unanimous consent that the President be immediately notified of the confirmation of this nomination.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

ORDER FOR BILL TO BE HELD AT THE DESK

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that H.R. 212 which came over from the House today be held at the desk temporarily.

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

Mr. MILLER. May I ask the Senator what bill that is?

Mr. BYRD of West Virginia. Yes, indeed, I will be glad to inform the Senator. This is a bill to clarify the status of commissioned officers of the National Oceanic and Atmospheric Administration.

Mr. MILLER. I thank the Senator.

PROGRAM FOR MONDAY, DECEMBER 14, 1970

Mr. MANSFIELD. Mr. President, the Senate is on notice that the pending business now will be the supplemental appropriation bill; that we are coming in on Monday next at 11 a.m.; that there are two special orders for two Senators; that there will be a brief period for the transaction of routine morning business; and then the Senate will begin consideration of the appropriation bill.

ADJOURNMENT TO 11 A.M. MONDAY, DECEMBER 14, 1970

Mr. MANSFIELD. 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 11 a.m. on Monday next.

The motion was agreed to; and (at 2 o'clock and 3 minutes p.m.) the Senate adjourned until Monday, December 14, 1970, at 11 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 11, 1970:

DISTRICT OF COLUMBIA PUBLIC SERVICE COMMISSION

Jeremiah Colwell Waterman, of the District of Columbia, to be a member of the Public Service Commission of the District of Columbia for a term of 3 years expiring June 30, 1973.

DEPARTMENT OF JUSTICE

Robert C. Mardian, of California, to be an Assistant Attorney General.

U.S. CIRCUIT COURTS

Donald R. Ross, of Nebraska, to be a U.S. circuit judge for the eighth circuit.

U.S. DISTRICT COURTS

Franklin T. Dupree, Jr., of North Carolina, to be a U.S. district judge for the eastern district of North Carolina.

Hubert I. Teitelbaum, of Pennsylvania, to be a U.S. district judge for the western district of Pennsylvania.

Harry W. Wellford, of Tennessee, to be a U.S. district judge for the western district of Tennessee.

EXTENSIONS OF REMARKS

ADDRESS BY SENATOR GOLDWATER TO THE 75TH ANNIVERSARY LUNCHEON OF THE NATIONAL ASSOCIATION OF MANUFACTURERS

HON. BARRY GOLDWATER

OF ARIZONA

IN THE SENATE OF THE UNITED STATES

Friday, December 11, 1970

Mr. GOLDWATER. Mr. President, it was my privilege and pleasure to have been invited to address the 75th anniversary luncheon of the National Association of Manufacturers. I ask unanimous consent that my remarks be placed in the Extensions of Remarks.

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

ADDRESS BY SENATOR BARRY GOLDWATER

Mr. Chairman and distinguished guests, I am highly honored to be with you today to help you celebrate the 75th Congress of American Industry and to discuss with you an especially pressing problem which confronts your members as directly as it does my colleagues in the United States Senate.

I wish to discuss with you today the problem of maintaining an adequate defense posture in a time of growing dangers both at home and abroad.

I am sure I do not have to explain to this group the nature of the liberal assault which has been made over the past two years against the portions of American industry which contribute so materially to the American defense establishment. You have all heart, I know, the tremendous hue and cry about the so-called Military Industrial Complex. The arguments against the American military system, and everyone in and out of industry who contributes to it, is well known. It was carefully timed by the critics of American defense to coincide with an understandable disenchantment and irritation on the part of the American public with the long, dirty, frustrating war in Indochina. Popular frustration over Vietnam gave much more currency and authority to the arguments of our defense critics than they deserved. And an additional factor was the prevalence of troublesome domestic problems, such as the rise in major crime on our streets, unrest on our college campuses and anarchist bombings in many parts of the country. There were those among the critics of the MIC who made a business of contending that withdraw of American troops from Southeast Asia coupled with enormous cutbacks in defense expenditures would solve our problems on the domestic front. The American people were told over and over and over by an army of liberal critics mobilized with special strength right after the election of a Republican President that the military services in Vietnam were using up the government funds that should have been going into such problems as urban renewal, new housing and the rebuilding of ghetto areas.

The upshot of all this agitation and criticism has brought about heavy reductions in defense funds at a time when the Soviet Union is going all out to build the mightiest military machine the world has ever known.

Let me emphasize that I am not here today for the sole purpose of defending the Defense Department and all segments of the Industrial Complex in this country which we once proudly described as the Arsenal of Democracy.

Rather, my purpose here today is to compliment and praise American industry generally for the important role it has performed, not only in providing the materials necessary for the defense of 204 million Americans, but also for its vast technological contributions which enabled this country to be the first nation in the world to land men on the moon.

Now let me go a step further. Having voiced my admiration for the past performances of American industry, I am now going to present American industry with what I believe may be the greatest challenge which it has ever confronted. In a nutshell, I believe that the job ahead—the task which must be performed in the mills and the factories, the drawing rooms and the board chambers of American industry—involves providing the United States with a superior and sophisticated defense system in a time of inflation and criticism and provide it at *less* cost. I notice that the theme of your anniversary celebration is "The Quest for Quality." This theme fits nicely into what I am saying here today. I am saying that we can and should have a valid, credible defense posture with more advanced weapons and at less cost.

This might seem like a big order. It is. And the job does not belong to industry alone. The planning, the long-range thinking, and the strategic analysis for such a defense system must be provided by the government. Perhaps this is the greater challenge—whether our officials and experts in the Pentagon and in the various branches of the armed services will be capable of drawing the overall blueprint for industry to follow. Even so, great and unprecedented contributions will be required from many of your association members. If you like, the problem as I see it is a quest for greater quality at less price. The fact is, we are rapidly approaching a position where it is no longer possible to equate an adequate defense posture with a stated level of defense spending. Money, of course, is an important factor, but we have not been using it correctly. We have not fully exploited the latest products of technology in the development of an effective defense at a reasonable cost. It is fundamental that cost effective security demands that defense policy, defense strategy and tactics make the best possible use of the latest devices produced by American know-how. And when a nation, for whatever reason—political, moral, intellectual, or what have you—fails to follow this principle, it eventually prices itself out of a valid security posture.

I must interject at this point in my remarks my personal observation that the attack on the Military Industrial Complex, the attack on the Military itself, the fact that we lost the SST in the Senate yesterday is all part of a pattern that I have addressed myself to before this organization and other

business groups for many years. These are not isolated, singled-out situations, but they link together in an overall attempt to isolate America once again and to change the economic system from one of free enterprise to one of government control. This effort also encompasses the unilateral disarmament of the United States by weakening our military posture to the point that we can no longer respond.

Let me say that the need for maintaining, or now I guess it's recapturing, our strategic superiority throughout the world grows with every passing day. While we were reaching for a status which Mr. McNamara and his whiz kids called "parity" in strategic strength, the Soviet Union was working day and night to achieve superiority. The fact that its efforts are becoming successful can be seen with almost every edition of today's newspapers. Let me just mention a few estimates of Soviet strength made by American military experts within recent weeks.

1. Defense Secretary Melvin R. Laird told the NATO defense ministers in Ottawa, Canada, that the Russians now have 1,400 land-based ICBMs either ready for use or now under construction. This puts the Russians about 350 ICBMs ahead of the U.S. force of deep striking land-based missiles.

2. General Andrew J. Goodpaster, Supreme NATO Commander announced in Bonn, Germany, that the Warsaw Pact nations in Communist East Europe have amassed a "concentration of military power that exceeds anything the world has ever seen." He explained that this buildup included tremendous amounts of conventional military power such as tanks, tactical aircraft and general firepower.

3. Vice Admiral H. G. Rickover, father of the nuclear powered submarine, told a Congressional Committee: "Our defense posture is dangerously growing worse. The Soviets are capable of starting tomorrow the biggest war there has ever been, and I am not confident that the outcome of such a war would be in our favor."

4. Admiral T. H. Moorer, Chairman of the U.S. Joint Chiefs of Staff, told a San Francisco audience that the United States has been making "bare bones" cuts in its military power while the Soviet Union has launched one of its largest and most comprehensive buildups in all areas of its armed forces. He explained that the U.S.S.R. is adding more men, more planes, more tanks, more missiles, more ships and more submarines to its already powerful military establishment.

5. Norman Polmar, editor of the U.S. section of the annual publication "Jane's Fighting Ships," says the Soviet navy is now the world's largest in terms of ocean-going ships and will equal the nuclear submarine strength of the U.S. Navy before 1970 has expired.

Now these warnings certainly should be sufficient to show us that the Soviet Union is moving ahead in all areas of military development. It is proof positive of the fact that this is no time to downgrade and criticize either the American military system or the industrial complex which supplies it. And while I have explained why I believe that long-range plans for the United States must be aimed at better defense at less cost, I want to emphasize that this is aimed at the long haul. It could not possibly become effective soon enough to provide us with the defense system we will need for our protection in the months and years directly ahead. In this question of immediate need we do, of necessity, get down to the question of defense spending.

It would not surprise me a bit if the Nixon Administration is forced by the pressure of world events to ask for substantial increases in the defense spending next year. In view of what we know about Russia's activities, I believe it will be almost mandatory. An indication of what is to come can already be seen in a deliberate but low-keyed prodding by the Air Force for the speedy development of the projected B–1 bomber for future needs. Other essential requirements of weaponry for defense are bound to come up in the near future if we are to avoid becoming a second class military power.

As I have tried to point out, hardly a day goes by that we don't learn of a new movement the Soviets are making to extend their military power around the globe. For example, we now learn it required a specially negotiated "understanding" by the State Department to stop the Soviets from building a powerful submarine base in Cienfuegos, Cuba. At about the same time we learn that the Soviet Union is developing a deep water naval port on the Egyptian coast between Alexandria and the Libyan border. Reliable sources claim that the construction of this base, which will greatly strengthen the Soviet naval position in the strategic Mediterranean, has been underway for more than a year. It is already capable of handling ships as large as destroyers and is being deepened so that it can eventually supply service to guided missile cruisers.

I doubt if I have to explain to this audience that I have a long record of skepticism where Soviet intentions are concerned. I also have been among those who have warned repeatedly that the forces of international Communism are not interested in easing tensions between the East and the West; that they are not mellowing and beginning to take on the trappings of freedom. I wish it were possible for me to accept the thesis that if we assume the lead in disarmament—that if we bagin to dismantle our military establishment unilaterally—that the Soviet Union will be shamed into following suit. I wish it were possible for me to agree with those who even today embrace the McNamara policy aimed at erasing American military supremacy in favor of something called parity.

But I am prevented from adopting these comfortable attitudes by the actions of the Soviet Union itself. I am afraid that we have not only reached the status of military parity with the Soviet Union but that we are now in process of losing even that equal footing.

In fact, the situation has become dangerous enough that men like Chairman J. William Fulbright of the Senate Foreign Relations Committee warn us that it is no longer possible for us to stand up to the Soviets in the Caribbean because we no longer possess the superior strength that the Kennedy Administration held during the Russian Cuban missile crisis of 1962.

Perhaps some of you remember the many arguments advanced by the liberal community for the development of a power parity formula. The theory, at least, was that if we held back, if we failed to move ahead on the development of new weapons systems, if we failed to take advantage of the lead time afforded by our military superiority—that a grateful Soviet Union would take up the slack and observe all the protocol and courtesies of a parity powered world as we envisoned it.

It seems almost fantastic that we ever believed that the Soviets would build the momentum to move them from second place to even-up with the United States and stop there. We know the truth now. We see it in every area of the world. The Soviet Union is hell-bent on establishing a superiority over the United States in every phase of military development, from multiple warhead missiles down to the number of conventional destroyers. And all this, I would remind you, comes at a time when the Soviet Union is testing this nation of ours in almost every section of the world. For years the Russians have been the mainstay of our Communist enemy in Indochina. In the Middle East they are challenging with the weight of weapons supplied to the Arab nations. In the Mediterranean they are probing and challenging the cruising preserves of the United States Sixth Fleet. Our forces in almost every water way in the world are being challenged by a new and growing Soviet navy. In the Western Hemisphere Soviet intentions center around Cuba and this has been an open secret ever since Castro declared his devotion to Marxist Communism and embraced the Soviet Union.

In conclusion, I should like to stress my belief that the defense posture of this nation has both immediate and long-range aspects. And while events now piling up on the international scene require our immediate attention and concern, we must never lose sight of the future requirements that this nation may be called upon to meet in the defense of its citizens and in promotion of freedom's cause throughout the world. In both areas, American industry has an enormous task to perform, a task I am certain that will be carried out with efficiency and dispatch.

AMERICAN POLICY IN SOUTHEAST ASIA

HON. DAVID W. DENNIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. DENNIS. Mr. Speaker, recent discussions in the Congress, touching on foreign policy, and particularly in connection with assistance to Cambodia, serve as an occasion, as it seems to me, for a little clear thinking and plain speaking on this general subject, which I believe to be much overdue.

It seems to me that surely Members of the Congress realize that we are engaged in a worldwide struggle of ideology, principle, influence, and power, on which the future fate of our country and that of the world depends. No recent American administration, of either party, has failed to recognize this fact—and, in my judgment, no administration can fail to recognize it.

Sometimes administrations, for political reasons, and subject to political pressures, have, unfortunately, been somewhat less than frank in acknowledging their recognition of this reality, but no administration has seriously deviated from a policy and a conduct of affairs which showed that it had this world situation constantly in mind, and that it fully intended that the successful party in this struggle should be the United States. Sometimes gentlemen here, and in the other body, have indulged in political sniping at various facets of this fundamental policy, but I seriously doubt that very many of these same gentlemen really believe in their hearts that the basic policy is wrong or that the worldwide struggle either can, or should, be abandoned.

The Nixon doctrine—as I understand it—seeks to implement our part in this struggle with as low an American profile as may be possible, and with an increasing emphasis on action by our friends and allies, with American financial aid and advisory assistance preferred, where feasible, to American military support. But I do not believe for one moment that

the Nixon doctrine contemplates an American withdrawal in the world, or, more specifically, an American decision to concede Southeast Asia to the Communist side; and I am confident that this doctrine contemplates—and necessarily contemplates—the retention of a flexibility sufficient to implement the overall goals of our global foreign policy.

It follows that, while withdrawal from Vietnam may furnish the primary and present motive for assistance to Cambodia, for example, it cannot, in the nature of things, furnish the exclusive basis for that assistance, in any long-range point of view. Even if and when the process of Vietnamization has been completed it is obviously quite possible that continued aid to Cambodia or other countries in the area may continue to be essential to the successful conduct of American policy.

Like others in this body I have been out in the field in Southeast Asia, and have observed there the efforts of Americans actively engaged in this global struggle, from the rifleman, to the military adviser, to the Administrator of AID. In my judgment, these people are the frontline soldiers in a war between civilization and barbarism: between liberty and tyranny—a war which, in truth and in fact, involves us all.

I do not intend—from my physically safe seat in the Congress—to cast a vote which might indicate to these people that I fail to understand or to appreciate the nature, the extent, and the overall purposes of the worldwide struggle in which they, and we also, are engaged. Proposals which seek to tie aid to Cambodia solely to withdrawal in Vietnam, or which seek to deny all possibility of the use of American military advisers in that country fails to recognize, or to come to grips, with the actual global situation. Adoption of measures of this character, in the light of history, and with the march of subsequent events, would, I believe, appear, in retrospect, as an exercise in futility, which accomplished nothing—save, perhaps, to help us close our eyes once again to international realities which it is important that we see.

