the cost of running elections. If, however, all other administrative aspects of the election are to be assumed by the National Government, it seems logical that the financial burden must also reside in Washington.

The meaning of such fundamental shifts in election responsibility must be considered when analyzing the merits of the direct election proposal. These are not simply administrative matters which can be brushed aside for later consideration.

The proponents of the direct election system seek to answer our concern of the probability of complete Federal control and supervision of presidential elections by assuring us that Senate Joint Resolution 1 only grants Congress a "reserve power" to enact legislation, and that the States are allowed to retain their primary authority in the conduct of presidential elections. Let us examine

this so-called reserve power that Senate Joint Resolution 1 would vest in Congress and see how innocent that power is. Section 2 of Senate Joint Resolution 1 provides that:

The electors of President and Vice President in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature, except that for electors of President and Vice President, the legislature of any State may prescribe less restrictive residence qualifications and for electors of President and Vice President the Congress may establish uniform residence qualifications.

Section 4 provides that:

The times, places, and manner of holding such elections and entitlement to inclusion on the ballot shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations. The days for such elections shall be determined by Congress and shall be uniform throughout the United States. The Congress shall prescribe by law, the time, place, and manner in which the results of such elections shall be ascertained and declared.

It can be seen that although the provisions of sections 2 and 4 seem to adhere to the principle of State control of elections, that vast power is vested in Congress at its pleasure to completely overturn State laws pertaining to residency qualifications for electors and the times, places, and manner of holding presidential elections and entitlement to inclusion on the ballot. Congress is granted the authority at any time after the adoption and ratification of this amendment to enact a complete body of general law dealing with these vital matters which had been thought to be properly left with the States. For example, the "times, places, and manner of holding such elections" would certainly encompass and include such Federal functions as determining the mode of voting, deciding who will count the votes, providing supervision to prevent fraud, and promulgating a system whereby the results of the balloting could be determined and publicly proclaimed.

This is the nature of the so-called reserve power which this proposed amendment would vest in the Congress.

The whole thrust of Senate Joint Resolution 1 is that the States should have no role in the election of the President and Vice President. Uniformity is the keystone of the direct election system. If all else is to yield to the slogan, one-person, one-vote in the election of the President and Vice President, then how can one justify the various States having different residency qualifications? How can one justify one State being permitted to impose a literacy test as a requirement for voting, while other States do not have such requirements? How can one justify a situation in which a voter of one State might be denied the privilege of voting for the candidates of his choice because they were not eligible for inclusion on the ballot under the laws of the State, while citizens of other States who wish to vote for these candidates are able to do so under more lenient State standards?

Obviously, none of these variations in State laws can be justified under the logic of "one-person, one-vote," the same logic which would underlie the adoption and ratification of the direct election system. Under all of these situations, the right of a citizen to vote, or to vote for the candidates of his choice, will be denied by operation of the differences of the various State laws. This difference in treatment can only be cured by the adoption of uniform Federal laws.

It cannot be accurately said that my concern about the inevitable Federal control and supervision of the processes of national elections is based only on the groundless fears of opponents of direct election. One of the strongest supporters of direct election is the distinguished junior Senator from Michigan. As a member of the Judiciary Committee and as a Senator, he has been most active and diligent during consideration of this matter. When Senate Joint Resolution 1 was considered by the Judiciary Committee, Senator GRIFFIN offered amendments to make sections 2 and 4 thereof read as follows:

The Congress shall prescribe the qualifications for electors of President and Vice President in each State and the District of Columbia, which qualifications shall be uniform throughout the United States.

The Congress shall prescribe, by provisions of law uniform throughout the United States, the days for such elections, the requirements for entitlement to inclusion on the ballot therein; the times, places, and manner of holding such elections shall be ascertained, certified and declared; and the manner in which and the period for which ballots cast in such elections shall be preserved.

These amendments were rejected by the Judiciary Committee. Senator GRIFFIN wrote some individual views on the necessity of federally imposed uniform standards relating to presidential elections. These individual views are found on pages 22 and 23 of the committee report.

I would like to quote from certain portions of the individual views of Senator GRIFFIN:

In addition to my reservations outlined in "Separate View" concerning the runoff election, I am concerned because Senate Joint Resolution 1 does not require that uniform election procedures and voter qualifications be established as part of the plan to elect the President by direct popular vote.

To make each vote cast for President anywhere in the United States equal to every other vote is a commendable goal. But it would make no sense under such a system to count the votes of 18-year-olds in some States, 19-year-olds in others, and 21-year-olds in yet others. Of course, the current attempt to lower the voting age to 18 by statute may provide a partial answer—if the statute is held to be constitutional by the Supreme Court.

Furthermore, it would be inconsistent and self-defeating to leave each State with jurisdiction, as Senate Joint Resolution 1 does, to determine which candidates for President will appear on the ballot and the circumstances under which ballots for President will be counted.

In light of the premise on which the direct popular vote is founded—that is, making every vote count—it is essential to guard against any device which would tend

to dilute the vote of any individual or class of individuals. To leave each State with jurisdiction to determine voter qualifications and inclusion on the ballot would invite discredit on the claim that every citizen has an equal opportunity to participate in the election of the President.

Consequently, I believe Sections 2 and 4 of Senate Joint Resolution 1 should be amended in accordance with the amendments which I proposed in committee. The result of adopting such amendments will be to confirm the public expectation of equal participation in the selection of a President.

Mr. President, I do not agree with my friend from Michigan that the Federal Government should take over the State functions of holding elections and determining qualifications of voters, but I must agree with his logic in carrying the thrust of Senate Joint Resolution 1 to its logical conclusion.

My colleague from Mississippi raised this point in a speech he made on the floor on September 10. Senator GRIFFIN then made the following extremely important statement, the impact and purport of which should be understood by every Member of this body in considering this issue. I wish that everyone would heed the force and logic of the following statement made by Senator GRIFFIN, which is found on page 31149 of the CONGRESSIONAL RECORD of September 10, 1970:

Although the distinguished chairman and I do not reach the same conclusions concerning the merits of the pending resolution, I must say that I share his view that it will be necessary and logical if we are to elect the President by direct popular vote, for Congress to establish uniform voter qualifications and procedures for conducting such election. Indeed, I believe Congress would be derelict in its duty if it did not establish such uniform standards in connection with, or directly following, adoption of a constitutional amendment to elect the President by popular vote.

We may, and we do, differ in our conclusions as to whether such a development would be good for the country—but the logic is unassailable. Furthermore, I can agree that the people of the several States should realize, as we consider this popular vote amendment, that uniform voter qualifications and election procedures will be a necessary and logical result. No one should be fooled on that point.

Mr. President, I submit that this candid and forthright statement of the junior Senator from Michigan goes to the heart of this question. He does not equivocate; he does not beat around the bush. He comes to grips in a forthright manner with the proposition that the adoption of this proposed amendment to the Constitution would necessarily result in the complete and total Federal takeover of the procedures, processes, and machinery of conducting presidential elections.

He and I can disagree as to whether this would be good or bad for our system or federalism, but we can agree on the inevitable consequences of direct popular election.

Mr. President, in my judgment this is reason enough to oppose Senate Joint Resolution 1.

Mr. President, if we are to maintain our federal system of divided and shared

powers, it is, in my judgment, imperative that the Senate reject Senate Joint Resolution 1, the so-called 40-percent plurality system of direct popular election of the President and Vice President.

Under our present electoral college system of electing the President and Vice President, the voters as citizens of the several States play a decisive part in the process. That is to say, the winning strategy is to assemble a coalition of States sufficiently large to win a majority of electoral votes. As a result of this, the winning candidate is under a compulsion to make a broad-based appeal to all regions of the Nation. Consequently, the one thing which can be stated with confidence about the winner of a presidential election under our electoral college system is that his support is widely dispersed geographically.

Under a system of direct popular election, none of these desirable features of our presidential election contests would necessarily continue to exist. Indeed, the winning strategy might well be to attempt to amass huge pluralities in the few large urban States and override the aggregate losses in a large number of small States.

I think that this would be a very bad situation to be endured by our people.

It is certain that under a system of direct popular election the States as such would have absolutely no influence. All votes would be counted in one grand total. If the States and the voters as citizens of the several States are to count for nothing in the process of electing the President and Vice President, then drastic political and constitutional consequences would be the impact on State power and influence on the national political parties. A related issue is whether the States would continue to play a decisive part in the nominating procedures of party candidates for the Presidency and Vice-Presidency.

One of the distinctive features of the American party system is that our parties are essentially State dominated: the so-called national parties are, in fact, coalitions of State parties; and the State parties, in turn, are coalitions of county and local party organizations. The major parties are thus organized from the grassroots up—a feature which enables them to accommodate a wide diversity of competing interests at the State and local levels, and helps to keep elected officials responsive to State and local needs. What brings the hundreds, perhaps thousands of State and local party units together is the attempt, every 4 years, to capture the presidency. It is the role of the States as States in that process which accounts for the fact that our national parties are State based. And this structure of the parties reinforces the power of the States as members of the Union.

The most obvious symbol of a State orientation of the major parties is the national convention. Delegates come to the conventions as representatives of their States, and voting power is allocated in proportion to electoral vote strength. Direct election, of course, would destroy the basis of having delegates selected or votes distributed in this manner. There would be no reason whatso-

ever for the States as such to be represented; delegates would most likely represent ethnic, racial, and economic groups. But without the States to act as mediators of compromise, there would be no way to determine beforehand what groups should be represented or in what proportion. It is doubtful, indeed, whether there would be conventions at all under direct election. The logic of direct election leads inevitably toward presidential primaries, perhaps regional, but most likely national in scope. One can well imagine a series of regional primaries, and, thereafter, a series of national primaries preceding the first election—to which must be added the likelihood of a runoff election after that.

It is apparent that the role of the States in the electoral college contributes greatly to national stability; it also contributes greatly to the cohesion of State party organizations. Cohesion—or the lack of it—will depend on many other facts as well, such as the strength and appeal of State and National party leaders, the volatility of issues at any given time, and the strength of the opposition party. But the importance of cohesion in State party organizations is obvious. In most States, most of the time, a single party organization is able to coordinate presidential, gubernatorial, senatorial, congressional, and other campaigns, and can thus act as a mediator among the conflicting aims of politicians and interest groups. But once the States as States are removed from the presidential election process, a strong inducement toward State party cohesion will also be removed. We cannot with any confidence predict what new forms party organizations might assume; we can confidently predict, however, that a significant restructuring of State and hence national party organizations would take place. That restructuring, in turn, would alter in unforeseen ways the power of the States to carry on political business, especially in relation to the National Government. We simply do not know with any precision how much of a Governor's or a Senator's or a Congressman's power derives from his State's role in the electoral college. We may be certain, however, that it is often considerable, and that Presidents are influenced by it.

The Framers of the Constitution were very careful to provide a distribution of powers as between the State and National Governments and as between the three branches of the National Government. One of the cornerstones of this system of distributed powers, which we call federalism, was the means by which the President and Vice President of the United States were to be elected. The States were given a definite and meaningful role in this process by the framers. If one of the underpinnings of the system of federalism which has governed this Nation since its founding is to be disregarded in the name of the slogan of "one person-one vote," then where is the attack on federalism to stop?

It is extremely interesting to note that if this proposed amendment to the Constitution is adopted by Congress, it will be ratified in a manner greatly at variance with the concept of "one person-one vote." As we all know, the process of

ratification requires that the State legislatures or the State conventions of three-fourths of the States must ratify any proposed amendment to the Constitution in order to make it effective. Thus, ratification of this or any other constitutional amendment can be defeated by 13 States.

If it should happen that these 13 States are Alaska, Delaware, Hawaii, Idaho, Montana, Nevada, New Hampshire, New Mexico, North Dakota, Rhode Island, South Dakota, Vermont, and Wyoming, the ratification of this constitutional amendment could be defeated by persons representing States containing only 4 percent of the citizens who voted in the 1968 presidential election. The voters in these 13 States cast an aggregate total of approximately 3,053,000 votes out of a national total of approximately 73,178,000.

If the principle of one-person, one-vote is to overrule our federal system insofar as it relates to the election of the President and Vice President, then there is a much more logical method of ratifying constitutional amendments. After an amendment has been proposed by Congress it should be placed on a ballot to be voted on in a national referendum. If more people voted in favor of ratification than voted against ratification, then the amendment would be adopted into the Constitution. This procedure certainly comports with the idea of one-person, one-vote much more than the present system of ratification.

And then, of course, we have the matter of equal representation by the States in the Senate. The fact that each State has two Senators, regardless of population, is certainly an affront to the concept of "one person-one vote." Even though the framers of the Constitution stipulated that the provision calling for equal representation in the Senate would be the only existing provision of the Constitution which could not be amended except by the consent of every State, I have no doubt in the light of decisions of the Supreme Court of the United States within the last 20 years that we could amend the unamendable.

Many of the proponents of the direct election system protest that they are staunch friends of the federal system and that they support the idea of equal representation in the Senate and our present ratification procedures. I do not doubt their sincerity, but I cannot understand their logic. Certainly, the framers did not think that equality of representation in the Senate or the method of ratification of constitutional amendments would be a sufficient support of the system of federalism. That is why they decided to give the States a role in the selection of Presidents, a role that has been reinforced by our federally structured political parties. We should understand that the federal principle was incorporated within the Presidency itself, by the involvement of the States in the presidential election process. The result is a finely counterbalanced structure which, in the words of Prof. Alexander Bickel:

Cures the inevitable under-representation of the large States in Congress, while at the same time requiring a sectional distribution of the vote that elects the President, thus

making possible combinations that also give advantage to the smaller States. This is just a long way of saying that the genius of the present system is the genius of a popular democracy organized on the federal principle.

Mr. President, a vital part of our tradition of federalism is the feeling on the part of our people that they are citizens of two great political communities: The United States of America and the State wherein they reside. This concept of dual citizenship is at the core of the idea of federalism. A number of witnesses who testified before the Judiciary Committee expressed a grave concern that one aspect of the adoption of this proposed constitutional amendment would be to weaken or destroy this concept of dual citizenship.

For instance, Mr. Theodore H. White gave the following testimony:

Finally, in politics, I believe there are things that are more important than statistics and vote counting. There are communities. We live in a world of communities which have been balanced and put together by our federalized American system. I believe it is good and right that when somebody goes to the polls in Boston, Mass., he feels he is doing something about the Massachusetts vote, and when the Tar Heel from North Carolina goes to the polls he feels he is doing something for North Carolina. I would not want to strip this sense of identity from the great historic communities of the United States of America in which each man feels he has a role to play in the larger role of his community for a role which makes him just one more digit, one of those electronic figures that will come cascading in at 70 to 80 million votes in a 6-hour period some November night in which he has no identity whatsoever.

Mr. Richard Goodwin also touched on this problem:

Now it is true that they are smaller, and I think that it all depends upon whether you view the United States as a sort of one homogeneous group of people randomly dispersed across the country or as a continent which shelters diverse people with very different ways of living. If you count people instead of describe them, the citizens of Ohio, or Montana are not very important. But they may be important for other reasons; as to who they are, for their way of life, and for the land they occupy.

The electoral college, along with the Senate, is one of the few mechanisms we have to influence those at the center of affairs to visit outlying citizens, so as to learn about them and pay some attention. It is a very weak instrument for such a purpose. But there is something to me about blotting out State lines and counting us as one undifferentiated mass—like so many grains of wheat—that really does belong to the age of television and public relations.

Mr. President, I firmly believe that it is absolutely necessary that we do nothing to weaken the power of the several States under our system of government. We have, in my judgment, all too often witnessed the spectacle of concentration of power in the Federal Government in Washington and the erosion of the power of the States. The trend in the last 20 years has been to exalt the power of the Federal Government and debase the power of the States. I have resisted this trend and will continue to do so. History tells us that such a process leads to anarchy or tyranny.

The fact that the adoption of this proposed amendment would constitute an affront on our system of federalism affords a substantial basis for opposing the adoption of Senate Joint Resolution 1.

Mr. President, another aspect of the system of direct election of the President and Vice President that should be carefully examined by the Senate is the real possibility that such a system would lend itself to include fraud and irregularities in the voting processes. A related factor is the real danger that the adoption of the direct election system would increase the probabilities of recounts and contested elections.

I think we would all agree that any of these prospects is horrifying. They should certainly be avoided at all costs.

The proponents of this measure assure us that our fears are groundless and that there will be no greater likelihood of fraud, recounts, or contested elections under the direct election system than there is under the present system. I do not question the good faith of these assurances, but I do question their validity.

In considering this issue, the Senate should carefully study the testimony of some of the witnesses who appeared before the Judiciary Committee at the hearings on Senate Joint Resolution 1. For instance, Mr. Theodore H. White, an acknowledged authority on presidential elections had this to say to the Judiciary Committee:

I want to approach the problem in the most sordid way and not in the high minded manner you gentlemen have been speaking in. I want to talk of crooks in elections.

I believe that you cannot steal in any State of the Union more than 1 percent of the vote, but when elections get hot, votes are stolen. I would wonder whether the Senator from Indiana completely trusts the county of Lake County, out of Gary.

I know that in my own town of New York last year we canceled an election, a very minor election for the Democratic nomination for the presidency of a borough because there were 1,000 irregularities in those machines and a slight margin of 100 votes between them, so we called that election off and we ran it over.

I wonder here whether anybody trusts the vote in Duval County, or remembers the 87 votes of the 1948 election which made Lyndon Johnson Senator.

I could go right around the Union to Philadelphia, to Kanawha County, to South Boston, and wonder whether we really want to trust the election of Presidents to a direct pool of votes where the arts and skills of these few people who do steal votes are magnified.

Right now, what you have in the country is a system of self-sealing containers. Again, I speak the language of the press. If the crooks in Illinois, if the crooks in Cook County are going to steal votes and the crooks in upstate Illinois are going to steal votes, each State has built up some sort of antibody system so that it seals the theft, the stealing, the rigging of elections.