MESSAGE GETS THROUGH

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. BOB WILSON. Mr. Speaker, "Swing Out, Sweet Land" was a moving tribute to America and what is right with our country. This program, without ignoring our national problems, took an entertaining look at what makes America tick. Headed by that indomitable American favorite, John Wayne, this was a truly great show, with an outstanding cast. I hope the networks will bring us more of this type of programing and know that all Americans, young and old, found much to enjoy and ponder during that hour and a half. I am pleased to include in the RECORD the following editorial from the San Diego Evening Tribune of December 1, 1970:

MESSAGE GETS THROUGH

It was all sort of implausible.

Here was this rugged, handsome fellow on the television screen, telling us that all this country needs is confidence on the part of its citizens—confidence in the country and in each other.

But big, solid John Wayne made it believable.

John Wayne, probably, in these waning days of 1970 is the only performer who could cut through the "sky is falling" mood of television programming to assemble the fresh-as-spring NBC special aired Sunday night.

Wayne, an acknowledged flag-waver, used the clout he has accumulated during the years as "nice guy" of the entertainment business to bring to the television spectacular some talented figures best known possibly for sticking pins in flag-wavers.

And Wayne was joined by a host of friends and other performers who share his views.

But "Swing Out, Sweet Land" was not a sermon on patriotism. Wayne's message was there—America is a pretty good place to live—but the show was pure entertainment.

And guests like Dan Rowan and Dick Martin and Tommy Smothers—fellows who like to snipe at the establishment—could be comfortable in front of the cameras even in the company of the establishment's most vigorous defender.

As one frequent critic of the "system" noted, "I thought it was time to stand up and say, 'Hey, this is the best system we've got.'"

Wayne, as host and narrator of the show, wandered through United States history, meeting and talking to figures who shaped America's destiny with roles played by Lucille Ball, Bing Crosby, Jack Benny, Lorne Greene, Ann-Margret, Leslie Uggams, Glen Campbell, Johnny Cash, Bob Hope, Red Skelton, Dean Martin. . . .

The theme was pro-America.

It was coated with humor, music and hope.

"I'm doing this show for my kids," Wayne said. "Before I get too old, I want to do something . . . that will give them an idea about how their country developed."

And kids of all ages must have shared the thrill of pride at the show's square, corny finale with the entire cast singing "God Bless America."

It was enough to make a sophisticated viewer laugh right out loud—after he brushed away a tear or two.

MORTON'S NEW CHALLENGE

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. GUDE. Mr. Speaker, among much editorial and press comment commending the appointment of our distinguished colleague, Mr. MORTON, to be Secretary of the Interior, the Evening Capital of Annapolis, Md., points up the fact that he is the first easterner to be chosen for this Interior position in its 121-year history. As a Chesapeake Bay oriented newspaper in the capital of Maryland, the Evening Capital is familiar with our distinguished colleague's record of concern and interest in the preservation of the environment as he has repeatedly displayed in his efforts to maintain the quality of the Chesapeake Bay as a natural resource.

ROGERS MORTON again brings honor and credit to the State of Maryland which has furnished 16 other Cabinet members in the Nation's history.

Mr. Speaker, I wish to commend to my colleagues the editorial of the Evening Capital of November 28, 1970:

MORTON'S NEW CHALLENGE

Despite the fact that we feel Walter J. Hickel performed his duties as secretary of interior courageously and independently it was obvious that his lack of rapport with the administration was a situation President Nixon could not permit to be continued. Rep. Rogers C. B. Morton, whom the President appointed to replace Hickel, has demonstrated that he is very much on the same wave length with the administration.

We are proud that the first Easterner chosen for the interior post in its 121-year history is a Marylander. Morton represents the First Congressional District, sometimes called the "Chesapeake Bay district." We have a very special concern about the Bay because of its proximity and our recognition that it is a natural resource vital to Maryland and the Eastern Seaboard. It will be comforting to have a man in the cabinet post that concentrates on environmental matters sharing this concern.

Because of the great national interest in conservation and fighting air, land and water pollution, that position of secretary of interior is highly significant and sensitive. It requires deep dedication and a strong will to prevent private interests and public agencies from exploiting our natural resources.

Morton has a reputation for being a loyal team player and his lines of communication with President Nixon appear to be excellent. This should place him in an advantageous position for meeting the immense challenges with which the secretary of interior must deal and performing effectively as the public's top advocate of environmental protection and preservation.

REGISTRATION AND VOTING IN THE STATES

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. UDALL. Mr. Speaker, last August 13 it was my privilege to introduce, along with 11 cosponsors, H.R. 19010, the proposed Universal Enrollment Act of 1970. On the same day Senator DANIEL INOUYE and 12 cosponsors introduced an identical bill in the Senate. The purpose of this legislation is to bring into our political system the large numbers of eligible Americans who are not now voting; for example, the 47 million who failed to vote in the 1968 presidential election and an estimated 67 million who did not vote in the just-completed congressional elections.

The major barriers to voting are the outdated registration practices that plague our elections. Once people register, as the following report shows, they vote. But the difficulty implicit in registering is just beginning to receive the widespread attention in the courts, in

the State legislatures, and now in the Congress that the problem deserves.

The universal enrollment plan would institute a door-to-door canvass to register for presidential elections all eligible voters who wanted to be registered. It also includes simplified absentee voter procedures for Americans living abroad, military personnel, those not in their jurisdictions on election day, and those who move into a new community less than 30 days prior to the election. Under this plan, the enrollment officials could enroll voters for State and local elections in addition to presidential elections, if the State and local officials requested that they do so; or the completed registration rolls could be turned over to local election officials upon request. The plan is voluntary, but it does provide a practical means for overcoming the greatest hurdle to voting now contained in our laws.

At this time, I am pleased to introduce for publication in the CONGRESSIONAL RECORD one of the most thorough assessments of present registration practices, their development, and their impact on voter turnout. The report is the work of the Freedom To Vote Task Force, established under the chairmanship of former Attorney General Ramsey Clark and the honorary president of the National Council of Women, Mrs. Mildred Robbins. The task force was created to study the reasons for nonvoting and to recommend ways to increase political participation. The task force report recommends simplified registration qualifications for each of the States and a universal enrollment plan for adoption at both the State and National levels.

These materials impressively outline the dimensions of the problem and strongly support the need for a universal enrollment plan. Therefore, I insert them in the CONGRESSIONAL RECORD at this point:

REGISTRATION AND VOTING IN THE STATES

(A Report of the Freedom to Vote Task Force Democratic National Committee, November, 1970)

I. INTRODUCTION

American government is based on the assumption that it represents the will of the people. Individuals elect their public officials and shape the broad outlines of governmental policy through the vote, the single most critical individual act in a democracy. Any devices that prohibit people from voting should be subjected to the most intensive, continuing scrutiny. They can be justified only by the most persuasive of arguments as to their need and the inability to find meaningful substitutes to accomplish the same objectives.

The more people that vote, the better able the government is to reflect their wishes and to satisfy their needs. All benefit. A truly representative democracy makes for a highly stable and vigorous nation.

Yet in a voting population of 120 million in 1968, only 73 million voted. The chief obstacle to the vote in 1968 as in previous elections years was the cumbersome registration demands made upon citizens. Those registered voted. Eightly-nine percent (89.4%) of the 82 million registered Americans cast their ballots in the 1968 presidential election. (See Table 1.)

The following reviews the evolution of registration systems, the requirements presently in effect and their effect on voter turnout, and presents the recommendations of the Task Force for a more reasonable approach to qualifying voters for elections.

Background

The original justification for the introduction of registration requirements was the attempt to insure the integrity of elections. The intention was to free them from fraudulent manipulation.

A 1929 work on the subject, and the only major study to date, presented the rationale used to justify registration limitations. The author, Joseph Harris, noted that:

"Our elections have been marked by irregularities, slipshod work, antiquated procedures, obsolete records, inaccuracies and many varieties of downright fraud. In only a few cities is the administration of elections conducted with a modicum of efficiency." (Joseph Harris, *Registration of Voters in the United States* (1929), pp. 3–4.)

The answer to such abuses according to Harris and those of like mind was a registration system:

"The requirement that all voters shall be registered prior to the day of the election is one of the most important safeguards of the purity of the ballot box. It constitutes the very foundation upon which an honest election system must rest, and if properly administered, prevents many of the more serious frauds which have marked the conduct of elections in the past." (*Ibid.*)

Harris' argument is interesting from a number of perspectives. First, it gives the rationale for supporting registration limitations during the era of their greatest expansion, the mid to late nineteenth and early twentieth century. Second, it represents the thinking of civic reformers who felt, somewhat naively in retrospect, that such checks would purify the elections of many, if not most, of their objectionable features. Third, the statement suggests that registration systems were intended primarily for urban areas.

There were a number of reasons for this selectivity. In rural areas, election officials knew most of the voters and thus argued that there was no need for a prior listing of eligible citizens. The population concentrations in the urban areas, however, did not encourage any easy familiarity with all prospective voters, hence the need for a registration system.

Another factor was the maturation of the urban machine. The machine depended upon a controlled vote to maintain its position of power. Such a system encouraged abuse.

For example, in one Chicago precinct (20th Ward, 24th Precinct) during one primary election in 1926, the Citizens' Association of Chicago reported that the bogus votes outnumbered the valid ones. Of the 566 votes cast, 352 were described as fraudulent, that is, the ballot cast was not done so by a bona fide resident of the precinct. The argument could be made that the same officials who controlled the polls on election days, resulting in a fraudulent vote count, would control the registration procedures, thus insuring no fundamental changes. Nonetheless, those favoring registration emphasized such cases as these to argue the need for the pre-election listing of eligible voters.

Until this day, registration systems have been centered in cities and have spread only gradually to smaller towns and rural areas. Ohio, for example, has registration only in urban areas of 50,000 or more. A rural state. North Dakota, that boasts of no city over 55,000 population, has no registration procedures at all. Alaska, a state of only 294,000 inhabitants, has relaxed registration procedures which, similar to many areas of sparse population, allows the registrar leeway in adding to the rolls at his discretion people he knows to be eligible to vote.

Registration procedures do have an effect on voting turnout. The U.S. Census publication shows that of the 32 percent of the electorate not claiming to vote in the 1968 elections, 72 percent were barred because of failure to meet registration qualifications. A study was made by Professor Stanley Kelley, Jr., and associates of Princeton University on registration and voting in the 104 largest cities in the United States during the 1960 presidential election. They studied the effect of socioeconomic factors (age, sex, race, education, income and length of residence); party competition; and registration requirements (residency and literacy tests, permanent or periodic registration systems, the time and place for registration, and the closing dates for registration) on voter participation. The study concluded that "registration requirements are a more effective deterrent to voting than anything that normally operates to deter citizens from voting once they have registered." (S. Kelley *et al.*, "Registration and Voting: Putting First Things First," *American Political Science Review* (1967), p. 362.) The authors found, for example, that better than three-fourths (or 80%) of the variations found between the number of people voting and those of voting age was accounted for by registration demands. There was almost a perfect correlation between the number of people registered and those voting; that is, on the average, for each percentage increase in registration between cities there was a percentage increase in voter turnout. The mean percentage of those of voting age who registered was 73.3 percent with a standard deviation of 14.3. The mean percentage of those registered who voted was 81.6 percent with a standard deviation of 11.7. As the authors noted, the latter set of figures was both higher and varied less than those between voting age population and those registering, thus supporting their contention that the critical hurdle to voting is registration. The authors therefore demonstrate an explicit relationship between registration and voting: for almost every new person registered, a new voter went to the polls. Also, the figures indicate that those registered vote in high numbers, with relatively little deviation from one city to the next.

In the midwest, some counties still have no registration requirements while others, usually the more urban ones, do. Consistently, the turnout is higher in the counties with no registration qualifications. For example, in Missouri the discrepancy in voter turnout between the urban counties (Jackson, St. Louis City, St. Louis County) with registration qualifications and the counties without registration, representing 80 percent of the state's land area, averages between 10 percent and 12 percent. The experience of Pennsylvania for the period between 1920 and 1936 and prior to the introduction of statewide registration procedures and of Ohio for the period 1932–1960, when a variety of practices were in effect ranging from no registration through a partial listing of qualifications to a full-fledged registration system, illustrates the depressing effect of those requirements on voter participation. For the Pennsylvania counties, there is a six percent to 10 percent difference in turnout. The Ohio returns illustrate the same phenomena, a decline in the vote that correlates with the severity of the requirements. (See Table 2.)

History

The North

The spiritual ancestor of later registration systems was a Massachusetts requirement, adopted in 1742, that limited the franchise to property-holders and required

local assessors to compile a list of each man's property assets.

The first actual registration law in the United States was enacted by the state of Massachusetts in the year 1800. This provided for the listing of all qualified voters in each town in the Commonwealth prior to elections. While other New England states adopted similar procedures, the practice was slow in spreading to other areas. When a registration system was adopted prior to 1862, it was done so only in a few selected major urban areas. Columbia, South Carolina instituted registration in 1839 for elections in the city of Philadelphia. And New York City adopted registration qualifications in 1840, but soon abandoned them.

The big push in the adoption of registration limitations began in the 1860's with the accelerated growth of the large urban areas, the industrialization of the nation necessitating large clusters of working people in confined geographical areas, the refinement of machine politics, and the mass immigrations to this country, and particularly to its cities, that took place up until 1920. The steadily increasing electorate culminated in the 19th Amendment giving the vote to women, and also provided pressure for a more systematic enumeration of eligible voters.

Between 1860 and 1880 most Northern States adopted registration procedures. Beginning in 1880, the practice also spread to Western and Southern states, although the Southern experience differed from that of the rest of the nation.

The study by Stanley Kelley, Jr., and associates introduced earlier notes that:

"In the period from 1896 to 1924, when the turnout declined almost steadily, state after state enacted registration laws which typically required registration annually and in person of all voters in the nation's large cities; the registration procedures of this era have been described by one student of registration practices (Harris) as 'expensive, cumbersome, and inconvenient to the voter'. In the period from 1924 until the present, during which time the turnout has gradually risen, more and more states have been liberalizing their registration laws, particularly as these apply to the larger cities. In short, turnout in presidential elections in the United States may have declined and then risen again, not because of changes in the *interest* of voters in elections, but because of changes in the *interest demanded* of them." (S. Kelley, *et al.*, "Registration and Voting . . . ," p. 374.)

Whatever the justification or the original intent, registration systems have a selective effect in whom they bar from voting.

A Gallup poll conducted in December of 1969 found that registration systems had an uneven effect on the electorate: the laws effectively discriminated against certain groups of potential voters. The report released by the Gallup organization was entitled "Registration Laws Boon to Republicans" and indicated that the people most likely to satisfy the registration requirements were prospective supporters of the Republican party. The release stated that two out of three of the people not registered had Democratic leanings. Most heavily hit were the young (50 percent not registered) and those who rented rather than owned their own homes (44 percent not registered).

Gallup concludes from his studies that it is *not* lack of interest but rather residency and other registration qualifications that provide the biggest barrier to voting. The results are not accidental. Registration requirements are more difficult for the less educated to meet. The registration systems favor those in higher social classes, disproportionately increasing their weight in the electorate. The city of Baltimore can serve as an example. Correlation of social class characteristics, as measured by occupation, with the 1960 voter turnout in 83 political units in the city produced the results shown in Table 3.

These figures (Table 3) indicate that the upper classes, as stratified by occupation, have a political weight roughly twice that of the lower classes.

The U.S. Census report on registration and voting in the 1968 election (*Voting and Registration in the Election of November 1968* Series P–20, No. 192, December, 1969) provides a more detailed commentary. The figures are self-reported and they over-represent the number of people registered and voting. Nevertheless, the trends revealed within the categorizations of the returns should provide a reliable index of relative discrepancies within the population.

The highest proportion of those not registered and/or not voting fall among blacks, those who did not finish high school, manual and service workers, and those of lower incomes. The family income and education figures, in particular, show a progressively clearer relationship between an increase in income or educational achievement and percentage registered and voting. As an example, 87 percent (86.5%) of those with a college degree are reported as registered and 83 percent as voting. One-half (49.5%) of those with only one to four years education are reported as registered and only 38 percent of the total as voting.

The registration systems now in effect do not fall on all individuals impartially. (See Table 4.) They place a disproportionately heavier load on those least able to meet them.

The South

The modus vivendi worked out between the South and Republican leaders in the contested outcome of the presidential election of 1876 gave the victory to Hayes in return for the freedom to conduct political affairs in the South much as they had been prior to 1860. To return power to propertied classes favored before the Civil War necessitated the exclusion from the Southern electorate of blacks newly enfranchised since 1865. A number of legal and extra-legal strategies were employed prior to 1890, but beginning approximately in this year and extending through 1920, Southern states settled on restrictive registration procedures as an effective legal means of limiting Negro involvement in elections. There followed during this period such limitations as the "grandfather clause," the "white primary," the poll tax, which effectively barred poor whites as well as blacks, and arbitrarily administered tests of literacy and state and federal constitutional interpretation. Mississippi began the practice in 1890 requiring a "reasonable" interpretation of the Constitution as a prerequisite to voting. By 1915, the U.S. Commission on Civil Rights reports that other Southern states had adopted similar practices, requiring applicants to meet as a criteria for voting standards of "good character," property qualifications, civic knowledge, and other arbitrary restrictions designed to exclude Negroes from voting. For example, offenses believed to be related to Negroes, crimes of petty larceny or illegal child bearing, were grounds for restricting the vote in some Southern states. These were included in the laws to cast a net as widely as possible to minimize Negro political involvement. Once the process of adding provisions to restrict the vote on grounds of acceptable behavior began, there was virtually no limit to the lawmakers' ingenuity in adopting unusual restrictions.

The South, however, was not alone in restricting prospective voters. A listing of the restrictions placed on who may vote by one Southern and one non-Southern state, Louisiana and Idaho, illustrates the extremes to which the process of excluding reputedly undesirable types from the electorate can be taken. (See Table 5.)

It is difficult to say what someone accused of falling into one of these categories outlined in Idaho or a state with similar regulations would do. The restrictions listed do show the potential power of registrars. Should they desire, registrars can limit the number of people voting simply by permitting some to vote while prohibiting others through a restrictive application of their powers.

In the South, the whites depended upon sympathetic local registrars to ease the process. The registrar's discretion was counted on to insure that whites met the registration requirements and blacks did not. The strategy proved highly effective. The U.S. Commission on Civil Rights reports that in 1868 under the Radical Reconstruction legislation, whose political implications were clarified in the Fifteenth Amendment passed in 1870, 700,000 Negroes were registered to vote. The number exceeded the white registration. Negroes also held political office, for example, controlling one house and 87 of 156 seats in the South Carolina legislature. However, no black was ever elected governor, nor did blacks ever control both houses of any state legislature.

The systematic exclusion of Negroes from all forms of political participation received legal sanction in the ingenious "Mississippi Plan," as it was called, of 1890. The plan concentrated on devising restrictions on registration and voting that could be applied with discrimination. The approach was enthusiastically adopted by other Southern states and, by 1900, the Negro vote had been virtually eliminated in the South. As an example, in Louisiana in 1896, 130,334 Negroes were registered to vote. Four years later after the Mississippi approach had been written into state law, 5,320 blacks were registered to vote.

It was not until the Supreme Court decision in *Smith* v. *Albright* which outlawed the "white primary" that the trend was effectively reversed. Subsequent decisions buttressed by the passage of the Civil Rights Acts of 1957, 1960 and 1964 brought an increase in Negro registration. The greatest progress, however, was made with the enactment of the Voting Rights Act of 1965. The Act suspended discriminatory registration requirements, including literacy tests, in any state or political subdivision where 50 percent of the voting age population were either not registered or did not vote. These provisions applied to Alabama, Georgia, Louisiana, Mississippi, South Carolina and Virginia, as well as to 40 of North Carolina's 100 counties. In addition, the Attorney General of the United States was given authority to assign federal examiners to register qualified voters and federal observers to monitor elections in the same counties.

The Voting Rights Act proved to be extremely successful. Federal examiners were sent to 58 Southern counties. By the end of 1967, they had registered 150,767 blacks and 7,327 whites. In addition, local registrars had enrolled 416,000 Negroes under provisions of the 1965 Act for a net gain of 566,000 new black registrants. Also, black registration exceeded 50 percent in all Southern states. As the following table shows, whites as well as blacks benefited from the Act. (See Table 6.)

The seven states primarily affected by the Voting Rights Act showed remarkable gains. In 1956, 20 percent of the blacks in these states were registered. Almost a decade and three civil rights acts later, in August of

1965 when the Voting Rights Act was passed by the Congress, the percentage had risen to only 29 percent. Five years after the passage of the Act, the percentage of blacks registered in the seven states had climbed to 60 percent.

The Negro vote climbed with Negro registration. Exact figures are not available, but the Southern Regional Council estimated that in the 1966 election the following turnouts occurred: Arkansas, 80,000 to 90,000 of a potential 115,000 to 120,000 registered blacks; South Carolina, 100,000 to 191,000; Georgia, 150,000 to 300,000; Alabama, less than one-half of the total 250,000, although 75 percent of the registered black voters participated in the Democratic primary; Mississippi, 50,000 to 55,000 of 170,000; and in a sampling of precincts in Louisiana, 50 to 60 percent of the registered Negroes voted. It is estimated from sample survey results by the Southern Regional Council that two-thirds of the Negroes of voting age were registered in 1968 and that over one-half voted. The voting increases for the period 1940–1968, covering the *Smith* v. *Albright* (1944) decision and the Voting Rights Act of 1965 which represented the biggest spurs to black registration and voting, are shown in Table 7.

The U.S. Census report of December 2, 1969, *Population Characteristics*, in reviewing the turnout from the 1968 general election, does not break the figures on participation down by state. However, it does report regional returns which are somewhat different than those of the U.S. Civil Rights Commission, although the emphasis is the same. Fifty-two percent of the total black population (that is, civilians 21 or over not in institutions) voted in 1968. Of those blacks who reported themselves registered, 84 percent voted in 1968, an increase in black voter participation in the South of approximately 7 percent over 1964.

In summarizing the effect of the 1965 Voting Rights Act, the Staff Director of the U.S. Civil Rights Commission reported to a Committee of the Congress in 1970 that in the five years since the enactment of the legislation:

". . . over two million black voters are registered in the seven states covered by the Act; three-and-a-quarter million Southwide; over 400 black candidates for office were elected; and significant numbers of moderate white officials hold office because white and black voters have been able to turn out of office the Jim Clarkes and the Bull Connors in many counties." (Statement of H. A. Glickstein, Staff Director, U.S. Commission on Civil Rights, before U.S. Senate Subcommittee on Constitutional Rights, February 24, 1970, pp. 22–23.)

He went on to conclude:

"This is what the right to vote is all about: the people have the right to determine who will govern and represent them." (*Ibid.*, p. 23.)

The Southern experience demonstrates the power of registration qualifications to restrict the vote. It also provides a persuasive argument that a comprehensive voter enrollment plan under federal government auspices, such as that proposed in the previous Freedom to Vote Task Force report, "That All May Vote," would result in significantly higher voter turnouts.

II. REGISTRATION REQUIREMENTS OF THE STATES*

Contemporary registration requirements vary greatly. Each was added over a period of time and often at the whim of specific state legislatures or in reaction to a passing public mood. Few states have codified their requirements and systematically evaluated their consequences. As a result, the registration qualifications in effect, as the earlier comparison between the states of Idaho and Louisiana illustrated, can become quite elaborate.

The following reviews the requirements presently in effect. It begins with one of the most common, residency, and discusses this requirement as it pertains to state, county, precinct and city elections. The options, if any, available to voters for a waiver of residency limitations in presidential elections are also presented.

Each of the states with registration systems had some type of residency requirement in effect prior to the enactment of the Voting Rights Act of 1970. For example, for presidential elections these ranged from three months or 90 days in some states (New York, Pennsylvania) up to—until it was revised in 1968 to one year—two years in Mississippi. South Dakota uniquely adds a further stipulation to its one year residency requirement stipulating that a voter must be a resident of the United States for five years.

The enactment of the Voting Rights Act of 1970 superimposes over state procedures limits on residency qualifications for presidential elections. These requirements were restricted to 30 days. The stipulation remains in force, assuming court support, until 1975. At that point, unless the Act or something comparable to it were adopted, previous state practices would be resumed.

American civilians living abroad, estimated in 1960 to be about one-half a million people and in 1968, 651,000 (not including 172,000 civilian military dependents of voting age), are also excluded by residency limitations from voting. American military personnel abroad must qualify for the frequently cumbersome absentee ballots, thus diluting the force of their vote. Of the 2,473,000 military personnel of voting age in November, 1968, 1,142,600, or 46 percent of the total, actually voted.

Several states (e.g., New Mexico, Mississippi, Washington and Utah) exclude Indians not taxed or those, and others, living on federal lands from voting. The legal stipulations covering these exclusions are so varied that it is virtually impossible to estimate the number of individuals excluded from the ballot by these restrictions. Curiously, the U.S. Civil Rights Commission contends that these are legally unenforceable in federal elections, although they have no information as to registration practices at local levels in this regard.

As the following shows, 33 states have one year residency requirements before one can vote, 33 states require some period of residency in the county, the same number in the precincts; and a smattering of states have city requirements as well, although Connecticut's is in lieu of any other residency qualifications.

Thirty-one states relax their provisions for presidential elections, although the effect of several is questionable. Colorado, as an example, substitutes a six month period for the original one year, the mandatory requirement in 14 other states. Several states permit presidential voting under a waiver system only in specific places, the town clerk's office or for maximum inconvenience, only in one city in the state, as is the case in Delaware.

The requirements normally in effect stipulate that to vote a person must be a resident of the state for at least one year, of the county for 30 to 90 days, and of the precinct for 30 days. It is estimated that these requirements exclude from the electorate, through an individual's inability to meet the specific residency qualifications in an election jurisdiction, five percent of the potential electorate. For the 1968 election, this would mean that six million voters were denied participation by residency alone.

The following summarizes the various residence requirements in each of the fifty states and the District of Columbia.* (See Table 8.)

*State Requirements:*** Thirty-three states and the District of Columbia require an individual to be a resident of the state for a period of one year before he may cast his ballot in an election. Fourteen states have residence requirements of six months—Connecticut has no state requirement, but does have a six month residence requirement for cities—and only two states, New York and Pennsylvania, allow an elector voting privileges after three months and 90 days of residence, respectively.

County Requirements: Thirty-five states have county residence requirements of from one month to as long as six months. (Hawaii has a residence requirement of three months in a State Representative District.) Fourteen states have no county requirements.

Precinct Requirements: Thirty-three states have precinct residence requirements of from ten days to six months. Sixteen states have no residence requirements for precincts. Missouri has a precinct residence requirement of ten days in only some of its counties.

City Requirements: Connecticut has a six month residence requirement in cities, but there are no state, county or precinct requirements. Rhode Island and Massachusetts require a six month residence; New Hampshire, six months in ward or town. Vermont and Maine have a three month requirement. Maryland's residence requirement is six months, but may apply to a county or city, and New York's is three months and also applies to a county or city. Michigan has a city residence provision requiring that an individual must reside in the city on or before the fifth Friday before the election in order to qualify to vote. All other states have no city requirements.

Presidential Waivers: Nineteen states and the District of Columbia have no provisions for new residents voting in Presidential elections. Thirty-one states have some type of Presidential waiver, with fifteen of those states requiring lengths of residence of from fifteen days to three months. Delaware, for example, with a three month residence requirement for Presidential elections, requires the individual first to register in person in Wilmington and, second, to vote in Wilmington only on election day. See Table 8 for changes subsequent to 1968.

Former Residents: The states that allow a former resident to vote by a special or an absentee ballot until residence requirements of the new state are met, or for a specified length of time, are as follows:

Alaska: May vote for President until he meets residence requirements in new state.

Arizona: May vote absentee for 15 months after leaving if cannot meet requirements in new state.

Connecticut: May vote absentee for 24 months after leaving if cannot meet requirements in new state.

Michigan: May vote until requirements are met in new state.

New Jersey: May vote by special ballot for President if cannot meet requirements in new state.

Texas: May vote by absentee ballot for President for 24 months if cannot meet requirements in new state.

Wisconsin: May vote by absentee ballot for President for 24 months if cannot meet requirements in new state.

Wyoming: May vote absentee until such

*As of January 1, 1970.

*There have been several changes since 1968. These are noted in Table 8.

**In some states a Presidential election is an exception; see Presidential Waivers.

time as residence requirements are met in new state of residence.

In addition to residency, each of the state registration systems requires U.S. citizenship as a precondition for voting and sets a minimum age for eligibility. Minnesota and Utah stipulate that a person must be a citizen for three months or 90 days. In 1960, restriction of aliens excluded about 2.75 million people from voting. Under the same restrictions, an estimated 3.3 million adult resident aliens were restricted from voting in 1968.

Forty-six states set a legal minimum age of 21 for voting. Georgia and Kentucky permit voting at 18, Alaska at 19, and Hawaii at 20. If the 18 year old vote becomes a reality, it should add from 10 to 12 million new voters to the electorate, a ten percent increase over present levels.

Twenty states also have some form of literacy requirement. These vary in severity from provisions that require a prospective voter to be able to write his own name or read and/or write English to the ability to interpret the state or federal constitution. The state of Hawaii permits fluency in Hawaiian to be substituted for English; South Carolina permits a waiver of the literacy requirement if the person owns $300 worth of assessed property; and Alabama accepts a certificate stating that the holder has completed eight years of formal schooling as presumptive proof of literacy.

In the 1960 Presidential election, literacy requirements directly excluded 1.37 million people from voting. The number excluded in 1968 approximated 2.1 million. The figures are based on the U.S. Census estimates of illiterates of voting age in the 20 states with literacy requirements. Curiously, the Census definition of literacy is considerably less stringent than those provided in state laws for voting. The Census defines literacy as the inability to read or write simple messages in *any* language. Professor William Andrews, in a challenging review of voting requirements (William G. Andrews, "American Voting Participation," *Western Political Quarterly*, 19(1966), p. 643), puts the number of illiterates excluded from voting participation in 1960 at a minimum of 3.4 million. Based on the same calculation, the number for 1968 would be 3.8 million.

In specified states (Alabama, Georgia, Louisiana, Mississippi, South Carolina, Virginia, and at least 26 counties in North Carolina) the requirements for literacy tests and similar devices were suspended by the provisions of the federal Voting Rights Act of 1965. Most of the areas that the 1965 Act covered were in the South, but in a few other parts of the country such as Alaska, low voter participation brought the area under the Act. The reenactment of the legislation, the Voting Rights Act of 1970, suspended literacy requirements in all of the states until 1975.