Mr. Ernest J. Brown, professor of law, University of Pennsylvania spoke of the possibility to recount and contest elections under a system of direct popular election in the following language:

Twice in the last three elections, we have had a very close vote. We have not known the result of the popular vote for weeks, literally. And it is rather important in today's world that the result be known and

not wait until absentee ballots from overseas posts filter in for counting. So just as the matter of knowing the results quickly—and this is not idle curiosity; the world waits while the U.S. President is chosen. The United States waits, too.

Senator Ervin then commented: "The whole country, in a sense, I have noticed in presidential election years tends to stand still for a few months.

Mr. Brown replied: "That is right. We all remember that one of the things that the division into State segments, of course, lets us know simply that the distribution is such that though the aggregate popular vote may be very close, no State may be close, so that we know the result while we are still waiting over weeks to find out what the aggregate popular vote was.

So that in itself is a significant fact. But more significant is the fact that close elections—and as I say, we have had two out of the last three in popular vote terms—close elections lead to contests. And with direct popular election, the contest would be nationwide. Every ballot box, every voting machine would be subject to contest.

If one candidate contests a certain area, his opponent, to protect himself, warns of a contest where he thinks something might have been adverse to him. And in a little while, the whole electorate is involved.

We have seen State contests in recent years that have paralyzed State governments. And we had one contest in 1876. Without going into detail, I think the mere fact of contest is a disaster.

Then how would it be conducted? Who would conduct it? I think it would be a misfortune to throw the Federal judiciary into this. But if it were a court, there is no court that would have nationwide jurisdiction other than the Supreme Court. And if I may put it that way, heaven preserve us from throwing the Supreme Court into that arena.

Congress, I suspect, would supervise the contest. I do not think that would be very happy, either. But bear in mind, too, it would be the outgoing Congress, because the incoming Congress would not have taken office. And the outgoing Congress might have been greatly changed—we might put it in terms of repudiated—at that same election.

I continue to quote from Mr. Brown:

There is no guarantee against election contests. We can have them under the present system, we can have them under any. But the present system insulates the States. When the vote is counted by States, those lines insulate the area of contest and keep it local, and they insulate the significance of contest. It has happened more than once that there might well have been contests in a given State in an election where the aggregate popular vote was quite close. But generally, the electoral majority is somewhat greater in percentage terms than the popular majority. And so a switch of a State or two would not make the difference. So those contests did not materialize. I am not gifted either with prophecy or what might have been hindsight. But I think there are very good chances that under direct popular election, we would have had damaging contests in both 1960 and 1968. We did not have them, very fortunately.

Mr. Charles Black, professor of law at Yale Law School addressed himself to the problems of recounts and contested elections under a system of direct popular election of President and Vice President. His testimony deserves the careful consideration of the Senate. He and Senator HRUSKA discussed this problem. Professor Black began by stating:

I am appalled, as Professor Brown is, by the prospect of recounts. We have now a

compartmentalization of the recount problem, like the compartmentalization of a ship. If it springs a leak in one part, that part is sealed off from the others. The recount problem is of infrequent incidence, because very often the State in which fraud is charged or error is charged will be one which, on inspection of the electoral totals, does not matter anyway. Sometimes, though there may have been irregularities, though these may be plausibly charged, the vote will be so one-sided in a State that a recount could not conceivably change the outcome as to that State, and it would still be carried by the person who seems to carry it. In a close election—and I do not care what you mean by close—if it is the difference between 39.99 percent and 40 percent, which is made so critical in any of these proposals—you have to recount every vote in every precinct, not only for the two leading candidates, but for all the others, and be absolutely certain that it was done right. All sorts of things about the propriety of write-ins would become immensely important.

Senator HRUSKA then commented:

Professor, in regard to recounts, it has been testified here that, if any recount is requested, it would tend to trigger and generate and originate additional recounts. After all, if Ohio has a recount, for example, that will lead Illinois to have one. If Illinois asks for a recount, Pennsylvania will do it, and New York. Do you see any possibility of that occurring where there is a close election in which a candidate receives 39.9 percent of the popular vote?

Mr. Black replied:

I fail to see how it could not occur. It seems to me it would be virtually the duty of the managers of a campaign to search everywhere in a close election. If a recount occurs in one place, even though, let's say, Texas has been carried two to one by one candidate, the votes in Duval County, Tex., will still be important to set off against the votes in Illinois or Vermont. I would think, for reasons on which, of course, Professor Brown is far more expert than I am, it would be almost inevitable that this would happen. So it would seem to me.

I would think that not only would this happen as a response to recount, but that the losing candidate in a very close election would almost be driven to look for a recount. We know that the counting is not all that accurate. We now concentrate on the areas where it matters, which are likely to be few, maybe none, under the present system.

But if there is a 100,000-vote difference nationwide or if it should happen under the Tydings proposal, which I have just seen today, that the crucial question was whether the man had 39.99 percent or 40 percent of the votes, then I should think it would be inevitable that a recount would be requested.

Mr. Black continued:

But even granting good faith, I think it would become the duty of the manager of anybody's campaign that might be advantaged by a recount to search very carefully, in good faith, for fraud, irregularity, and the sort of technical objections to voting that you refer to, so that even without this willful obstruction element, I should think that in a close election, it would be almost inevitable that the vote everywhere would be scrutinized and contested, and every possible irregularity sought after, whereas, under the present system, it usually does not matter and people just do not bother with it.

Senator HRUSKA asked:

Is it not a fact, however, that under the present system, compartmentalized as it is among the several States, that probability would be reduced and held to a minimum?

Mr. Black replied:

It is.

Senator HRUSKA commented:

Certainly, if we judge by past experience, it has been held to a minimum.

Mr. Black continued:

It is held to a minimum, I think for the obvious reason that it just really does not matter. In most cases, it will not make a difference whether there are 400 or 500 irregular votes in Austin, Tex. Either the Texas electoral vote will not be needed because it will not make a critical difference, or the 500 votes in Austin will not affect the Texas electoral vote because the popular vote is so lopsided in Texas. In either of those cases, there is no occasion for contest or recount.

Our system does, by this compartmentalization, reduce it to a minimum. Also, when it has to happen, it happens on a much reduced scale.

I tremble to think how hard it would be to decide who won in as close an election as 1960 and 1968. I doubt that anyone will finally be satisfied who the winner was. I doubt that the meter really reads that fine, if you scrutinize carefully every single vote, and I again suggest that, even without bad faith, it would really be the duty of those in charge of a campaign to see that this is done.

Hon. Wade O. Martin, Jr., secretary of state of the State of Louisiana, was a witness before the Judiciary Committee who brought with him more than 25 years' experience as the chief election officer of one of our States. He spoke of some of the practical problems that would be caused by the inevitable Federal control and supervision of the election processes as a result of the direct election system. Mr. Martin testified as follows:

You will realize, of course, at the outset when you try to envision this most important machine in our American system of government, that over the years timetables have been established that are as close as they can possibly be. Candidates don't want to campaign too long between elections—the first primary, the second primary, or the general election. They don't want too much time to lapse unnecessarily between the time they qualify and are voted upon by the public. Envision this machine as a very delicate one—one that must be operated by people; linotype setters; mechanics who set voting machines; commissioners who conduct the elections; election officials who, on the day of election, compute, promulgate, and publish the returns. Under our present system sufficient time must be allowed for election protests in the courts. All of these functions in this intricate machine function in such a way that any change in one phase of it must be carefully considered as to its ultimate effect on the other parts of the machine.

These are all practical things. I cannot impress upon you too greatly the fact that any additional work to be performed by those who prepare the ballots, and any additional candidates who might be indirectly brought into the ballots, will all reflect themselves when you get to the precinct. I will go a little further than some who have said that the adoption of a direct vote system will create chaos. I agree with that; there is no question about it. We are practically in that situation in our State at the present time.

I will state further that if great precautions are not taken, which I hardly see can be taken, we will gradually go from a condition of chaos to one of disruption, and eventual destruction of our entire election machinery.

Now, let me get to some specifics. Let's begin with the matter of who can vote. I was very impressed by a statement I read by Senator Ervin, in which he expresses great concern about the fact that dual laws, Federal and State, applicable at the same time, in the same election, might cause great consternation and confusion among the citizens. That is true.

Let me say further that these dual laws could well make it impossible for those preparing ballots to perform that function satisfactorily if great care is not exercised.

Take the matter at present, for instance, of who can vote. This is where we start an election. Who is qualified to vote?

Today, in Louisiana, we have registration of voters, as do many States. I believe that if you go to any change whatsoever, every State will need some kind of registration to predetermine the eligibility of a person to vote in order that the list can be sent to the precincts. This would prevent bands of people taking a jet plane to vote in many states without proper identification.

We have these individuals who are in charge of registering people to vote. At the present time, we, in Louisiana, have a limited special registration to vote in the presidential elections. As you gentlemen well know, there is some pressure in Congress to enact a Federal law to allow people to vote in any State in presidential elections regardless of the length of time of residence. We have that law in Louisiana. So this is one special list, and this is a separate ballot already. By virtue of the Voting Rights Act of 1965, we have Federal registrars who register people to vote in the State. That is a second list.