A report of the U.S. Commission on Civil Rights permits a more extended evaluation of the effects of literacy tests as a precondition for voting in non-Southern states. In analyzing the election returns for 1968, the Commission found:

Overall, the states with literacy tests have lower registration and voter turnout rates than those without literacy qualifications.

That Negroes are more adversely affected by literacy requirements than whites. In states with no literacy tests, more Negroes with less than a ninth grade education are registered (76%) than in states with this barrier (55%). The comparable figures for whites are 72 percent and 61 percent. Also, for the same group (8 years or less of education) almost twice as many blacks as whites (27.7% to 15.2%) are listed as not registering because of lack of interest or inability to register, figures that support the contention of this report that individual apathy as a reason for not registering is conditioned by the severity of the requirements a person must meet.

Counties within a state (excluding Hawaii and Alaska) that have a higher proportion of nonwhites or those with Spanish surnames (15% or greater) are more likely to fall behind the state average in registration in states with literacy requirements. This is not true for those states that have no literacy tests.

The Commission thus concludes that: "The data show a negative correlation between literacy tests and voter registration and (voter) turnout levels, both for the general population and for minority groups in particular." ("The Impact of Voter Literacy Tests Upon Voter Registration in States of the South and West: November, 1968," U.S. Civil Rights Commission, January 19, 1970, p. 1.)

A loyalty oath or some certification as to good citizenship is a requirement for voting in seven states: Alabama, Connecticut, Florida, Idaho, Mississippi (amended in 1965 to require an oath only as to the truth of statements in the registration application), North Carolina, and West Virginia. Alabama specifies that in addition to the loyalty oath, a registrant "must be of good character and embrace the duties and obligations of citizenship under the Constitution of the United States and the state of Alabama."

These requirements are summarized in Table 9.

In addition to residency, age, citizenship, literacy tests and loyalty oaths as prerequisites to voting, states prohibit others from the electorate for a wide variety of reasons. Forty-five states disqualify from voting idiots, the mentally ill and those under legal guardianship. In Alaska and the District of Columbia, court adjudication of mental incapacity is needed in order to prohibit a person from participating in elections.

Prison inmates are not allowed to vote in any state. In addition, anyone convicted of a felony is denied permission to participate in elections in 50 states. Of the latter, all but six states temper this provision by returning the franchise to anyone whose civil rights have been restored, a provision that would apply to few former convicts (2% is one estimate). Only two states, Colorado and Oregon, automatically reinstate the individual's civil rights, including the franchise, on release from prison. In the 1960 election, approximately 200,000 were prison inmates and 1.5 million were classified as former convicts. Calculating on the basis of these figures, between 1.5 and 1.6 million people were kept from the electorate by these provisions.

In 1968, the inmates of state and federal prisons numbered 194,896. The number of inmates of correctional and mental institutions in 1968 was 1,078,000. If 1.5 million is a fair estimate of the number of former felons, the total kept from voting in 1968 by state requirements concerning felons and former felons would be 1.7 million. And if all institutionalized persons are included in this estimate, the number so excluded approaches 2.5 million.

Nine states disqualify paupers from voting, although Massachusetts adds the proviso that this restriction does not apply to veterans. There is no reliable analysis of the effect of this restriction on the electorate, although William Andrews hazards, in his terms, a "very modest" guess that possibly 150,000 were so excluded in 1960. An equally modest guess in 1968 would be over 170,000.

Beyond this point, the registration demands enacted by the states become increasingly more complex and increasingly less defensible. Duelers, those who defraud the government, vagrants, those of "bad character", those convicted of improper lobbying or election abuse, those who bet on election outcomes, those who receive a dishonorable military discharge, those who bear arms against the United States, those who do not pay taxes, and those convicted of subversive activities are barred from participation in elections in one state or another. The exotic restrictions in the statutes of Idaho and Louisiana were introduced earlier. Whatever one feels concerning the codes of moral and social behavior involved in many of these qualifications, they hardly appear as valid restrictions on the vote.

A more specific elaboration of the registration codes follows. (See Table 10.)

Registration Procedures

In addition to the registration requirements themselves, there is the additional barrier of the physical means by which prospective voters must qualify to vote. These procedures vary widely from one state to the next and frequently within a state. They are not well understood, but they provide an additional obstacle that those who are otherwise eligible must overcome. (See Table 11.)

As Table 11 shows, the periods provided for registration vary greatly. Some are open for specified periods of time, others are open year around. Some close two weeks or less immediately prior to election day; Texas closes its rolls at the end of January, nine months prior to election day. In all cases, the burden is put upon the individual to familiarize himself with the registration dates and places and then to register himself, should he meet the qualifications.

As Table 11 also points out, the states have a variety of procedures for updating their rolls. Some states have periodic registration, or re-registration for each election. Others have permanent registration, usually with a provision that a person's name be dropped after a specific length of time in which he did not vote (for example, four years or two general elections).

Finally, provisions for absentee voting, as Table 11 shows, can be cumbersome. The initiative is placed on the individual to find the time period in which requests for absentee ballots will be honored and his eligibility can be certified (usually beginning 60 to 90 days prior to the election and ending within the week preceding the vote); to contact, in person or by mail as required by law, the proper official (usually a city or county clerk); and, if he qualifies, to insure that his properly marked ballot reaches the designated election official by the time specified in the law. The total burden is placed on the individual to acquaint himself with the diversity of regulations and to meet the specified time limits and qualifications for absentee voting. The process is awkward and discourages voting. (See Table 12.)

Registration and Non-Voting

The foregoing introduces state registration qualifications and provides some indication of their effects. In an attempt to establish the causes of non-voting and the groups within the population most seriously affected, the U.S. Bureau of the Census has analyzed the results of recent elections and notably that of 1968. In analyzing the 1968 vote, the Census reported that:

". . . higher voter participation was found among men, persons 45 to 65 years old, whites, people living outside the South, those with larger family incomes, and persons in white-collar occupations, particularly professionals and managers. Lower participation was more likely among women, persons under 35 years of age and to a lesser degree those 65 and older, Negroes, residents of the South, those of low educational level, those with small family incomes, and persons in unskilled occupations, such as laborers (both

industrial and agricultural) and private household workers." (*Voting and Registration in the Election of 1968*, (1969), p. 1.)

In exploring the contribution of registration systems to non-voting, the Census found that 67.8 percent of the total voting age population participated in the elections. Most impressively, of all those who claimed to be registered, a striking 91 percent (91.2%) also claimed to have voted.

The Census report is based on a person's response as to whether he voted or registered and thus, by the Census' own admission, overestimates both voting and registration. The figures should be valid as to relative trends and proportional relationships. If this is the case, then the earlier contention that registration systems provide the greatest hurdle to voting has substantial merit.

The 27 million people not registered were asked why they had failed to take this initial step to qualify themselves to participate in elections. The largest group, 53 percent (53.3%) said they were not interested in either politics, the election or political processes more generally; ten percent (9.9%) reported that they did not register because they were not citizens; eleven percent (11.2%) did not meet residency requirements; thirteen percent (13.4%) were barred from registering because of illness, lack of transportation, inability to take time off from work, and related reasons; ten percent (9.5%) gave other reasons for not registering but ones that the interviewers were not able to place in the major categorizations provided; and three percent (2.6%) either did not know why they did not register or the interviewer reported no reasons.

Residency qualifications were given as a reason for not qualifying with increasing frequency as one climbed the educational ladder; for example, approximately 16 times as many people with five years or more of college offered this explanation than did those with nine years or less of total schooling. Disinterest was given as a reason for not registering proportionately more often by those with the least education, declining in importance with the formal educational achievements of the respondents. Residency was a greater barrier to younger potential voters than to those middle-aged or older. Six percent more blacks offered election disinterest or physical barriers to registration as major reasons for their failure to enroll than did whites. The latter reason was of even greater importance for Negro families, averaging nine percent of the norm for all groups.

Overall, the evidence indicates that a reasonable set of limited registration requirements, coupled with a universal enrollment system, would greatly increase voter turnout, bringing into the electrorate groups badly in need of representation, while at the same time making allowance for those who would normally vote but are excluded by physical inconvenience from registering.

Professor Andrews study mentioned earlier adds an interesting perspective to this analysis. Andrews made a detailed analysis of registration and voting in the 1960 election. He estimates that legal restrictions on the vote disqualified approximately 15 million people from participation. In addition, another eight million did not vote because of problems in getting to the polls, traveling, or the like. These factors result in the elimination of between 20 and 25 million people from the electorate. Of these remaining in what he refers to as the "eligible, able" electorate, 83.2 percent voted.

If these figures or those of the U.S. Census are close to being accurate, a modification of registration procedures would have two major results: a) it would substantially increase the number of eligible voters; and b) it would stimulate a considerably higher voter turnout.

IV. TASK FORCE RECOMMENDATIONS

To achieve these ends, the Task Force makes the following recommendations:

Registration Qualifications: I. There should be no *residency* qualifications for presidential and vice-presidential elections. A 30 day residency requirement should be sufficient to qualify to vote in state and local elections.

II. All who have reached their *eighteenth birthday* should vote.

III. Where state law disenfranchises a *person convicted of a felony*, the disability should be automatically revoked at least as soon as he is released from prison. Conviction of any crime other than a felony should not be a reason for disenfranchisement. In the interests of inculcating good habits of citizenship, states should consider as part of their rehabilitation program encouraging inmates to participate in elections by allowing them to familiarize themselves with policy issues and voting procedures.

IV. No *institutionalized person* should be denied the right to vote unless he is adjudged non compos mentis.

Registration Procedures: The states should adopt a form of the Universal Voter Enrollment Plan which places primary responsibility on government to seek out and register voters in a canvass of residences, or they should associate themselves with the plan now being considered by the Congress and prescribed in the Freedom to Vote Task Force's report, "That All May Vote." This plan eliminates the diffusion of places and times for registration and greatly simplifies the entire registration process.

No literacy test, loyalty oath, "good character" provision, dishonorable discharge from the armed services, etc., should be employed to prohibit people from participating in elections. State laws prohibiting special groups such as Indians or those living on federal lands from voting should be abolished. The possibility of including aliens in the electorate should be seriously discussed.

The states and localities should concentrate on enacting the minimal applicable requirements—modest residency qualifications, an age limit set at 18, and provisions for alien resident voting—that would provide for an inclusive electorate while preserving the integrity of elections. The emphasis should be placed on clarifying registration qualifications and simplifying registration procedures through a universal enrollment plan in order to encourage as many people as possible to participate in elections. Only then can we begin to achieve a truly representative democracy.

TABLE 1.—REGISTRATION AND TURNOUT IN THE 1968 PRESIDENTIAL ELECTION, BY STATE[1]

State	1968 voting age population	Total registration	Actual turnout	Percent turnout of registered voters	Percent turnout of voting age population
Alabama	2,037,000	1,389,198	1,044,177	75.2	51.3
Alaska[2]	151,000	NA	83,035	NA	55.0
Arizona	1,003,000	614,718	486,936	79.2	48.5
Arkansas	1,188,000	845,759	609,590	72.1	51.3
California	12,052,000	8,587,673	7,251,587	84.4	60.2
Colorado	1,211,000	966,700	806,983	83.5	66.6
Connecticut	1,813,000	1,341,519	1,256,232	93.6	69.3
Delaware	306,000	248,915	214,367	86.1	70.1
District of Columbia	515,000	201,937	170,578	84.5	33.1
Florida	3,924,000	2,765,316	2,187,805	79.1	55.8
Georgia	2,824,000	1,850,000	1,250,100	67.6	44.1
Hawaii	421,000	274,104	236,218	86.2	56.1
Idaho	708,000	366,532	291,183	79.4	41.1
Illinois	6,580,000	5,676,131	4,619,749	81.4	70.2
Indiana	2,947,000	2,653,219	2,123,597	80.0	72.1
Iowa[2]	1,653,000	NA	1,167,931	NA	70.7
Kansas[2]	1,339,000	NA	872,783	NA	65.2
Kentucky	2,062,000	1,471,343	1,055,893	71.8	51.2
Louisiana	2,032,000	1,449,231	1,097,450	75.7	54.0
Maine	596,000	509,888	392,936	77.1	65.9
Maryland	2,168,000	1,595,779	1,235,039	77.4	57.0
Massachusetts	3,379,000	2,591,051	2,331,752	90.0	69.0
Michigan	4,853,000	3,950,000	3,306,250	83.7	68.1
Minnesota[2]	2,097,000	NA	1,588,510	NA	75.8
Mississippi[2]	1,308,000	775,000	654,509	84.5	50.0
Missouri[2]	2,770,000	NA	1,809,502	NA	65.3
Montana	412,000	331,078	274,404	82.9	66.6
Nebraska	891,000	637,719	536,851	84.2	60.3
Nevada	285,000	188,811	154,218	81.7	54.1
New Hampshire	418,000	387,660	297,190	78.5	71.1
New Jersey	4,402,000	3,319,752	2,875,395	86.6	65.3
New Mexico	562,000	445,304	327,281	73.5	58.2
New York	11,773,000	8,113,216	6,691,690	85.5	59.1
North Carolina	2,919,000	1,858,987	1,587,493	85.4	54.4
North Dakota[2]	370,000	NA	247,882	NA	67.0
Ohio[4]	6,235,000	3,907,000	3,959,698	101.3	63.5
Oklahoma	1,546,000	1,163,328	943,086	81.1	61.0
Oregon	1,193,000	971,851	819,622	84.3	68.7
Pennsylvania	7,234,000	5,599,364	4,747,928	84.8	65.6
Rhode Island	561,000	471,112	384,938	81.7	68.6
South Carolina	1,455,000	853,014	666,978	78.2	45.8
South Dakota	408,000	348,254	281,264	80.0	68.9
Tennessee	2,361,000	1,840,077	1,248,617	67.9	52.9
Texas	6,289,000	4,073,576	3,079,576	75.6	49.0
Utah[2]	562,000	475,000	422,568	89.0	75.2
Vermont	244,000	208,221	161,403	77.5	66.1
Virginia	2,690,000	1,510,592	1,359,928	90.0	50.6
Washington	1,838,000	1,649,734	1,304,281	79.1	71.0
West Virginia	1,073,000	993,024	754,206	76.0	70.3
Wisconsin[2]	2,484,000	2,425,000	1,691,538	69.8	68.1
Wyoming	202,000	142,739	127,205	89.1	63.0
Totals	120,353,000	82,029,426	73,359,762	89.4	60.9

[1] These figures are from State and US. Census sources. The Task Force figures and those compiled by the Republican National Committee are in substantial agreement. The figures used are the same as those in the Republican National Committee's report on the 1968 election.

[2] States which have no Statewide registration, or where registration is not required.

[3] Approximate figures, furnished by Secretary of State.

[4] Ohio does not require total registration, therefore the voter turnout figure exceeds the registration figure. Figure not included in total percentage.

NA—Not available.