Well, the great problem that necessarily follows is this. You do not only have separate lists to send the commissioners (which imposes upon them), but you must have special preparations in advance; special ballots, if they are paper; special ballot boxes in which to put them; special tabulators to tabulate them separately from the others; and if you have voting machines, you begin to crowd the capacity of the voting machine.

Now, let me dwell just a little on that. This may sound involved, but it is something that we must face, and I hope it will be well understood by everyone who is considering this.

Every time you overload anything, whether it is a plane, an automobile or an election machine, you make it susceptible to failure and attack in the courts.

After we decide who can vote, let us decide who can be candidates and what happens there in the practical application of the election laws. As this resolution is drawn, any two people can consent to combine themselves and agree that they can be voted upon as a unit for President and Vice President. Now, there is nothing in the resolution that I have been able to find that says where you qualify, with whom, and what the qualifications are. How do you get on the ballot? True enough, it says that the states shall attend to this matter, but it also says in this proposed constitutional amendment that Congress shall reserve the right to enact its own regulations on that subject. There again you face the possibility of a dual system, and this has to be resolved before any such system is sent to the States. Otherwise, you will be in serious trouble much sooner than you believe.

Gentlemen, there was not a presidential election in the last few years when we haven't received a stack of applications a foot or two high to get on the Louisiana ballot.

We know how to prepare the ballot, as it is now, because we know that we will have two slates of electors, one from each of the major parties. We probably will have one from the minor party, and we may by chance

(although it is very seldom that it ever happens), have a slate of 10 candidates for presidential electors who will seek to get on the ballot in accordance with our law, which provides that if you get on the ballot, you must have petitions of qualified electors, numbering 1,000 from each of the eight congressional districts for one elector, and also two 1,000-signature petitions for the two to be elected at-large.

Perhaps some of the liberals might think this is too restrictive and too difficult, but, if you liberalize this, there will be no room on these ballots. They will be so large that they will be unusable in the machines. You couldn't possibly afford to buy enough machines to prepare the ballot, and, if you do succeed in that financial hurdle, you will never have enough time for people to vote intelligently.

Now, let's go to another question, the rules for compilation of returns.

In the matter of conducting the election and the times for opening the polls, and such things as that, the States are given the authority to do it and to set the qualifications of candidates. By reserving the right in the constitutional amendment, Congress has the authority to do it; and, if they have, they probably will. Not only is this bad, but when you come to compiling the returns and certifying the results of the election, there is no discretion at all in the States. In this constitutional amendment that prerogative, in this resolution, is reserved to the Congress.

Now you are putting another burden on the election officials in every State. You are having again to establish some way by which no State election officials count, tabulate, or do anything with the returns of the election for President and Vice President if Congress shall prescribe those rules and regulations. That will be separate from what you do in the State, and at present we don't know what that will be. I don't think anybody in Congress has given too much thought about how this would work either, but if Congress is undertaking to do it on the same day, in the same election as the States, it becomes quite involved. You might have a separate election which, of course, is possible, but let's not go into these complications.

Mr. President, one of the witnesses who testified before the Judiciary Committee, Mr. Mathew Beemsterboer, a practicing lawyer of the State of Illinois, has had a great deal of experience in handling election contests and recounts in the courts of that State. He made the following pertinent remarks about the possibility of a system of direct election resulting in recounts and election contests. I quote from Mr. Beemsterboer's statement as follows:

Perhaps one of the most important factors in evaluating our present method of electing the President and Vice President, and either of the two alternatives previously commented upon and any other proposed reform, would be the potential effects of recounts, election contests and allegations of fraud or other irregularities or alleged invalidity of an election nationwide, statewide, in a congressional district or at any other level.

In my home state of Illinois, in the 1960 presidential election, the successful candidate received approximately one vote per precinct more than the unsuccessful candidate. In the State of Texas, I understand the difference in popular vote was close but not quite so close. In the event that the popular vote had been reversed in those two states and one other state with a similar number of electoral votes, a different President would

have been elected. To my knowledge no proceedings were instituted to contest the result of the election in the two states specifically mentioned or in any other state. Indeed in Illinois, there is some doubt whether our general election law specifically contemplates the contest of the election of presidential electors although Section 23-19 of Chapter 46, Illinois Revised Statutes (1969) does contemplate the election of any person declared elected to any office other than certain enumerated offices may be contested by any elector of the state in a proceedings in our state Circuit Court and this could be construed as encompassing a presidential elector.

If my remarks are to be of any use to the Committee, I might best comment upon election contest procedures with which I am familiar and the difficulties which such procedures could create under the present system and might create under several of the proposed alternatives. My experience as a practicing attorney in Cook County, Illinois, has involved me in several hundred separate matters of election litigation. These matters have been concerned with almost every stage of the electoral process in Illinois, and have been litigated in our trial courts, intermediate appellate courts, the Supreme Court of the State of Illinois, our United States District Courts, the United States Court of Appeals and the United States Supreme Court. On the basis of that experience, and my experience as a special counsel for various election authorities and the supervision of investigation into alleged voting irregularities, and representing those election authorities in various courts, I feel I might possibly be able to provide the Committee with an educated guess as to any relative degree of uncertainty which might be injected into our present process of selecting the President and Vice President of the United States, and under several of the proposed alternatives.

Under the present system, unless there existed a small difference in popular vote between the candidates in one or each of several of our states, an election contest would make very little sense. If in the 1960 presidential election, a reversal of the results in the State of Illinois would have affected the outcome of the electoral vote nationwide, a contest, either under a provision of the Illinois Election Code, or in some procedure created by the Federal Judiciary, might have occurred. The unsuccessful candidate would have alleged frauds, irregularities, or improprieties in precincts wherein he had been badly defeated, and as measure of self protection, the successful candidate would have made similar allegations in precincts where he had lost by substantial margin. Whether any meaningful resolution of those difficulties could have occurred even after numerous appeals had been taken from trial court deliberations in both state and federal courts, prior to the time specified by the Constitution for the meeting of the electoral college and the swearing in of the new President and Vice President is a matter of some doubt.

Even more mischief might potentially result under a completely popular system of selecting the President and Vice President. Under such a procedure it would make very little difference whether the candidate had won or lost Illinois, or any other state, if the total popular vote was close. Then a change of ten votes in a precinct in Alaska or Illinois or anywhere, and fifty here and a hundred there might affect the outcome. The apparently successful candidate, as a matter of protection would have to ask for recounts or election contests in other precincts. The multiplicity of litigation resulting from innumerable contests in every area of the fifty states might result in incumbents remaining in office considerably past their normal retirement date.

The least amount of mischief, delay, doubt and frustration would probably occur in the

event that an electoral system were retained, but that each congressional district would receive one electoral vote and each state at large could receive two electoral votes. Without sacrificing the right of any citizen to contest the results of the election of a presidential elector in either his congressional district or state, it would appear that a contest would result only if the electoral vote were very close and then only in those congressional districts or state where the popular vote were very close. Such a system would be more truly popular, or democratic, than the present system of selecting the President and Vice President, and would result in a more easily determinable, final and acceptable result than either the present system with its perils or a direct popular election. Superimposed upon that proposal might be an abolition of the present requirement of an absolute majority of the electoral vote, and a provision that in the event of an absolute tie, that each member of the House of Representatives have one vote in breaking any such tie, rather than one vote per state.

A subsidiary question suggests itself. Under the present system of selecting the President and Vice President of the United States, or under any of the proposed alternatives, would it be necessary to abandon our present system of state and local control of the conduct of elections either for Presidential electors or directly for the Presidency and Vice Presidency in favor of federal control? I have regrettably had bitter experience with the intervention of the United States District Court in the election contest procedure. Worse yet has been my experience with having the same election being contested at the same time in both the state and the federal courts wherein the parties have been identical, the issues have been identical, but the outcome of the litigation has been different. What little meaning that has heretofore remained to the Tenth Amendment of the Constitution of the United States of America, is becoming almost completely emasculated by the activities of Federal Courts in many instances unjustifiably interfering with the state and local control of elections by utilizing a strained construction of various federal constitutional guarantees and utilizing the broad powers granted by Federal voting and civil rights legislation. Lest I not be misunderstood, I do not quarrel with the exercise of jurisdiction by the Federal Courts in situations where no remedy is provided by state law for deprivations of federal rights or in areas where the state courts refused to fully and fairly adjudicate the alleged deprivation of those federal or indeed state guaranteed rights. What I do object to is the almost total abolition of the established concepts of abstention and comity on the part of the Federal Courts in some instances and a tendency to escape from established principles such as *res adjudicata* by imaging trivial differences in parties or issues.

To me, at least, it would appear unwise to have federal control of even presidential elections. Several practical considerations militate against federal control. Unless presidential elections were conducted at a time other than elections for other national and/or State offices, the same registration procedures, the same polling places, the same judges of election, the same ballots, the same voting machines and other equipment would be used for all offices concerned. Economics would indicate that separate elections not be conducted. Could we tolerate a system where what was legal in the election of the President and Vice President was illegal in the state election and vice versa? What if contests and state offices were involved? Could the same ballots and the same voting machines be impounded by both the state and the federal judiciary and the same ballot be considered valid by one court and invalid by an-

other court? Could the integrity of the ballots and the voting machines be safeguarded if one examination were conducted by one court and another by another court? Unless we are prepared to conduct completely separate elections at different times, or unless we are to have federal control of state elections as well, consideration of economics, time and practicality would militate against federal conduct of a presidential election.

Mr. President, I believe that this testimony of eminent witnesses who appeared before the Judiciary Committee should cause us to seriously examine the assurances given us by proponents of this measure that its adoption and ratification will not cause problems of voting fraud, recounts, and contested elections. I am convinced that such problems would be caused by a system of direct popular election, and that this is sufficient reason to oppose the adoption of Senate Journal Resolution 1 as a part of the Constitution.

Mr. President, in my judgment, the fact that the adoption of a system of direct election for the President and Vice President would necessitate strict Federal control and supervision of the election processes, which are now supervised and controlled by the several States, is a compelling reason to oppose the adoption of this proposed Constitutional amendment.

Mr. President, I repeat for emphasis, I think it would be a tragic error if we were to abandon and throw into the trash can, so to speak, the system which has worked almost perfectly for 182 years. I agree that it should be brought up to date and modified. One of the major changes I should like to see would be, if there is a failure in the immediate selection under our system, and the election is thrown into the Congress, where every Member of Congress, House and Senate, would promptly act to select from the top candidates, with each Member of Congress having one vote, there would be an automatic standby electoral college system with every congressional district in the Nation represented, and every State in the Nation represented by the two votes cast by the two Senators. Something of that kind, almost like that, has been tried and tested. It has stood the test of time. Let us not proceed in such a hurry on a vital matter such as this. We lack time to pass on appropriation and other bills which are vital to the operation of our Government from day to day. The work and study which has been given to this subject has been timely and it would be fruitful. I trust that we will not put aside our patience here and forget what we are dealing with, saying, "Well, we have got to pass something here. I will vote for something here and then we can get on home." I believe that would be the opposite to any basic desire we might have as Senators.

I believe that the final verdict at this session will be against adopting a new system but to provide for further study on our own with modifications.

Mr. FONG. Mr. President, will the Senator from Mississippi yield?

Mr. STENNIS. I yield.

Mr. FONG. I thank the distinguished

Senator from Mississippi for yielding to me.

I want to commend him for the very excellent and all-inclusive statement which he has just made. I fully agree with him. As he has said, I believe that we should not do away with something that has stood our country in good stead for 186 years. I agree with the distinguished Senator from Mississippi that there are certain defects in the electoral college system but these we can easily correct by amendment. Our electoral college system is something which has stood us in good stead for 186 years and has given us a sound and stable government. I do not believe that we should abandon it but amend the things which are defective.

Mr. STENNIS. I thank the Senator from Hawaii very much. I have benefited greatly from a study of the forceful words which the Senator from Hawaii (Mr. FONG) has used in former speeches, and the very fine points he included in the minority report.

The Senator from Hawaii represents a small State. But he is standing up strong, in the finest kind of way, for his great State of Hawaii.

Whether it be a small State, or a small group, whatever name we call it, they get recognition under our system of government, and I am very glad that they do. They also get recognition from those who are elected President and Vice President. I hope that it will continue to be that way; otherwise small States and small groups might get left out and soon be forgotten.

Mr. FONG. Mr. President, our system is a system which encourages, and even requires, accommodation and compromise. Our electoral system in order to obtain a winning plurality based on a joinder of minorities does that very thing—it forces accommodation and compromise and moderation in these troubled times.

Mr. STENNIS. Mr. President, I thank the Senator from Hawaii. I yield the floor.

#### DIRECT ELECTION WOULD VITIATE ROLE OF MINORITIES IN PRESIDENTIAL RACE

Mr. FONG. Mr. President, on Wednesday, September 16, I spoke at great length to show the emasculating effect direct election of the President and Vice President would have on small States—such as my State of Hawaii and the 30-odd other "small" States. I analyzed the actual votes cast in the 1960 and 1968 presidential elections. The figures showed that small States under direct election lose as much as 91 percent of their present voting strength.

Today I rise to oppose Senate Joint Resolution 1 on behalf of all minorities, be they small States with a minority of voters, or geographic, ethnic, religious, economic or social minorities, wherever they find themselves in our great country.

Senate Joint Resolution 1 would substitute direct popular election of the President for our present electoral system. The adverse effect this amendment, if enacted, would have on minorities is something very personal and close to my heart.

My State of Hawaii, admitted to this Union of sovereign States only 11 years ago, struggled for 60 long, long years for that glorious day in 1959, when it joined the Nation as the 50th State.

Many, many people in Hawaii had worked hard and persevered despite the setbacks, delays and disappointments, decade after decade, which blocked Hawaii's bid for statehood.

As a legislator in the Hawaii Territorial House of Representatives, where I was vice speaker for 4 years and speaker for 6, and as vice president of the 1950 Hawaii statehood constitutional convention, I was an ardent advocate of statehood and, with my fellow citizens, toiled to make statehood a reality. The sweat and labor and tears of many, many people of our islands and of our many friends on the mainland went into the struggle for statehood. Finally, our small island territory in the mid-Pacific became a State.

Hawaii is a "minority" State—in many ways.

In terms of race, Hawaii is a State of minority ethnic people.

People whose racial ancestry is Japanese; Caucasian, which includes Portuguese, Spanish and Puerto Rican; pure Hawaiian and part Hawaiian; Filipino; Chinese; Samoan; Korean; Negro; American Indian and others live harmoniously in Hawaii, making our State a true mixture of peoples. And every race is a minority.

In terms of population, Hawaii is a minority State. Preliminary tallies of the 1970 census show we are now "home" to about 800,000 people. In the entire United States, that same census shows there are more than 200 million people.

Hawaii's population is an infinitesimal percentage of America's total population—or four-tenths of 1 percent. We do not even approach one-half of 1 percent of the total U.S. population.

In terms of geography, Hawaii is all by itself.

No other State is an island State—separated by a vast body of water from our sister States.

No other State is so far from our Capital—5,000 miles. Even Alaska, our only other noncontiguous State, is closer, being 3,400 miles from Washington.

We are truly a minority State.

As the representative of so many minorities, I am very conscious of the demeaning effect of Senate Joint Resolution 1 on every minority.

I have been the senior Senator from this minority State since it was admitted to statehood in 1959. During all these years, I have done my very best to preserve the voice in these United States that hard-won statehood achieved for Hawaii. Naturally, in analyzing the direct popular election proposal, I have been very concerned about its adverse impact on Hawaii's voting strength for President. As I showed in my address to my colleagues on September 16, even when Hawaii supported the winning candidate for President, President Kennedy, direct election of the President based on actual votes cast in that election would have resulted in Hawaii's

losing as much as 76 percent of her voting strength.

Not to speak out in opposition to these dire results to my State of Hawaii, as well as to all other small States, would be a betrayal of the hopes and aspirations of the people of Hawaii and of all that I have fought and labored for during my lifetime.

Under the present electoral system, a candidate knows that in order for him to be elected he must look to the States for electoral votes. Richard Goodwin, who was a writer for both Presidents Kennedy and Johnson and was closely involved in several presidential campaigns, recognized the need to look to the States for electoral votes as "the arithmetic of the electoral college, which demonstrates it may be possible to lose a few major States and at the same time win the election."

Minorities—be they "minority" States or small States, or minorities within States—loom large when a candidate seeks 270 electoral votes. Four votes here, eight votes there, 12 votes from another State—they are what add to 270; these votes from small States could well be the "swing" votes to give a candidate a majority of the electoral votes. And so, today's candidates think in terms of States "rather than numbers," Mr. Goodwin testified before the Judiciary Committee, continuing:

Most presidential campaigns are concentrated on no more than 20 per cent of the vote, the swing vote, on the assumption the rest are pretty well committed. Today, nearly every State has a swing vote which, even though very small, might win that State's electoral vote. Thus nearly every State is worth some attention. If the focus shifts to numbers alone, then the candidate will have to concentrate almost exclusively on the larger States. That is where the people are, and where the most volatile vote is to be found.

To swing the State's electoral votes to a candidate, a presidential candidate must listen to the needs of the ethnic minorities, economic minorities, racial minorities, geographic minorities, religious minorities, social minorities, and small States. These minorities, because of their common interests, frequently vote alike—or, as it is called, as a bloc.

By joining with other groups, their vote can be the cornerstone, nay, the very foundation, of the winning vote. As the junior Senator from Arizona (Mr. GOLDWATER) observed from his experience as a presidential candidate, the best chance a man has to win the Presidency is to work on bringing together the voters of varying interests.

The power of minorities comes from the skill with which they are able to join themselves to other minorities or groups to form the winning plurality. The effective joinder of minorities within a State is one of the virtues of the present electoral system.

Let me illustrate this.