TABLE 2.—DIFFERENTIAL TURNOUT RATES BY CLASSES OF COUNTIES

I. OHIO

	Registration category by county		
	Full	Partial	None
1932—Mean turnout		67.5	[1] 79.5
Standard deviation		6.31	7.20
N		28	59
1936—Mean turnout		73.1	[1] 82.6
Standard deviation		6.04	6.84
N		28	59
1948—Mean turnout	58.3	58.3	64.3
Standard deviation	5.46	4.70	5.76
N	6	25	57
1952—Mean turnout	66.9	71.4	75.0
Standard deviation	4.43	4.56	5.52
N	17	17	54
1956—Mean turnout	64.6	67.5	71.6
Standard deviation	5.30	3.40	6.14
N	22	15	51
1960—Mean turnout	66.2	73.4	78.6
Standard deviation	13.46	4.46	5.35
N	28	12	48

II. PENNSYLVANIA

	Registration category by county (exclude Philadelphia)	
	Registration	No registration
1920—Mean turnout	41.9	48.2
Standard deviation	5.14	6.61
N	29	37
1924—Mean turnout	46.0	52.8
Standard deviation	5.09	7.05
N	29	37
1932—Mean turnout	51.6	61.6
Standard deviation	5.37	7.81
N	30	36
1936—Mean turnout	70.2	80.0
Standard deviation	5.91	7.43
N	30	36

[1] Exclude Cuyahoga.

Source: Compiled by Professor Walter Dean Burnham, department of political science, Washington University, St. Louis, Mo.

TABLE 3.—OCCUPATION AND 1960 TURNOUT CORRELATED FOR 83 ELECTORAL UNITS, BALTIMORE, MD.

Occupation	1960 turnout
Professional-managerial	+.706
Other white collar	+.610
Skilled and semiskilled	−.572
Unskilled	−.695

Source: Compiled by Prof. Walter Dean Burnham department of political science, Washington University, St. Louis, Mo.

TABLE 4.—REGISTRATION AND VOTING IN THE 1968 PRESIDENTIAL ELECTION, BY SOCIOECONOMIC CHARACTERISTICS

	Population of voting age	Registered	Percentage registered	Voted	Percentage voting
Total	116,535	86,574	74.3	78,964	67.8
Race:					
White	104,521	78,835	75.4	72,213	69.1
Negro	10,935	7,238	66.2	6,300	57.6
Residence:					
Metropolitan areas	75,756	55,593	73.4	51,503	68.0
In SMSA's of 1,000,000 or more	41,395	30,689	74.1	51,503	68.0
In central cities	18,841	13,427	71.3	12,373	65.7
Outside central cities	22,518	17,262	76.6	16,528	72.2
In SMSA's of under 1,000,000	34,397	25,905	75.3	22,873	66.5
In central cities	16,776	12,047	71.8	10,994	65.5
Outside central cities	17,621	12,858	73.0	11,879	67.4
Nonmetropolitan areas	40,778	30,981	76.0	27,461	67.3
Nonfarm	35,255	26,454	75.0	23,501	66.7
Farm	5,524	4,527	81.9	3,960	71.7
Education:					
Elementary:					
0 to 4 years	5,926	2,937	49.6	2,278	38.4
5 to 7 years	9,687	6,108	63.0	5,072	52.4
8 years	14,817	10,627	71.7	9,242	62.4
High school:					
1 to 3 years	20,429	13,987	68.5	12,519	61.3
4 years	39,704	30,859	77.7	28,768	72.5
College:					
1 to 3 years	13,312	11,038	82.9	10,443	78.4
4 years	7,974	6,899	86.5	6,627	83.1
5+ years	4,685	4,120	87.9	4,016	85.7
Occupation:					
White-collar workers	33,709	28,167	83.5	26,898	79.8
Manual workers	25,229	17,434	69.1	15,719	62.3
Service workers	8,078	5,615	69.5	5,068	62.7
Farmworkers	2,987	2,380	79.7	2,087	69.9
Family income:					
Under $3,000	11,293	7,381	65.3	6,037	53.5
$3,000 to $4,999	14,557	9,641	66.2	8,435	57.9
$5,000 to $7,499	22,870	16,475	72.0	15,019	65.7
$7,500 to $9,999	18,920	14,807	78.3	13,806	73.0
$10,000 to $14,999	19,744	16,333	82.7	15,496	78.5
$15,000 and over	9,707	8,521	87.8	8,162	84.1

Note: The numbers are in the thousands and the figures are for the civilian noninstitutionalized population.

TABLE 5. RESTRICTIONS ON THE VOTE IN LOUISIANA AND IDAHO

Persons prohibited from voting include:

IN LOUISIANA

Those who are not U.S. citizens.
Those who do not meet residency requirements.
Those under 21.
Those who fail literacy test.
Those judged insane or placed under guardianship.
Those who commit a felony.*
Inmates of prison.
Inmates of charitable institutions.
Deserters.
Those dishonorably discharged from military service (unless pardoned).
Those of bad character.
Those convicted of a crime carrying 6 months or more imprisonment.
Those in "common law" marriages.
Parents of illegitimate children.

IN IDAHO

Those who are not U.S. citizens.
Those who do not meet residency requirements.
Those under 21.
Those judged insane or placed under guardianship.
Those who commit a felony.*
Prostitutes.
Persons who frequent houses of ill fame.
Persons who lewdly cohabit together.
Those in prison.
Those convicted of a criminal offense.
Bigamists.
Polygamists.
Those living in or encouraging others to live in "patriarchial, plural or celestial marriages".
Those who teach State laws are not supreme.
Those of Chinese or Mongolian descent.

*Unless civil rights have been restored.

Source: See Tables that follow.

TABLE 6.—VOTER REGISTRATION RESULTS FROM VOTING RIGHTS ACT OF 1965, BY RACE

State	Percent registered	
	Prior to act	1968
abama:		
Nonwhite	19.3	51.6
White	69.2	89.6
Arkansas:		
Nonwhite	40.4	62.8
White	65.5	72.4
Florida:		
Nonwhite	51.2	63.6
White	74.8	81.4
Georgia:		
Nonwhite	27.4	52.6
White	62.2	80.3
Louisiana:		
Nonwhite	31.6	58.9
White	80.5	93.1
Mississippi:		
Nonwhite	6.7	59.8
White	69.9	91.5
North Carolina:		
Nonwhite	46.8	51.3
White	96.8	83.0
South Carolina:		
Nonwhite	37.3	51.2
White	75.7	81.7
Tennessee:		
Nonwhite	69.5	71.7
White	72.9	80.6
Texas:		
Nonwhite	[1] 53.1	61.6
White		53.3
Virginia:		
Nonwhite	38.3	55.6
White	61.6	63.4

[1] A breakdown by race is not available.

Source: Political Participation: A Report of the United States Commission on Civil Rights (Washington, D.C.: U.S. Government Printing Office, 1968), pp. 12-13.

TABLE 7.—ESTIMATED NUMBER AND PERCENTAGES OF VOTING-AGE NEGROES REGISTERED TO VOTE IN 11 SOUTHERN STATES, 1940-66

Year	Estimated number	Percentage
1940	250,000	5
1947	595,000	12
1952	1,008,614	20
1956	1,238,038	25
1958	1,266,488	25
1960	1,414,052	28
1964	1,907,279	38
1966	2,306,434	46

Source: Donald R. Matthews and James W. Prothro, Negroes and the New Southern Politics (New York: Harcourt, Brace & World, Inc., 1966), p. 18.

TABLE 8.—STATE RESIDENCE REQUIREMENTS

State	In State	In county	In precinct	In city	Presidential waiver	Former residents
Alabama	1 year	6 months	3 months		None	
Alaska	do		30 days		No residence requirement, special ballot	May vote absentee for President until new State requirements are met.
Arizona	do	30 days	do		Not less than 60 days and registered voter in previous State.	May vote for 15 months after leaving State if cannot vote in new State.
Arkansas	12 months	6 months	1 month		None	
California	1 year	90 days	54 days		At least 54 days but less than 1 year, special ballot.	
Colorado	do	do	22 days if moved to another county within 90 days of election.		Not less than 6 months in State; 90 days in county; 15 days in precinct absentee ballot.	
Connecticut				6 months	At least 60 days but less than 6 months at town clerk's office within 30 days of election.	May vote absentee in old town 24 months if cannot qualify in new State.
Delaware	1 year	90 days	30 days		At least 3 months, may register for a presidential ballot only in Wilmington and vote in Wilmington on election day.	
District of Columbia	do				None	
Florida	do	6 months			No residence requirement, must register between 45th and 75th days prior to election, must cancel old registration, must vote by 5 p.m. of day before election.	
Georgia	do	do			At least 30 days but less than 1 year, and registered voter in previous State, special location.	
Hawaii	do	3 months [1]			Must meet all requirements to vote except residency, special ballot.	
Idaho	6 months	30 days	90 days (for county seat election).		At least 60 days but less than 6 months, special absentee ballot.	
Illinois	1 year	90 days	30 days		Less than 1 year in State or 90 days in county but in election district at least 60 days before election, special ballot.	
Indiana	6 months	60 days (township).	do		None	
Iowa	do	60 days	10 days (for municipal and special).		do	
Kansas	do		30 days		At least 45 days but less than 6 months in township, precinct, or ward, special ballot.	
Kentucky	1 year	6 months	60 days		None	
Louisiana	do	do	3 months		Less than 1 year and registered voter in previous State, special ballot.	
Maine	6 months			3 months	No residence requirement, special ballot	
Maryland	1 year	6 months (or city).	6 months (if less vote in old precinct).		Less than 6 months in State provided resided in ward or election district at least 45 days before election.	
Massachusetts	do			6 months (or town).	Less than 1 year but at least 31 days in city or town preceding election, special absentee ballot.	
Michigan	6 months			(2)	Less than 6 months but more than 30 days & is ineligible to vote in old state-special ballot.	May vote after leaving State if cannot vote in new State.
Minnesota	do		30 days (if less may vote in former precinct if in same municipality).		Less than 6 months must apply at least 30 days prior to election, special ballot.	
Mississippi	1 year	1 year	6 months		None	
Missouri	do	60 days	In some counties precinct residence requirement of 10 days.		Less than 1 year but more than 60 days, special ballot.	
Montana	1 year	30 days			None	
Nebraska	6 months	40 days	10 days		Less than 6 months in State; or less than 40 days in county but more than 2 days—special ballot.	
Nevada	do	30 days	do		None	
New Hampshire	do		6 months (in ward or town)		Less than 6 months but more than 30 days—special ballot.	
New Jersey	do	40 days			Less than 6 months but at least 40 days in State and county—special ballot.	May vote by special absentee ballot for President if cannot vote in new state.
New Mexico	1 year	90 days	30 days		None	
New York	3 months	3 months (city or village).			Must be resident for 3 months and 30 days in election district—special ballot.	
North Carolina	1 year		30 days (may vote in old precinct).		Less than 1 year but more than 60 days—special ballot.	
North Dakota	1 year	90 days	30 days		Was a citizen of another State and meets all other requirements to vote, no residence requirement, special ballot.	
Ohio	do	40 days	40 days		Less than 1 year but more than 40 days and was a qualified voter in former State, special ballot.	
Oklahoma	6 months	2 months	20 days		Less than 6 months but more than 15 days, meets all other requirements and was qualified voter in former State, special absentee ballot.	
Oregon	do				Less than 6 months to 5 p.m. on day before election, special ballot.	
Pennsylvania	90 days		60 days		None	
Rhode Island	1 year			6 months	do	
South Carolina	1 yr.[4] (ministers, teachers, and their spouses 6 months).	6 months	3 months		do.[4]	
South Dakota	1 year (5 years in United States).	90 days	30 days		do.[4]	
Tennessee	1 year	3 months			do	
Texas	do	6 months			Less than 1 year but more than 60 days and was qualified voter in former State—special ballot.	May vote absentee for President for 24 months after leaving State if cannot vote in new State.
Utah	do[5]	4 months	60 days		None	
Vermont	do			90 days	do	
Virginia	do[7]	6 months	30 days		do	

Footnotes at end of table.

State	In State	In county	In precinct	In city	Presidential waiver	Former residents
Washington	1 year	90 days	30 days		Less than 1 year but more than 60 days, special ballot.	
West Virginia	do	60 days			None	
Wisconsin	6 months		10 days (if less may vote in old precinct).		Less than 6 months and was qualified voter in former State, no residence requirement, special ballot.	May vote absentee for President for 24 months after leaving State if cannot vote in new State.
Wyoming	1 year	60 days	10 days		None	May vote absentee until new State requirements are met.

[1] State representative district.
[2] On or before 5th Friday preceding election (if less may vote in old district).
[3] A constitutional amendment submitted to the voters in the November 1970 election proposing that a Presidential waiver of some type be put into practice was adopted; further details are to be decided by the Nevada State Legislature.
[4] The results of the constitutional amendment submitted to the voters in the November 1970 election to change the requirements to 6 months in the State, 3 months in the county, and 30 days in the precinct, and proposing a Presidential waiver, are pending.
[5] The results of the constitutional amendment submitted to the voters in the November 1970 election proposing a Presidential waiver are pending.
[6] A constitutional amendment was passed in the November 1970 election changing the requirements to 90 days in the State, 60 days in the county, and 30 days in the precinct.
[7] A constitutional amendment was passed in the November 1970 election changing the requirements to 6 months in the State and 30 days in the precinct.

Source: "Election Laws of the Fifty States and the District of Columbia," the Library of Congress, Legislative Reference Service, June 5, 1968; Local Election Officials.

TABLE 9.—REQUIREMENTS TO VOTE (OTHER THAN RESIDENCE REQUIREMENTS)

State	Citizenship required	Age	Literacy required	Loyalty oath
Alabama	X	21	X—Read and write any article of U.S. Constitution in English.[1]	X—Also must be of good character and embrace the duties and obligations of citizenship under the Constitutions of the United States and Alabama.
Alaska	X	19	X—Read or speak English.	
Arizona	X	21	X—Able to read U.S. Constitution and sign name.	
Arkansas	X	21		
California	X	21	X—Able to read Constitution in English and write his name.	
Colorado	X	21		
Connecticut	X	21	X—Able to read U.S. Constitution and Connecticut statutes in English.	X—Also good moral character.
Delaware	X	21	X—Able to read State constitution in English and write name.	
Florida	X	21		X
Georgia	X	18	X—Read and write in English the United States or Georgia Constitution or be of good character and understand the duties and obligations of citizenship under a republican form of government.	
Hawaii	X	20	X—Able to read, write, and speak English or Hawaiian.	
Idaho	X	21		X
Illinois	X	21		
Indiana	X	21		
Iowa	X	21		
Kansas	X	21		
Kentucky	X	18		
Louisiana	X	21	X—Able to read any clause in United States or Louisiana Constitutions in English language or in mother tongue and interpret it and be of good character attached to the principles of the United States and Louisiana Constitutions and interpret sections thereof when read to him.	
Maine	X	21	X—Able to read the Constitution in English and write his name.	
Maryland	X	21		
Massachusetts	X	21	X—Able to read State constitution in English and write name.	
Michigan	X	21		
Minnesota	X[2]	21		
Mississippi	X	21	X—Able to read and write.	X[3]
Missouri	X	21		
Montana	X	21		
Nebraska	X	21		
Nevada	X	21		
New Hampshire	X	21	X—Read the Constitution in English and write.	
New Jersey	X	21		
New Mexico	X	21		
New York	X[4]	21	X—Able to read and write English.	
North Carolina	X	21	X—Read and write any section of the Constitution in English.	X
North Dakota	X	21		
Ohio	X	21		
Oklahoma	X	21		
Oregon	X	21	X—Able to read and write English.	
Pennsylvania	X	21		
Rhode Island	X	21		
South Carolina	X	21	X—Must be able to read and write any section of State constitution or own and pay taxes on $300 of assessed property.	
South Dakota	X[5]	21		
Tennessee	X	21		
Texas	X	21		
Utah	X[6]	21		
Vermont	X	21		X
Virginia	X	21	X—Must make application to vote in own handwriting.	
Washington	X	21	X—Able to read and speak English.	
West Virginia	X	21		
Wisconsin	X	21		
Wyoming	X	21	X—Able to read State constitution.	
District of Columbia.	X	21		

[1] 1965 amended Act No. 288—certificate from board of education equivalent of 8th grade education, conclusive evidence of literacy.
[2] At least 3 months before election.
[3] Law amended in 1965. Oath now required only as to truth of statements of applicant to be registered to vote.
[4] Former requirement of a 90-day wait after naturalization before eligible to vote deleted L. 1967, c. 809 2.
[5] Must have resided in United States 5 years.
[6] For 90 days.