Within my State of Hawaii, the 1960 census showed we had a population of 632,772. Their racial ancestries were approximately as follows: 203,455 Japanese; 207,830 Caucasians, which includes Portuguese, Spanish, Puerto Rican; almost 100,000 pure Hawaiian and part-

Hawaiian; 69,070 Filipinos; 38,197 Chinese; approximately 7,000 Koreans; 4,943 Negroes; 2,400 Samoans; 472 American Indians; and others—such as Micronesians, Vietnamese, among others.

To get the electoral vote of the State of Hawaii, a candidate must court these minorities—that is how his winning plurality is attained. Each group has political clout. Each group's votes are needed for a candidate to get the electoral votes of the State.

Under direct election, a candidate would not have to bother with these ethnic groups, which loom importantly in Hawaii, as well as many other States. The same 1960 census—the latest ethnic breakdown by the Bureau of the Census—showed there were then 179,323,175 people in the entire United States, of whom 158,831,732 were white.

Since under direct election the name of the game is numbers, why should any candidate seek the vote of the ethnic minorities? Collectively, they cannot win the election for him. They total only slightly over 20 million out of 180 million, or about 11 percent of the total population.

In Hawaii, the 203,455 persons of Japanese ancestry were very influential against a total population of 632,772. They constituted over 32 percent of the total population of Hawaii. How influential will they be when they number 464,332 throughout the United States—as against a total population of 179,323,175 of whom 158,831,732 are white? They will then be a mere two-tenths of 1 percent of the total population.

In Hawaii, there are 69,070 persons of Filipino ancestry in a total population of 632,772. They were almost 11 percent of the population of Hawaii. How influential will they be when they number 176,310 throughout the United States.

And so on down the line—the same is true for the Negro, the Jew, the Catholic, the Mormon, the Buddhist, the American Indian, the Spanish American, the poor, the farmer, the many, many other small special interest groups of which our great country is composed. Such group may now be a very large minority—25 to 35 percent of the total State voters—or, as a smaller group, be the swing vote necessary to carry a State's electoral vote. Now candidates listen to their needs. But, as an infinitesimal percentage of the national popular vote, their voice will be practically ignored.

Hawaii as a State has four electoral votes. In order to win the Presidency under our present electoral system, an electoral vote of 270—one-half of the 538 electoral votes—is required. In that perspective, the four votes of my State of Hawaii have real value—they amount to 1.48 percent of the electoral vote needed by a presidential candidate to win. Hawaii's electoral votes and the votes of the 39 States with 12 or fewer electoral votes could well be the "swing" votes necessary to put a presidential candidate into the winning box. In any event, Hawaii represents seventy-four one hundredths of 1 percent, of the total electoral votes.

But, under direct election, the votes of Hawaii will be insignificant in the total count of popular votes. In 1968, Hawaii

had a 275,000 voter registration out of 82,453,445 registered voters in the United States—or thirty-three one-hundredths of 1 percent of the registered voters.

Hawaii's actual vote in 1968 was 236,218 out of the 73,211,562 votes cast throughout the United States, or a mere 0.32 percent of the total popular vote.

Hawaii cast 141,324 votes for Hubert Humphrey in 1968, out of the national total of 73,211,562 votes cast for all candidates, or two-tenths of 1 percent of the total popular vote. Whereas under the electoral college, Hawaii cast seventy-four one-hundredths of 1 percent of the electoral vote for Humphrey. Therefore, Hubert Humphrey would have lost 73 percent of Hawaii's voting strength under direct popular election. In other words, Hawaii's influence on the candidate Humphrey, who won Hawaii's electoral votes, would have dropped 73 percent under a direct election.

Under direct election, in relation to candidate Humphrey, Hawaii would have had only one-fourth of the influence it now has under the electoral system.

From the point of view of President Nixon's vote of 91,425 in 1968, Hawaii's vote represents twelve one-hundredths of 1 percent of the total vote.

President Nixon was striving to win the four electoral votes of Hawaii, which represents 0.74 percent of the total electoral vote. By receiving only 0.12 percent of the total popular vote, Hawaii's potential influence on him dropped 84 percent.

Under direct election, in relation to candidate Nixon, Hawaii would have only about one-sixth of the influence it now has under the electoral system. Is that not amazing?

The presidential candidate merely looking for "numbers" will no longer have to bother to find out what Hawaii's special needs might be. Certainly, he will not feel the support of so few people out of the total vote warrants any special consideration of their needs after election.

Only as a sovereign State does Hawaii have dignity and importance.

Only as a sovereign State can Hawaii or other small States expect to receive Federal financial assistance for its special needs or Federal appointments.

As a collector of numbers of votes, Hawaii will be utterly insignificant. And, that is true of all other small States.

Under direct election—and Senate Joint Resolution 1's requirement of a 40-percent popular plurality—the impact on the election of the President of the numerically smaller groups and States cannot be significant. There would be no need to court minorities, or to unify minorities within a State, or to court the all too few popular votes cast in small States as they would no longer be the "swing" vote now necessary to make the winning electoral vote.

Under direct election, with its emphasis only on numbers, the strength of all minorities would be diminished or eliminated. Henceforth, the major emphasis will be on the large concentrations of voters.

The representatives of minority groups who did testify were eloquent in expressing the fears of the minorities—be they

ethnic minorities, racial minorities, or rural minorities—that, if direct popular election of the President were to replace the electoral college, there would be no need paid to their voice expressing their needs—no one even to protect them against oppression by the majority.

The distinguished black Congressman from Missouri, Representative WILLIAM L. CLAY, has spoken out eloquently and frequently and at length against direct election. In addressing the Committee on the Judiciary he said, and I quote:

If I were not deeply and sincerely concerned with this issue of electoral reform, and its potential for affecting the struggle of black citizens for equal rights and opportunities, I would not be before you here today. When 'direct popular election' came before the House of Representatives September 18, 1969, I stood in opposition with only two other liberal-oriented colleagues among the 70 House Members who voted against passage.

He stated:

Mr. Chairman, my opposition to the proposed direct election of the President, simply stated, is predicated on the conclusion that such a system will inhibit the political influence of minority groups.

And he continued:

I firmly believe that the direct popular vote would inhibit the political influence of minority groups. The present system maximized the importance of urban regions and especially of the high cohesion minority groups. The black vote presently and potentially registered—is more effectively applied within the two-party system which has evolved from the electoral system.

And he concluded:

To perfect the system of government and at the same time diminish or eliminate the voice of minorities within that system is a perfection we cannot afford.

The representative of the NAACP testified against direct election.

The representative of the American Jewish Congress testified against direct election.

The representative of the American Farm Bureau Federation testified against direct election.

Our colleagues who have themselves been presidential candidates—the senior Senator from South Carolina (Mr. THURMOND), the junior Senator from Arizona (Mr. GOLDWATER) and President Kennedy when he was junior Senator from Massachusetts—have all spoken out against direct election, as has the senior Senator from Minnesota (Mr. McCARTHY).

The representatives of the large, powerful groups supported direct election. Among the most active are the League of Women Voters, the U.S. Chamber of Commerce, the American Bar Association, and the AFL-CIO.

Apropos of these groups whose representatives testified in support of direct election of the President, I should like to commend my colleague, the senior Senator from North Carolina (Mr. ERVIN) for a fine bit of research he did.

On September 21, in a statement which appears on pages 32846-32849 in the CONGRESSIONAL RECORD, he showed that none of these organizations whose representatives testified in favor of direct

election practice what they preach—for the United States—"one man, one vote."

For example, according to the information furnished by Senator ERVIN, the League of Women Voters elect their president, first vice president, second vice president, secretary, and treasurer by a convention. The convention consists of first, delegates chosen by the members of the local leagues, with each local league receiving one delegate for each 100 voting members, and one additional delegate for each additional 100 voting members or major fraction thereof; second, three delegates chosen by the board of each State league; and third, members of the board of directors of the League of Women Voters of the United States. A quorum consists of 100 voting delegates—other than the board of directors—from at least 10 States. Fifty-one delegates from local leagues plus a few representatives of the board of directors can elect all the League of Women Voters national officers. A far cry from a direct election by each member—not exactly "one woman, one vote."

Another example, according to information supplied by the Senator from North Carolina, the U.S. Chamber of Commerce's elective officers are a president, a chairman of the board of directors, a chairman of the executive committee, one vice president to represent each division of the Chamber, of which there are 10 divisions, and a treasurer. These officers are elected annually by the board of directors. Twenty members of the board constitute a quorum. Each year 25 directors are elected by the board of directors.

As my distinguished colleague, the Senator from North Carolina (Mr. ERVIN), summed up:

It appears that in the Chamber of Commerce the Board of Directors which elects itself elects its President.

Eleven members of a self-electing board of directors can elect the national officers of the U.S. Chamber of Commerce. A far cry from direct election and "one man, one vote."

Now let us look at the American Bar Association.

According to the data put in the RECORD by the Senator from North Carolina, the elective officers of the American Bar Association are a president-elect, who becomes president of the association upon the adjournment of the next succeeding annual meeting, a secretary, and a treasurer. They are elected by the house of delegates, by a majority of those present, whatever that number might be.