Source: Election Laws of the Fifty States and the District of Columbia, The Library of Congress, Legislative Reference Service, June 5, 1968.

TABLE 10.—PERSONS DISQUALIFIED FROM VOTING

State	Idiots, insane persons, under guardianship	Commission of felony or infamous crime	Paupers	Others
Alabama	X	X[1]		Bad character, vagrancy; making false election returns.
Alaska	X[2]	X[1]		
Arizona	X	X[1]		
Arkansas	X	X[1]		
California	X	X[1]		Improper lobbying; aliens ineligible to citizenship; duelers.
Colorado	X	X[3]		
Connecticut	X	X[1]		Bad moral character.
Delaware	X		X	Convicted of election offenses; disenfranchised 10 years.
District of Columbia	X[4]	X[1]		
Florida	X	X[1]		Interest in election wager; if convicted of engaging in duel.
Georgia	X	X[1]		Bad character.
Hawaii	X	X		Election fraud.
Idaho	X	X		Prostitutes or persons who keep or frequent houses of ill-fame; persons who lewdly cohabit together; in prison on conviction of a criminal offense; bigamists, polygamists living in "patriarchal, plural or celestial marriage" or those who encourage others to live in such marriages; teaching that laws of State are not supreme; Chinese or Mongolian descent.

Footnotes at end of table.

TABLE 10.—PERSONS DISQUALIFIED FROM VOTING—Continued

State	Idiots, insane persons, under guardianship	Commission of felony or infamous crime	Paupers	Others
Illinois	X	X		
Indiana	X	X		
Iowa	X	X		While imprisoned.
Kansas	X	X		Dishonorably discharged soldier; bribery, defrauding Government; bearing arms against United States.
	X	X	X	
	X	X	X	
	X	X	X	
Kentucky	X	X[1]		
Louisiana	X	X[1]		Inmates of prison or charitable institution, deserters and those dishonorably discharged from armed service unless reinstated; bad character, convicted of a felony and not pardoned; convicted of misdemeanor and sentenced to 90 days for each conviction of more than 1 misdemeanor; convicted and sentenced to a term of 6 months in jail for misdemeanor; lived with another in "common law" marriage within 5 years of applying to vote; bearing illegitimate child within 5 years immediately prior to applying to vote; having been proven or acknowledging himself the father of illegitimate child within 5 years of applying to vote.
Maine	X		[6]	
Maryland	X	X[1]		Convicted for illegal vote.
Massachusetts	X		[6]	Corrupt election practices; disenfranchised for 3 years.
Michigan		[7]		
Minnesota	X	X[1]		
Mississippi	X	X		Indians not taxed; duelers; bad moral character.
Missouri	X	X[9]	X	While in prison or in poor house.
Montana	X	X[1]		
Nebraska	X	X[1]		
Nevada	X	X[1]		Duelers.
New Hampshire		X[1]	X	Violation of election law; those excused from paying taxes.
New Jersey	X	X[1]		Violation of election law.
New Mexico	X	X[1]		Indians not taxed.
New York	X	X[1]		Election offense cannot vote at that election.
North Carolina	X	X[1]		
North Dakota	X	X[1]		
Ohio	X	X[1]		2d offense under election laws.
Oklahoma	X	X[1]		While in poor house or prison.
Oregon	X	X[10]		While in prison.
Pennsylvania				Election offense; disfranchisement 4 years; bribery at election for such election.
Rhode Island	X	X[1]	X	Residing on land ceded by Rhode Island to United States.
South Carolina	X	X[1]	X	While in prison and if convicted for dueling.
South Dakota	X	X[1]		
Tennessee		X[1]		
Texas	X	X[1]	X	Duelers.
Utah	X	X[1]		
Vermont				Bribery for vote, disenfranchised for that election.
Virginia	X	X	X	Duelers.
Washington	X	X[1]		Indians not taxed; subversive activities.
West Virginia	X	X	X	Bribery in election, while under conviction; dishonorably discharged soldier.
Wisconsin	X	X[1]		Bribery[1] election wager; disfranchised for that election.
Wyoming	X	X[1]		

[1] Unless civil rights have been restored.
[2] Judiciary determined to be of unsound mind unless disability removed.
[3] Release from prison automatically restores rights of citizenship.
[4] Adjudicated.
[5] Under guardianship for reason of mental illness.
[6] Disqualification of paupers deleted in 1966.
[7] Legislature may enact a law excluding persons from voting (168,758 provides that persons in prison cannot vote absentee).
[8] Except war veterans.
[9] Unless civil rights have been restored. Connected with election.
[10] Law amended in 1961; now rights automatically restored.

TABLE 11.—REGISTRATION PROCEDURES, BY STATE

State	Registration— In person	Registration— By mail	Where to register	Registration period	Cancellation, registration, purge
Alabama	P		County board of registrars	Close 10 days prior to the election; open Oct. 1 to Dec. 31 in odd years, the number of days being discretionary with each county; 10 days beginning 3d Monday in January in even years; in larger cities open 4 additional times for 10 days each.	Complete registration of all persons entitled to register every 2 years.
Alaska	P	M	Local election board	Open year around; close 14 days prior to election	1968: No registration required. Present: Cancellation for failure to vote in 4 years.
Arizona	P	M	County recorder	Open year around; close 4 months prior to primary and 7 weeks prior to general election.	Cancellation for failure to vote in neither preceding primary nor general election.
Arkansas	P		Permanent registrar or his deputy.	Open year around; closes 20 days prior to election	Cancellation for failure to vote in 4 years.
California	P	M	County clerk	Open year around; closes 53 days prior to election	Cancellation for failure to vote in preceding general election.
Colorado	P	M	County clerk (Denver-Election Commission).	Open year around; closes 20 days prior to and 45 days after general election and 20 days prior to primary.	Cancellation for failure to vote once in 1 year.
Connecticut	P		Town clerk or registrar of voters.	Open 8th week prior to election and 1 day each month during the year; closes 4th week prior to any election.	Annual canvass to purge registration list.
Delaware	P	M	County Department of Elections	Precinct registration: Open on the 4th Saturday in July, 2d Saturday in Sept., and 3d Saturday in Oct. prior to election. County: any working day.	Cancellation for failure to vote in 2 years.
District of Columbia				Pre-1969: Open Jan. 1; close 45 days prior to election. At present: Open year around; close prior to election.	Pre 1969: Reregistration of all voters each election year. At present: Cancellation for failure to vote in 4 years.
Florida	P		County supervisor of registration.	Open year around; close 30 days prior to election	Cancellation for failure to vote in 2 years.
Georgia	P		County board of registrars	Open year around; close 50 days prior to election except when there is a November general election, then open 1 day a week during the 50-day period.	Cancellation for failure to vote in 3 years.
Hawaii	P	M	County clerk (Honolulu, city clerk).	Open year around; close 5th Friday before primary; open 10 days after primary; close remainder of period between primary and general election.	Cancellation for failure to vote in preceding primary or general election.
Idaho	P	M	County auditor	Open 1st Monday in March; close Saturday next preceding primary and Saturday next preceding general election.	Cancellation for failure to vote in last general election.
Illinois	P		County clerk	Open year around; close 28 days prior to election	Cancellation for failure to vote in 4 years.
Indiana	P	M	County clerk or board of registration.	Open Dec. 1 until 29 days prior to primary; open May 15 until 29 days prior to general election.	Cancellation for failure to vote in 4 years. (Changed to 2 years in 1969.)
Iowa	P	M	City or town clerk or commissioner of registration.	(a) Open year around; close 10 days before election. (b) Open 2d Tuesday and last Saturday prior to election for 3 days and on election day.	(a) Optional permanent system: Cancellation for failure to vote in 4 years; general. (b) Regular system: Cancellation for failure to vote in 2 years.
Kansas	P	M	City clerk (in Johnson, Sedgwick, Shawnee, and Wyandotte Counties with election commission).	Open year around; close 20 days prior to any election	1968: No registration required. Present: Cancellation for failure to vote in November general elections held in even numbered years.
Kentucky	P		County clerk (Louisville—board of registration commissioners).	Open year around; close 59 days prior to and 5 days after general election and primary.	Cancellation for failure to vote in any election during a 2-year period.

State	Registration— In person	Registration— By mail	Where to register	Registration period	Cancellation, registration, purge
Louisiana	P	.....	Registrar of parish	Open year around; close 30 days prior to primary and general election.	Cancellation for failure to vote in 4 years in large parishes; general reregistration every 4 years in small parishes; cancellation for failure to vote in 2 years in certain parishes.
Maine	P	M	Board of selectmen in towns; Board of registration in cities.	Depending on size of city open 4th and 8th, 6th to 10th, 8th to 14th, or 10th to 18th day prior to election; close 3, 5, 7 or 9 days prior to election.	Annual purge by registrar.
Maryland	P	.....	Board of supervisors of election	Open 1st and 3d Tuesday of each month with additional sessions at discretion of board; close 5th Monday prior to and 15 days after general and primary elections.	Cancellation for failure to vote in 5 years.
Massachusetts	P	.....	Town or city clerk	Open year around; close 31 days prior to statewide elections and 20 days prior to city elections.	Combination of annual canvass and checklist.
Michigan	P	M	City or township clerk	Open year around; close 5th Friday prior to election	Cancellation for failure to vote in 2 years.
Minnesota	P	M	City clerk or commissioner of registration.	Open year around: close 20 days prior to election	Cancellation for failure to vote in 4 years.
Mississippi	P	.....	Circuit clerk (county registrar)	Open year around; close 4 months prior to election	General reregistration at discretion of county board.
Missouri	P	.....	County clerk (Kansas City-St. Louis city and county board of election commissioners).	Open year around; close 24 days preceding election in small counties; close 4th Wednesday prior to election in large counties.	Cancellation for failure to vote in 4 years in larger cities; 2 years in smaller cities.
Montana	P	M	County clerk and recorder	Open year around; close 40 days prior to any election	Cancellation for failure to vote in any general election.
Nebraska	P	M	(County clerk, Douglas and Lancaster Counties—Election commissioner.)	Open year around; close on 2d Friday prior to election	Purge by board prior to State general elections and at their discretion.
Nevada	P	M	County clerk	Open year around; close on 7th Saturday prior to primary and 6th Saturday prior to general election.	Cancellation for failure to vote at any general election.
New Hampshire			Board of supervisors of checklist of town or city.	List posted for corrections 30 days prior to election; close to corrections 5 days prior to election.	Checklist.
New Jersey	P		City board of elections or municipal clerk.	Open year around; close 40 days prior to any election	Cancellation for failure to vote once in 4 years.
New Mexico	P	M	County clerk	Open year around; close 42 days prior to any election	Cancellation for failure to vote at last general election.
New York	P	M	Board of elections in county seat	Open year around; close 30 days prior to any election	Cancellation for failure to vote once in each period of 2 successive calendar years.
North Carolina	P	.....	County chairman of board of elections or local registrar.	Open year around; close 21 days prior to election	Cancellation for failure to vote in 4 years; general re-registration at option of county board.
North Dakota					No registration required.
Ohio	P	.....	County election board	Open year around; close 41 days prior to any election	Cancellation for failure to vote in 2 years; cities may call general re-registration every 4 years.
Oklahoma	P	.....	County election board or deputy registrar.	Open year around; close 10 days prior to any election	Cancellation for failure to vote in 4 years.
Oregon	P	M	County clerk (Portland—registrar of elections).	Open year around; close 30 days prior to any election	Annual mail canvass by board.
Pennsylvania	P	.....	County board of elections (Philadelphia—registration division).	Open year around; close 50 days prior to any election and 25 days after primary and 30 days after general election.	Cancellation for failure to vote in 2 years.
Rhode Island	P	.....	Local board of canvassers and registration.	Open year around; close 60 days prior to election	Cancellation for failure to vote in 5 years.
South Carolina	P	.....	County registration board	Open year around; close 30 days before general and primary election.	Cancellation for failure to vote in any election during period since last 2 preceding statewide elections; general registration every 10 years.
South Dakota	P	M	County auditor	Open year around; close 15 days prior to any election	Cancellation for failure to vote in 4 years.
Tennessee	P	M	County election commission	Open year around; close 30 days prior to any election	Do.
Texas	P	M	County tax assessor-collector	Open October 1; close January 31	Annual registration of all voters.
Utah	P	M	County clerk	Open 1st Tuesday; 2d Saturday; and 4th Tuesday of month prior to primary. Open 4th Saturday and 3d Tuesday and 1st Wednesday prior to general election.	Cancellation for failure to vote at last or next previous general or municipal election.
Vermont			Board of civil authority of town or city.	List posted 30 days prior to election: Closes to corrections 36 hours before the election (on Saturday before a Tuesday election).	Check list.
Virginia	P	.....	General registrar of county or city.	Open year around; close 30 days prior to election	Purge at the direction of county and once every 6 years.
Washington	P	.....	County auditor or city clerk	Open year around ;close 30 days prior to election	Cancellation for failure to vote in 30 months prior to April 1st of odd numbered years.
West Virginia	P	M	Clerk of circuit court	Open year around; close 20 days prior to election	Cancellation for failure to vote in 2 years.
Wisconsin	P	M	City, town or village clerk (Milwaukee—Board of Election Commissioners).	Open year around; closes 3d Wednesday prior to election in large cities; closes 2d Wednesday prior to election in small cities.	Cancellation for failure to vote in 2 years in small cities; annual purge in larger cities.
Wyoming	P	M	County clerk	Open year around; closes 15 days prior to and 10 days after election.	Cancellation for failure to vote in any general election.

Sources: League of Women Voters of the United States, 1730 M Street NW., Washington, D.C. 20036, "Year of the 1970 Voter—Get Ready to Vote." Robert Doty, "The Texas Voter Registration Law and the Due Process Clause," Houston Law Review, spring 1970.