The house of delegates, according to the constitution and bylaws of the American Bar Association is composed of the following:

State delegates—one from each State.

State bar association delegates—with at least one delegate from each State bar association. If the State bar association has over 2,000 members, they are entitled to one additional delegate for each 1,250 lawyers—but a State bar association may not have more than five delegates. A five-delegate limit per State bar association, regardless of the number of its lawyer members.

Local bar association delegates, based on the number of members in each bar association—but, the additional State bar association delegates to which the State bar association is entitled is reduced by the number of delegates elected by the local bar associations within the State. So, we are back to five delegates again.

And other named officials are delegates also, such as the Attorney General of the United States, Deputy Attorney General, Solicitor General, former officers, and so forth. A far cry from direct election by the members. A far cry from "one man, one vote."

The AFL-CIO also testified in support of direct election. According to the information given by Senator ERVIN, its president and secretary-treasurer and 33 vice presidents are elected by a majority vote of their convention. The delegates to the convention represent each national or international union and organizing committee on a sliding scale. If they have—

Less than 4,000 members, one delegate.  
Over 4,000 members, two delegates.  
Over 8,000 members, three delegates.  
Over 12,000 members, four delegates.  
Over 25,000 members, five delegates.  
Over 50,000 members, six delegates.  
Over 75,000 members, seven delegates.  
Over 125,000 members, eight delegates.  
Over 175,000 members, nine delegates.  
Plus one additional delegate for each 75,000 members over 175,000 members.

Where a union has fewer than 4,000 members, it is entitled to one delegate. On the other hand, in large unions, it takes 75,000 members to be entitled to one delegate. How like the large and small States representation under the electoral system. I suggest their method of election is a far cry from "one man, one vote."

These organizations want direct election of the President of the United States, yet their own national officers are not elected by direct popular vote of their members.

If their indirect, weighted systems of electing their national officers are satisfactory for their nationwide organizations, then the present electoral system, by its weighting, protects small States and minority groups and should be satisfactory to elect our national leaders, our President and Vice President.

Now let us look at where these spokesmen for direct election are located.

The headquarters of the League of Women Voters is right here, in Washington, D.C.; 1200 17th Street NW., Washington, D.C. 20036.

The headquarters of the Chamber of Commerce of the United States is also in Washington, D.C., 1615 H Street NW., Washington, D.C. 20006.

The headquarters of the AFL-CIO, yes, Washington D.C., 815 16th Street NW., Washington, D.C. 20006.

And, the American Bar Association is located at 1155 East 60th Street, Chicago, Ill. 60637.

All, curiously enough, are located in big cities—in large population concentrations.

None of these organizations can, in

good faith, be said to represent small States with a minority population, or ethnic minorities, or racial minorities, or geographic minorities, or any real minority group.

The keynote of the electoral college system is compromise and accommodation. In order to gain wide support, geographic distribution of votes, acceptance by the many minorities making up our population, whose common self-interests tend to cause them to vote as a bloc, a candidate must make himself acceptable to the greatest common denominator of voters—he cannot court the extremists of the right or left, lest he lose the votes of the opposite extremists and the moderates. So, he considers the interests of each group. He compromises. He accommodates.

Compromise is in the great American tradition that has worked so well to advance the welfare and strength of all the people of this great country of ours. There is nothing dishonorable about compromise. In fact, compromise is a healthy, moderating influence.

And, in this day and age of strife, dissension, and discord, we do not want to do anything to fan the fires of prejudice.

Under direct election, a candidate need only maximize his own votes to prevent any candidate from obtaining the necessary 40-percent vote to win the Presidency. Doctrinaire, one-issue splinter parties, catering to every craven prejudice, to every ego-maniac's whim, are all too likely to spring up—no broad geographic base will be required to make a candidacy significant. A candidate would no longer need support of the States spread across these United States. Dozens of such candidates are all too likely to appear in each election—merely as spoilers who can force a runoff and then attempt to make secret deals for the votes of their supporters.

We can all foresee candidates representing the Democratic Party, the Republican Party, the Liberal Party, and the Conservative Party, like in New York State, the American Independent Party, the Socialist Party, and any number of parties representing various racial minorities. We will have a proliferation of parties, limited only by the ideology of the candidates.

Even if the candidates of such diverse parties are not successful in their quest for the highest honor this country can bestow—the Presidency—they hurt all the people in this country and all minorities by fanning the flames of prejudice.

I need say little on the potential damage to our minorities with which extremism of the left or right is fraught.

Look at what happened to the minorities in Nazi Germany, in Fascist Spain, in Communist Russia and, to our shame, our loyal Japanese citizens during World War II.

The flames of prejudice are easily fanned. In our troubled times and troubled world, explosive conflagrations are all too likely.

Unless minorities can be protected from the tyranny of the majority, our federal form of government, our United States of America, our very civilization are in peril.

Let us not be complacent.

Mr. President, if in "perfecting" our method of electing the President we do not protect the rights and the political clout of every minority so they can protect themselves, be the minorities small States with a minority population, ethnic minorities, racial minorities, religious minorities, economic minorities, social minorities, geographic minorities, or any other minorities, I fear we are blindly buying "a protection we cannot afford"—Caveat emptor. Let the buyer beware. Let us as Senators beware. Let the States beware. Let the people beware.

If our "minorities" are to retain a voice in the election of the President and thereby maintain their dignity, their integrity and, yes, their share of their due as States and as citizens, our present electoral system must be retained.

Mr. President, I yield the floor.

#### ORDER FOR THE DIVISION OF TIME FOLLOWING THE DISPOSITION OF THE JOURNAL TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that following the disposition of the Journal tomorrow, and until the automatic quorum call under rule XXII begins, the time be under the control of and equally divided between the majority leader and the minority leader or their designees.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

#### ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 noon tomorrow.

The motion was agreed to; and (at 5 o'clock and 43 minutes p.m.) the Senate adjourned until tomorrow, Tuesday, September 29, 1970, at 12 noon.

#### NOMINATIONS

Executive nominations received by the Senate September 28, 1970:

##### UNITED NATIONS

Christopher H. Phillips, of New York, to be the Deputy Representative of the United States of America to the United Nations with the rank and status of Ambassador Extraordinary and Plenipotentiary.

##### DIPLOMATIC AND FOREIGN SERVICE

Turner B. Shelton, of California, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Nicaragua.

G. Edward Clark, of the District of Columbia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Senegal, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Gambia.

##### U.S. DISTRICT COURTS

James R. Miller, Jr., of Maryland, to be a U.S. district judge for the district of Maryland, vice a new position created by Public Law 91-272, approved June 2, 1970.

J. William Ditter, Jr., of Pennsylvania, to be a U.S. district judge for the eastern district of Pennsylvania vice a new position created under Public Law 91-272 approved June 2, 1970.

William W. Knox, of Pennsylvania, to be a U.S. district judge for the western district of Pennsylvania vice a new position created by Public Law 91-272, approved June 2, 1970.

Malcolm Muir, of Pennsylvania, to be a U.S. district judge for the middle district of Pennsylvania vice a new position created by Public Law 91-272 approved June 2, 1970.

##### DEPARTMENT OF JUSTICE

Benjamin F. Butler, of New York, to be U.S. marshal for the eastern district of New York for the term of 4 years vice George J. Ward, term expired.

##### SUBVERSIVE ACTIVITIES CONTROL BOARD

John William Mahan, of Montana, to be a member of the Subversive Activities Control Board for the terms expiring March 4, 1975; reappointment.

Otto F. Otepka, of Maryland, to be a member of the Subversive Activities Control Board for the term expiring August 9, 1975; reappointment.

##### U.S. POSTAL SERVICE

The following-named persons to be members of the Board of Governors of the U.S. Postal Service for the terms indicated; new positions.

William J. Curtain, of Maryland, for a term of 1 year.

Frederick Russell Kappel, of New York, for a term of 2 years.

Theodore W. Braun, of California, for a term of 3 years.

Andrew D. Holt, of Tennessee, for a term of 4 years.

George E. Johnson, of Illinois, for a term of 5 years.

Crocker Nevin, of New York, for a term of 6 years.

Charles H. Coddling, of Oklahoma, for a term of 7 years.

Patrick E. Haggerty, of Texas, for a term of 8 years.

M. A. Wright, of Texas, for a term 9 years.

##### DIPLOMATIC AND FOREIGN SERVICE

The following-named person for appointment as a Foreign Service information officer of class 2, a consular officer, and a secretary in the diplomatic service of the United States of America:

Francis S. Ronalds, Jr., of the District of Columbia.

For promotion from a Foreign Service Officer of class 4 to class 3 and to be also a consular officer of the United States of America: John W. MacDonald, Jr., of New York.

For appointment as Foreign Service information officers in class 3, consular officers, and secretaries in the diplomatic service of the United States of America:

Dennis Askey, of the District of Columbia.  
Mervin E. Haworth, of the District of Columbia.

Yale Newman, of the District of Columbia.  
For promotion from a Foreign Service information officer of class 5 to class 4:

Jerry E. Kyle, of California.