TABLE 12.—ABSENTEE BALLOTS

State	Request absentee ballot when	Secure absentee ballot from	Official application	Voted ballot must be received by election officials
Alabama	From 45 to 5th day before election	Register of the county civil circuit court.	Yes	No later than day of election.
Alaska	Not more than 6 months nor less than 4 days prior to election.	Secretary of State—Pouch AA—Juneau 99801.	.....	Postmarked no later than day of election
Arizona	Within 30 days prior to the Saturday before an election.	County recorder	.....	By 7 p.m. of day of election.
Arkansas	Within 90 to 1 day prior to election	County clerk	Yes	By 7:30 p.m. of day of election.
California	Not more than 60 nor less than 7 days prior to election.	County clerk	In some counties	By 5 p.m. of day prior to election.
Colorado	From 90 days to the Friday before an election	County clerk (Denver, election commissioner).	.....	By 5 p.m. of day of election.
Connecticut	Anytime so voted ballot can be received in Connecticut by day prior to election.	Town clerk	Yes	By 6 p.m. of day prior to election.
Delaware	From 30 days to 12 noon of day prior to election	County department of elections	Yes	By 12 noon of day prior to election.
Florida	From 45 days to 5 p.m. of day prior to election	County supervisor of elections	Yes	By 5 p.m. of day prior to election.
Georgia	Within 90 to 5 days prior to election	County board of registrars	.....	By 7 p.m. of day of election.
Hawaii	Not more than 60 nor less than 5 days prior to election if within State: nor less than 10 days if outside State.	County clerk (Honolulu, city clerk)	.....	Postmarked no later than the day prior to any election.
Idaho	Anytime prior to election	County clerk	.....	By 12 noon of day of election. Return ballot by certified or registered mail.
Illinois	Not more than 30 nor less than 5 days prior to election.	County clerk (Chicago Election District—Board of election commissioners).	Yes	In time to be delivered to local precincts by 6 p.m. of election day.
Indiana	Within 90 days prior to election	County election board	Yes	By 6 p.m. of day of election.

TABLE 12.—ABSENTEE BALLOTS—Continued

State	Request absentee ballot when	Secure absentee ballot from	Official application	Voted ballot must be received by election officials
Iowa	Within 20 days prior to election	County auditor	Yes	In time to be delivered to local precinct before 8 p.m. of election day.
Kansas	For primary—between April 1 and Thursday prior to election. For General election—between September 1 and Thursday prior to election.	County clerk or election commissioner	Yes	By 12 noon of day prior to election in counties using paper ballots.
Kentucky	Anytime prior to 20 days before election	County court clerk	Yes	By 6 p.m. of day of election.
Louisiana	Between 60th and 7th day prior to election	Clerk of parish court (New Orleans, civil sheriff of parish).		In time to be delivered to the precinct by 6 p.m. of day of election.
Maine	Anytime prior to election	Town or city clerk		By 3 p.m. of day of election.
Maryland	Anytime prior to 10 days before election	Board of supervisors of elections	Yes	By 8 p.m. of day of election.
Massachusetts	Anytime prior to day before general election	City or town clerk		Before polls close on day of e ection.
Michigan	Anytime prior to election	City or township clerk	Yes	By 8 p.m. of day of election.
Minnesota	Not more than 45 nor less than 1 day prior to election.	County auditor	Yes	Before polls close on election day.
Mississippi	Not earlier than 60 days prior to election	County or city registrar		In time to be delivered to precinct before polls close.
Missouri	Between 30th and 4th day prior to election	County clerk or board of election commissioners.	Yes	By 4 p.m. of day prior to election.
Montana	Between 45th and 1 day before election	County clerk and recorder	Yes	By 8 p.m. of day of election.
Nebraska	Between 90th and 2d day prior to election	County clerk (Douglas and Lancaster Counties, election commissioner).	Yes	By 10 a.m. of Thursday, following day of election.
Nevada	Anytime prior to 7 days before election	County clerk		Before polls close on day of election.
New Hampshire	Anytime prior to election	Town or city clerk		In time to be delivered to local officials before polls close on election day.
New Jersey	Anytime prior to 8 days before election	County clerk		By 8 p.m. of day of election.
New Mexico	Anytime prior to 10 days before election	do	Yes	By 12 noon of day prior to election.
New York	Between 30th and 7th day prior to election	Board of elections of county or borough.	Yes	By 5 p.m. of Friday prior to election.
North Carolina	Between 45th and 5th day prior to election	Chairman of county board of elections	Yes	By 6 p.m. of Wednesday prior to election.
North Dakota	Within 30 days prior to election	County auditor	Yes	In time to be delivered to precinct before polls close on election day.
Ohio	Between 30th and 5th day prior to election	County election board	Yes	By 12 noon of Friday before day of election.
Oklahoma	Anytime but preferably at least 30 days before election.	do		By 5 p.m. of Friday before day of election.
Oregon	Between the 60th and 5th day prior to election	County clerk (Multnomah County, department of records and elections).		By 8 p.m. of day of election.
Pennsylvania	Anytime prior to 7 days before election	County board of elections	Yes	By 5 p.m. of Friday prior to election.
Rhode Island	Anytime, but completed form must be received by board by 21st day before election.	Local board of canvassers	Yes	By 9 p.m. of day of election.
South Carolina	Anytime prior to 30 days before election	County board of registration	Yes	Before polls close on election day.
South Dakota	Anytime prior to election	County auditor	Yes	By 7 p.m. of day of election.
Tennessee	Between 40th and 5th day prior to election	County election commission	Yes	By 10 a.m. of day of election.
Texas	Between 60th and 4th day prior to election	County clerk	Yes	By 1 p.m. of day of election.
Utah	Within 30 days prior to election; earlier if overseas.	do	Yes	By 8 p.m. of day of election.
Vermont	Anytime prior to 4th day before election	Town or city clerk	Yes	In time to be delivered to local election officials before polls close.
Virginia	Between 60 and 5 days prior to election if within United States. Between 90 and 10 days prior to election if outside United States.	Precinct or general registrar	Yes	In time to be counted in precinct before polls close.
Washington	Within 45 days prior to election	County auditor or city clerk		No later than 10 days after primary and 15 days after general election.
West Virginia	Between 60th and 4th day prior to election	Clerk of circuit court	Yes	In time to be delivered to local polls by 7:30 p.m. of election day.
Wisconsin	Between 90th and 3d day prior to election	Town or city clerk (Milwaukee, board of election commissioners).		In time to be delivered to local precinct by 8 p.m. of election day.
Wyoming	Within 40 days prior to election	County clerk		In time to be delivered to precinct official when polls open.

That All May Vote

(A report of the Freedom to Vote Task Force)

I. Let the People Choose

Forty-seven million Americans did not vote in the Presidential election of 1968.

This shocking fact must warn the American nation of the steady downward trend in voter participation. The number of non-voters in 1964 was 43 million; in 1960, 39 million. In the past eight years, there has been an increase of 8 million non-voters in Presidential elections. If this trend continues in the next 20 years, we can expect to see from 70 to 90 million American people not participating in the election for the highest office in this land.

The non-voter has undeniable power in determining the outcome of a Presidential election. In 1968, the non-voters exceeded by 17 million the total number of people who voted for Richard M. Nixon. For every vote separating the two major candidates in that election, there were 108 people who did *not* vote. In 1960, for every vote separating the major contenders there were 305 people who did *not* vote. Even in the more decisive elections in our recent history, non-voters could have changed the majority. Franklin D. Roosevelt defeated Alf Landon in 1936 by 11 million votes; Dwight D. Eisenhower defeated Adlai Stevenson in 1956 by 9.5 million votes; and Lyndon B. Johnson defeated Barry Goldwater in 1964 by 16 million votes.

Such a pitiful record of voter participation signifies a profound failing of the democratic system. The number of non-voters in the United States now is greater than the *total* electorates of such democracies as France, England, Italy, West Germany, Canada, and Australia, where voter participation is higher than in our own country. In our last Presidential election, only 61 per cent of the potential electorate voted. In the most recent parliamentary elections in Canada and England, at least 75 per cent of the potential electorate participated. Other democratic nations reach turnouts of 80 to 90 per cent.

Ironically, in earlier times more Americans voted. Between 1840 and 1900—a period marked by the beginnings of mass suffrage and preceding the adoption of restrictive voter registration requirements—an average of three out of four (76.9%) of the electorate voted. In the Presidential contest of 1876, the percentage rose to 82 per cent of the electorate.

The United States has changed immensely since 1876. In only 92 years, the population climbed from 46 million to over 200 million. The winning Presidential candidate in 1876 received 4 million votes; in 1964, the winner received ten times as many. And in 1968, in a three-candidate race, the victor received 31 million votes.

If our population growth is incredible, our technological growth is more so. It is still difficult to grasp the reality of placing a man on the moon in 1969. But other advances are also difficult to grasp. Although we live with these conveniences daily, the mere numbers are staggering: 85 million automobiles in 1968; 100 million television sets, 225 million radios. Increased mobility provided by mass transit and automobile travel should facilitate participation. Mass communication—including, along with radio and television, an abundance of newspapers, magazines, and books—should certainly contribute to an informed electorate. And the innovation of electronic voting machines has made the election process speedier.

Yet despite these technological advances, the political participation of Americans has not increased; it has declined.

The decline of democratic participation holds both a danger and a paradox. The danger is that democratic institutions cannot function effectively or respond promptly to society's needs unless citizens participate in the decisions that affect their daily lives. A government that "derives its just powers from the consent of the governed" must be able to hear the voice of the people if it is to make orderly, systematic adjustments to the problems of change. It cannot assume that silence is consent. Silence may well imply alienation, frustration and a widening rift between the government and the governed.

The paradox is that while millions of citizens, at odds with basic national policies, are struggling for a more active role in public decision-making, participation in the elec-

toral process continues to wane. We hear much talk of "participatory democracy" and "community control," but there can be little hope for success in the more difficult roles of self-determination when so many citizens are not even involved to the extent that they participate in the election of a President. If we can involve all people in Presidential elections, perhaps we will open all elections to wider participation. Such involvement will achieve needed reforms if democracy is relevant to mass society.

If the people are to make effective use of their political power, they must begin with the Presidency, the focal point of our political system. The Presidency is more important to the people now than ever before in our history. During the 19th century, when three out of four Americans voted for President, the impact of the Presidency was remote to the average citizen.

This is not true today. Now no individual can escape the constant impact of Presidential decision and action. Presidential policy toward such distant places as Vietnam, Biafra, and the Middle East is of direct concern to all. A cold war, a hot war, the threat of nuclear weaponry, and the vast power of the military-industrial complex affect us all. We must look to the wisdom and leadership of the President to solve such urgent problems as inflation, unemployment, crime, poverty, hunger, racism, repression, the pollution of our environment. The problems are legion, and Presidential action is essential to their resolution.

Yet 40 percent of the people fail to vote for the President. This fact alone warns that the system is not working well.

People who vote believe in the system. They participate. They have a stake in government. But, to the non-participants, their stake in government is not so apparent. Their alienation from the system is harmful not only in their own lives, but it threatens the survival of democracy itself.

Registration efforts must not be concerned with how people vote. The important consideration is that they vote. We can live with decisions made by a full electorate, but those who do not participate may be unwilling to live with decisions they had no voice in making. We must do everything in our power to encourage them to vote. Let the people choose.

We must remove all barriers that stand between the citizen and the ballot box. Chief among these is voter registration, which unnecessarily and arbitrarily bars millions of voters in every election. In our earlier history when we had no registration requirements, a much higher proportion of our population voted. Today, areas which have no registration requirements average 10 to 15 per cent higher in voter turnout than those that do.

The historical reasons for extensive registration requirements are no longer valid. Registration was adopted at the turn of the century to prohibit the abuses of machine politics in the growing cities of the North and to disenfranchise the Negro in the South. Some registration qualifications were intentionally designed to exclude people from voting; others were instituted for reasons long since forgotten. The time has come now for an extensive review of the entire registration process in light of modern needs.

State residency requirements alone exclude millions of mobile Americans from voting. Thirty-three states and the District of Columbia require a one year residency before an individual can register and vote. Of these states, only 18 provide any waiver of the one year requirement in Presidential elections. There can be no justification for such practices. Everyone should at least have the opportunity to vote for President.

Long lines, short hours, inaccessible places, and registration periods remote from the date of election limit registration. Periodic registration drives, with high costs and low results, manifest a system working against itself. A major drive to register voters for the New York City mayoral election in 1969 succeeded in qualifying only 70,000 voters, a mere 3 per cent of the unregistered, for a total registration of only 35 per cent of the voting age population. The cost in money and in volunteer hours was high. Other registration drives have been more successful. A highly unusual competition between two cities—Wausau, Wisconsin and Highland Park, Illinois—in 1956 resulted in registering 99 per cent of the voting age population in both cities. But despite the occasional success story, registration is undeniably a costly and losing battle.

As a result, America—history's greatest democracy—has the lowest democratic participation of any modern nation.

This need not be so. Government has a duty to encourage its citizens to vote and to facilitate the process in every way possible. Some nations seek to achieve maximum participation by compelling citizens to vote. This is not the American way. Compulsory voting may be repugnant to us, but even more repugnant are the arbitrary barriers that impede the citizen's right to vote.

II. UNIVERSAL VOTER ENROLLMENT

There is a way of achieving virtually full enrollment. It is tested, safe, inexpensive and effective. It can vastly increase voter participation. It is Universal Voter Enrollment.

Proven in Canada, South Dakota, Idaho, and in parts of California, Washington and elsewhere, it has achieved enrollments of better than 90 per cent of the voting age population. Universal Voter Enrollment shifts the initial burden of registration from the individual to the government. Government must move from old and inadequate methods that serve to inhibit voter participation to a new and effective method of enrollment. The United States is virtually the only advanced democratic nation that does not have such a plan.

The plan

In the weeks immediately preceding an election, enrollment officers would visit every residence in the land and enroll every qualified person to vote who does not refuse.

For enrollment purposes, the 435 Congressional Districts—the smallest federal election unit—would serve as the unit for enrolling voters. This assures a local operation of manageable size and of comparatively equal population, as well as one that reflects population shifts over the years. Each District would be placed under the supervision of a local District Director. Teams of volunteer sworn election enrollment officers would be recruited and trained by professional staff personnel in comprehensive canvass and enrollment procedures. They would be assigned limited areas within the District in which they would be responsible for enrolling everyone of voting age population.

The enrollment officers would begin with existing lists of state and local voting registration. In the canvass of every residence, enrollment officers would confirm the accuracy and completeness of the lists. Those already registered would be offered federal enrollment if they desired it. Errors and omissions in existing lists would be reported to local officials. In addition, every qualified person who is located and does not refuse enrollment would be placed on the rolls of the District.

Each enrollee would be given a certificate which he would sign together with the District Roll in the presence of the officer. On election day the enrollee, if not registered for state purposes, would present his enrollment certificate for validation, countersign the District Roll, and vote on a special ballot for President and Vice President. If registered for state purposes, he would vote on state ballots, but could have his federal certificate validated as evidence of his having voted.

If the proper authority in a state or local district chose to do so, it could request full state or local registration by the federal enrollment officials. Any jurisdiction which followed this course would have virtually full enrollment at no expense. State or election districts which preferred to perform enrollment functions themselves, on giving adequate evidence of non-discrimination and the removal of all arbitrary barriers to qualification and on obtaining an enrollment exceeding 90 per cent would be eligible to receive federal funds which would otherwise be spent in the jurisdiction for federal enrollment. Under either alternative, a full and uniform enrollment of all voters would be achieved.

To assure awareness of the enrollment effort, and because some people will inevitably be missed in even the most careful canvass, advertising on radio, TV, and in newspapers during the weeks of enrollment and for several days immediately preceding the election would inform the people of their duty to enroll and vote and of the procedures for doing so.

No citizen would be barred from voting because of failure to enroll before election day, or loss of enrollment certificate, or absence from his District or from the country. Nor would he be disqualified from voting for President if he changed his place of residence—even the day before the election. He would simply have to complete an affidavit identifying himself, following a procedure no more complicated than that required to cash a check. On completion of the affidavit, he would be permitted to vote, and his ballot would be placed in a sealed envelope with the affidavit attached. If he were voting outside the District—for example, at an American Consulate in a foreign country—his sealed ballot and affidavit would be placed in a special delivery envelope addressed to the District Director of his place of residence. Mailed ballots would receive full franking privileges. When the statements in his affidavit were verified, the envelope containing his ballot would be placed with all other ballots received in this manner, opened, and counted. Perjury or misrepresentation would be a federal offense.