For appointment as a Foreign Service officer of class 4, a consular officer, and a secretary in the diplomatic service of the United States of America:

Chandler P. Roland, of California.

For appointment as Foreign Service information officers of class 4, consular officers, and secretaries in the diplomatic service of the United States of America:

Preston E. Amos, of Wisconsin.

Andrew P. Guzowski, of Florida.

Robert A. Merlan, of Indiana.

Mrs. Lois W. Roth, of New York.

Toble O. Surprenant, of Connecticut.

For promotion from Foreign Service officers of class 6 to class 5:

James L. Barnes, of Florida.

Edward S. Walker, Jr., of Pennsylvania.  
For appointment as Foreign Service information officers of class 5, consular officers, and secretaries in the diplomatic service of the United States of America:

Harry Iceland, of the District of Columbia.  
Leonard R. Sauble, of Florida.

For reappointment in the Foreign Service as a Foreign Service officer of class 6, a consular officer, and a secretary in the diplomatic service of the United States of America:  
John Dodson Coffman, of Pennsylvania.

For appointment as Foreign Service officers of class 7, consular officers, and secretaries in the diplomatic service of the United States of America:

Ross E. Benson, of California.  
John S. Blodgett, of Virginia.  
Michael A. Boorstein, of Colorado.  
James C. Cason, of the District of Columbia.

Peter R. Chaveas, of New Jersey.  
Frederick R. Cook, of New York.  
Dean Dizikes, of California.  
Douglas A. Dworkin, of Tennessee.  
Stephen W. Faber, of New Jersey.  
Lawrence F. Farrar, of Minnesota.  
Royce J. Fichte, of Illinois.  
Miss Joan E. Garner, of Virginia.  
Harold W. Geisel, of Illinois.  
Michael L. Hancock, of Georgia.  
Donald Vance Hester, of Illinois.  
James G. Huff, of the District of Columbia.  
Morris N. Hughes, Jr., of Nebraska.  
Robert Leonard Jacobs, of Illinois.  
Warren E. Littrel, Jr., of Illinois.  
William A. Moffitt, of Texas.  
Day Olin Mount, of New York.  
Thomas F. Murphy, of Illinois.  
Ronald E. Neumann, of California.  
Robert C. Perry, of North Carolina.  
Wayne Alan Roy, of Virginia.  
Robert L. Scott, of Virginia.  
Hugh V. Simon, Jr., of Tennessee.  
Richard A. Smith, Jr., of Connecticut.  
Joseph Gerard Sullivan, of Massachusetts.  
Russell J. Surber, of Washington.  
Frank P. Wardlaw, of Texas.  
Charles Allen Weeks, of Pennsylvania.  
Andrew Jan Winter, of New York.  
Ira Wolf, of Virginia.

For appointment as Foreign Service information officers of class 8, consular officers, and secretaries in the diplomatic service of the United States of America:

Arthur S. Berger, of the District of Columbia.  
Miss Donna Marie Blatt, of Florida.  
Nelson C. Brown, of Louisiana.  
John F. Coppola, of New Jersey.  
William Henry Graves, of California.  
Robert C. Heath, of California.  
John E. Katzka, of Virginia.  
Thomas F. Lonergan, of California.  
Michael F. O'Brien, of California.  
Miss Anne M. Sigmund, of Kansas.  
John C. Thomson, of California.  
John Treacy, of New York.  
John C. Wicart, of Virginia.

For appointment as Foreign Service officers of class 8, consular officers, and secretaries in the diplomatic service of the United States of America:

Larry G. Butcher, of Oklahoma.  
Richard Dunlap Heim, of New Jersey.  
John Scott Monier, of Illinois.  
Miss Suzanne Sekerak, of Pennsylvania.  
John Stern Wolf, of Pennsylvania.

For appointment as Foreign Service information officers of class 8, consular officers, and secretaries in the diplomatic service of the United States of America:

Michael L. Braxton, of the District of Columbia.  
Frank Dietrich Buchholz, of New York.  
Howard A. Cincotta, of Maryland.  
David P. Good, of New York.  
Andre N. Gregory, of California.  
Phillip C. Harley, of New York.  
Robert D. Miller, of Pennsylvania.  
Robert C. Wible, of Ohio.  
Foreign Service reserve officers to be consular officers of the United States of America:  
William D. Carey, of Virginia.  
Gerald L. Engle, of Michigan.  
William A. Wolfer, of New Jersey.

Foreign Service reserve officers to be consular officers and secretaries in the diplomatic service of the United States of America:

Charles R. Best, of Virginia.  
Brian H. Bramson, of Virginia.  
Robert Clayton Brown, of Virginia.  
Rodney W. Carlson, of Virginia.  
Charles A. Cooper, of California.  
Christopher N. Darlington, of New York.  
Frank B. Dean, of Florida.  
Warren L. Dean, of Nebraska.  
James B. Devine, of Maryland.  
C. Harlow Duffin, of Florida.

Donald G. Eckrote, of Virginia.  
Warren E. Frank, of Nebraska.  
John F. Gilhooly, of Connecticut.  
William R. Gray, of California.  
Richard D. Harrington, of Maryland.  
Raul J. Hernandez, of the District of Columbia.

James M. Howley, of Maryland.  
Myron M. Kline, of Minnesota.  
Jonathan F. Ladd, of Ohio.  
Ishmael Lara, of California.  
Robert B. Leete, of Connecticut.  
Larry V. Luther, of South Dakota.  
Richard M. Luther, of Virginia.  
Charles A. Marquez, of New Mexico.  
Martin W. Moser, of Pennsylvania.  
John L. Murray, of Virginia.  
Ronald P. Oppen, of Florida.  
Philip W. Pillsbury, Jr., of Minnesota.  
Arthur J. Porn, of Wisconsin.  
Rowland E. Roberts, Jr., of Pennsylvania.  
Leo Sandel, of Maryland.  
Henry P. Schardt, of Illinois.  
André C. Simonpietri, of the District of Columbia.

Raymond J. Swider, of Virginia.  
Wendell L. Wallace, of Maryland.  
Foreign Service reserve officers to be secretaries in the diplomatic service of the United States of America:  
Richard M. Cashin, of Maryland.  
Thomas C. Niblock, of North Carolina.  
Robert T. Shaw, of Arizona.  
Frederick A. Turco, of Maryland.  
Foreign Service staff officers to be consular officers of the United States of America:  
Miss Nancy C. Abell, of Illinois.  
Walter M. Berwick, of Virginia.  
Andrew S. Coe, of Texas.  
John M. Hall, of Florida.  
George A. Hannemann, of Texas.  
John A. Hollingsworth, of California.  
Robert C. LaPrade, of California.  
Robert N. McGovern, of California.  
Joseph A. Murray, Jr., of Washington.  
David P. Reimuller, of California.  
William C. Wagner, Jr., of Virginia.

U.S. NAVY  
Vice Adm. Jackson D. Arnold, U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of admiral while so serving.

## EXTENSIONS OF REMARKS

### THE GENERATION GAP

#### HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Monday, September 28, 1970

Mr. METCALF. Mr. President, there are few among us who have not given extensive consideration to the overused and, in many cases, little understood concept of the generation gap.

In very simplistic terms, one could describe this concept as an inability to effectively communicate thoughts and feelings between individuals of different ages. That this widespread inability exists should not be surprising, for the establishment of rapport is dependent upon the degree of mutual experiences. This is particularly true in the areas of political inclination and cultural appreciation.

I was privileged recently to read a September 1970, article, published by the

U.S. Information Service, written by the father of a teenage rock music group leader. As this article may be of interest to many of us who are constantly striving to bridge the generation gap, I ask unanimous consent that it be printed in the RECORD.

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

#### ROCK AND THE FLIGHT OF PARENTS

(By Edward Devol, IPS Staff Writer)

Summary: What is the impact of rock music on an American parent whose home is used as a rehearsal hall and who must act as chauffeur to the rock group his guitarist son leads? This is the inside story by a father who knows.

Rock music—that deafening electronic blend of guitar and drums—has made its place in the American musical firmament.

Musicologists laboriously analyze its structure and pronounce it interesting; critics declare it an expression of the times; famous rock performers become millionaires.

It is aimed at the young and they love it.

Rock music is their bread, their wine, their heavenly choir. A thousand-million-dollar industry has arisen to serve their desires for recordings and public performances by rock musicians.

But what of the parents of a youngster who is unfulfilled by listening to the records, or even by sitting in a meadow with thousands of his peers while Blood, Sweat and Tears or some other popular rock group assails the open air with sounds amplified by several thousand watts?

Consider the plight of a household trying to survive a 17-year-old who wants to become a professional rock guitarist. There are millions of him. Most, of course, will never make a profession of music. They will do as their fathers did, abandon such dreams for the law, or carpentry, or selling insurance.

Practicality, however, is in a future the young rarely consider. Now the 17-year-old guitarist wants nothing but rock and the house quivers from the music of the Flotilla, as his three youth rock group calls itself. Living quarters designed for sound no louder than conversation are pounded by decibels better suited to an auditorium seating hundreds.