III. THE NATIONAL ELECTION COMMISSION

To administer and supervise the Universal Voter Enrollment Plan, a National Election Commission would be created. A National Director would serve as its chief executive officer. The National Director should be a nonpartisan figure, nationally known and respected. He would be limited to a term of four years, beginning on January 1st of the year following a Presidential election. His primary responsibility would be to achieve full voter enrollment. To assist him in the execution of his responsibilities, an adequate staff of career personnel would be maintained in the national office.

A National Review Board would be appointed by the President from nominations made by the major political parties and independent non-partisan organizations. The Review Board would oversee the performance of the Commission, hear complaints, and recommend methods for improving the elective process. It would report to the President.

The Commission would also be charged with maintaining complete records of all election returns and all laws and procedures for every public election district in the nation. These would be available to the public. At present there is no single depository for such information. As a result, it is extremely difficult to obtain complete and accurate election information from existing sources.

The Commission would be authorized to study and comment on the adequacy and fairness of the election processes of any pub-

lic jurisdiction, but it would have no power over any state, local or special election district officials. The Commission would also be instructed to undertake any study requested by any public election district designed to improve voter participation or guarantee a republican form of government. It would report to the Congress after each Presidential election, evaluating the thoroughness and fairness of the registration effort and presenting the final election returns. Periodically it would make available studies on the quality of American voter participation.

The District Director in each of the 435 federal election districts would be provided with staff and funds in election years to carry out the duties of his office. Federal Election Enrollment Officers would be volunteer workers serving without compensation. Recruited from civic groups, educational institutions, and individual interests, they would be commissioned as federal officers and subject to federal penalties. They would receive suitable recognition for their public service.

Estimated total costs for the operation of the Commission are $5 million in non-Presidential election years and $50 million in Presidential election years. This averages less than 50¢ per eligible voter in election years—a small price to pay for the involvement of all citizens in the electoral process.

IV. NATIONAL ELECTIONS HOLIDAY

The Task Force recommends a national holiday on the date of every Presidential election to assure full opportunity for voter participation and to solemnize this as the most important occasion for the exercise of a citizen's obligations in a free society. The nation can no longer afford to treat voting as a secondary responsibility. The survival of our institutions of government depends on the vitalization of individual participation in the democratic process.

The recommendations embodied in this report do not promise full reform of our system of election. There is no single remedy for so diverse a society. The Universal Voter Enrollment plan does offer an effective and vital reform that assures a substantial increase in voter participation. The need now is for immediate action.

APPENDIX I

The National Election Commission

The National Election Commission would enroll all individuals of voting age population for Presidential elections. In addition, it would perform a number of duties directly related to its principal concern. The National Election Commission would:

1. Enroll all voters for Presidential elections;

2 Report on its enrollment effort and obtain complete and accurate results of each Presidential election;

3. Create an election information center, a public repository of all laws, regulations and procedures and data on voter participation and election results for federal, state, local and special district elections;

4. Study the elective process to assure full voter participation, integrity and efficiency in federal, state and local elections with authority to advise and consult with governmental and non-partisan private groups seeking to improve the democratic process and to report on elections and election practices and recommend techniques for their perfection;

5. Aid and assist governmental and private non-partisan efforts to achieve full voter participation.

6. Train federal enrollment officers and provide training programs for state and local election officials on request.

The National Election Commission would assure all qualified individuals of their right to vote for President and serve an educational function by providing information and analyses relevant to elections. It would collect election laws and the results of public elections held in the United States and make these available to all interested groups and individuals.

The National Election Commission would be non-partisan. The Director would be appointed by the President with the consent of the Senate. The Director would supervise the National Election Commission as its chief executive officer. He should be a national figure known for his integrity. The Director would be limited to one four-year term beginning on the first day of the January following a Presidential election.

The Commission would have professional staff of adequate size to perform its duties. Its division would include: (1) enrollment service, (2) information, (3) research, and (4) training. The operating budget of the Commisison would approximate $5 million annually.

The operating budget would be increased substantially in Presidential election years to approximately $50 million. The major portion of the additional expense would be to cover the costs of enrolling all eligible voters through door-to-door contact.

District Directors: In election years, the Director of the National Election Commission would appoint 435 District Directors—one for each of the Congressional Districts—to supervise the enrollment of voters within their districts.

The District Director's position would be unsalaried.

The District Director would have one responsibility—preparing for and supervising the enrollment of all voters in his district.

The District Director would receive a grant of up to 50¢ for every person of voting age residing in his district to cover enrollment expenses.

Any state or local governmental agency operating throughout a Congressional District where 90 per cent or more of the eligible electorate is enrolled through local efforts prior to July 1 of any Presidential election year may receive the federal funds available for the District as a grant-in-aid to help defray registration and election costs. A state reaching a 90 per cent or better enrollment of its eligible voters may receive a sum equivalent to the federal funds available for all Congressional Districts within its borders that attain a 90 per cent or better registration.

District Staff Director: The District Director would also have responsibility for hiring a Staff Director to serve for a six-month period (July 1-December 31) during each Presidential election year to supervise administration of the enrollment program in the district. This position would be compensated at an attractive salary to obtain the full time services of a well qualified individual who might take leave of absence from business, education or a profession.

The National Election Commission and its Director would provide the local District Director and his staff with supervision, training and all possible aid in enrolling voters in their districts. The emphasis would be on decentralizing administrative responsibilities and performance. The system as a whole must be flexible and with the capacity to adjust to the peculiar demands and enrollment needs of each of the districts.

The District Board: Each district shall have a review board of at least five members nominated in equal numbers by the political parties whose candidates received more than 10 per cent of the vote in any public election covering the entire district within the past four years. Whenever an additional board member is necessary to achieve an odd number of board members, the District Director shall appoint one member to the Board.

The District Board shall:

1. Consult with, advise, and recommend methods for full enrollment and fair election procedures to the District Director.

2. Review complaints and report its findings to the District Director and the National Review Board.

Enrollment Officials: The Staff Director, under the supervision of the District Director, and in consultation with the District Board would recruit individuals to conduct the actual enrollment of citizens. This service would be voluntary and the enrollment officers would not be financially compensated.

The enrollment officials would be drawn from civic groups, political party workers, or other organizations and individuals who might want to volunteer their services. Each district should recruit not fewer than one enrollment officer for each one hundred persons of voting age in the district.

In performing their duties, enrollment officers would be administered oaths of office as public officials and subject to legal penalties for any prospective abuse of their offices.

Enrollment officers would be required to attend training sessions prior to participating in the enrollment of voters.

National Review Board: A National Review Board of fifteen members would be appointed by the President from among those nominated by political parties and independent non-partisan citizen organizations. Nominations from the political parties would equally represent all political parties that received 5 per cent or better of the vote in the previous Presidential election. Combined with the nominations from the non-partisan citizen groups, the Board would reflect the balance of national interests.

It would be charged with overseeing the activities of the Commission. The Review Board would:

1. Consult with, advise, and recommend methods for inclusive enrollment and fair election procedures to the Director of the National Election Commission,

2. Review complaints, and

3. Recommend to the Director of the National Election Commission the improvement of practices in specific districts and order the replacement of individual District Directors where the integrity of the democratic process requires.

APPENDIX II

The Enrollment of Voters

The quadrennial enrollment of voters would begin on the first Monday in October and would be concluded by the end of the third week in October. The enrollment drive would be short and intensive. It is intended to coincide with the interest and enthusiasm generated during the campaign period. Enrollment activities would complement party and candidate efforts and should help to stimulate interest in the election and a higher turnout on election day.

Enrollment officials would be required to make a minimum of two personal calls at every place of residence in the district, if all voting age residents were not contacted on the first visit. If the personal visits fail to reach every voting age resident, the enrollment official would be required to leave notification of the times and places where the individual would be able to enroll.

The enrollment officials would be required to compare their enrollment lists with all other available voting lists compiled by state or local governmental agencies to insure that no eligible voter had been omitted from the enrollment.

If the proper state and/or local authorities requested it, enrollment officials would enroll voters for state and/or local elections at the same time they were enrolling them for the Presidential election.

Also, if the state or local authorities re-

quested it, the federal enrollment lists would be made available to the proper state or local agencies to update their enrollment records or to serve as a guide to the voting age population.

Any enrollment list not turned over to state or local authorities for the purposes specified would be destroyed within one month of the official certification of the election results. No registry of citizens would be maintained at the national or district level.

When an individual was enrolled as a voter he would receive a card certifying his enrollment. The card would bear the individual's name, his address and his signature, in addition to the signature of the enrolling official. The same information would appear on the list compiled by the enrollment official and would be available at the polls on election day.

The individual would present his voter card to the election officials at the polls on election day. The card would be validated by the election officials. The voter would also sign the enrollment registry beside the signature obtained at the time of his enrollment. These procedures would safeguard the integrity of the election.

The enrollment as described would qualify an individual to vote for the President and the Vice President. If an individual has registered under state law prior to federal enrollment, he need not enroll to vote for President.

Any individual who was eligible to vote yet whose name did not appear on the enrollment lists would have two options after the regular enrollment period had ended:

1. He could contact the District Director or other designated officials who would have the power to determine the individual's eligibility and add his name to the enrollment list, or

2. He could appear at the polls on election day, sign an affidavit that he was eligible to enroll and cast a special ballot for the President. The ballot would be sealed and then placed in an envelope with the affidavit supporting enrollment. It would be the duty of the District Director to determine the voter's eligibility. If found eligible, the ballot would then be counted along with all others cast in this manner and the results added to the election tally.

An individual who loses his enrollment card could still vote. His ballot would be held separately, under procedures described above, until his eligibility was determined by the local election officials from the information in the affidavit.

An individual absent from his home district, but otherwise eligible to vote in the election, could vote for the President at another polling place. To do so, he would have to provide the local election officials with proper identification—name, address, signature, plus personal identification similar to that for cashing a check. The burden of proof in this case would be placed on the individual. Special ballots could be provided for these contingencies. These ballots would be air mailed, special delivery—franking privileges would be provided—to the individual's home District Director. He would determine the eligibility of the voter and then count his sealed ballot along with the others received in this manner.

APPENDIX III

TURNOUT IN PRESIDENTIAL ELECTIONS, 1824–60, BY STATE

State	1824	1828	1832	1836	1840	1844	1848	1852	1856	1860
Alabama	49.1	54.6	(1)	64.9	89.7	80.3	69.7	45.3	71.0	76.7
Alaska										
Arkansas				28.9	67.6	63.5	55.9	48.6	60.2	79.5
California								75.7	81.6	71.2
Connecticut	14.9	27.2	46.0	52.3	75.7	80.0	72.3	72.3	81.8	73.3
Delaware	(1)	(1)	67.1	69.5	82.8	85.8	80.4	75.0	78.5	79.5
Florida							64.0	56.9	77.6	79.5
Georgia	(1)	31.8	29.0	61.8	88.8	92.6	86.0	54.8	82.8	85.1
Hawaii										
Illinois	24.3	52.4	46.0	43.5	86.0	76.0	70.5	64.7	72.4	80.5
Indiana	37.1	68.7	71.9	69.2	84.4	84.7	78.5	80.3	88.3	89.4
Iowa							90.7	80.2	87.0	94.2
Kentucky	25.4	70.7	74.0	61.1	74.3	80.7	73.9	64.2	76.7	74.1
Louisiana	(1)	36.2	22.3	19.2	39.4	47.1	51.1	48.7	53.6	58.6
Maine	19.1	42.7	66.2	37.7	83.7	71.3	68.4	61.2	78.1	68.9
Maryland	53.7	70.3	55.7	67.6	84.5	81.4	76.0	72.8	80.0	81.1
Massachusetts	29.0	25.7	39.4	43.4	66.7	65.8	64.6	57.8	69.8	65.8
Michigan				35.0	84.9	79.8	74.5	71.3	81.1	80.0
Minnesota										74.9
Mississippi	41.3	56.6	28.0	64.4	88.2	86.1	80.7	61.7	78.3	89.5
Missouri	19.8	54.0	41.0	36.1	75.1	77.8	62.5	46.3	54.7	69.4
New Mexico	18.0	74.3	70.1	38.2	86.3	68.9	67.4	65.7	87.9	80.7
New Jersey	35.6	71.0	68.8	69.2	80.4	87.2	82.7	79.8	83.1	89.4
New York	(1)	80.2	84.2	70.5	91.9	92.1	79.6	84.7	89.9	95.5
North Carolina	41.8	56.9	31.3	53.0	82.4	78.8	71.4	65.8	66.7	70.9
Ohio	34.8	75.9	73.9	75.5	84.5	83.6	77.5	80.6	82.3	88.3
Oregon										97.8
Pennsylvania	18.8	56.5	52.3	53.1	77.5	77.3	76.3	72.6	80.8	78.4
Rhode Island	12.0	17.1	26.3	23.8	33.2	45.1	41.1	57.8	62.9	59.4
South Carolina	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Tennessee	28.3	55.0	31.3	57.3	89.7	89.8	83.4	72.9	82.9	80.9
Texas							69.6	42.6	58.1	67.4
Vermont	(1)	54.5	50.0	52.5	73.8	70.8	70.5	63.5	72.5	63.0
Virginia	11.6	27.7	31.1	35.2	54.7	54.2	47.3	63.3	67.8	71.5
Wisconsin							58.3	39.6	80.8	79.0
Total United States	26.9	57.6	55.4	57.8	80.2	78.9	72.7	69.6	78.9	81.2

PRESIDENTIAL TURNOUT BY STATE, 1864—1900

State	1864	1868	1872	1876	1880	1884	1888	1892	1896	1900
Alabama	(1)	77.9	79.6	72.8	58.8	54.2	56.6	68.5	51.9	38.9
Arkansas	(1)	49.0	67.6	64.7	59.5	59.1	68.9	55.0	48.2	40.8
California	64.6	72.3	57.9	75.9	67.1	68.8	76.5	73.8	75.0	69.9
Colorado				(1)	57.4	52.4	57.4	54.6	65.2	71.2
Connecticut	76.3	80.1	71.3	82.0	81.4	79.9	85.5	85.4	83.3	79.7
Delaware	79.8	84.3	73.3	73.4	81.9	76.0	68.8	80.4	64.6	81.9
Florida	(1)	(1)	77.0	93.5	85.9	83.1	85.0	35.3	40.0	29.9
Georgia	(1)	73.2	55.2	63.5	49.4	41.0	37.6	53.1	34.3	24.4
Idaho								63.1	76.1	77.8
Illinois	69.2	76.7	75.0	87.5	89.9	84.4	82.9	86.0	95.7	89.9
Indiana	82.9	92.5	85.3	94.6	94.4	92.2	93.3	89.0	95.1	92.1
Iowa	95.4	97.7	79.0	99.1	93.7	90.0	87.9	88.5	96.1	91.0
Kansas	31.8	51.3	77.8	65.7	80.8	85.1	88.2	80.7	85.5	91.2
Kentucky	44.0	69.9	66.2	80.9	75.5	70.8	81.1	73.8	89.2	87.0
Louisiana	(1)	75.9	76.4	77.9	50.3	49.8	50.0	45.1	35.8	21.7
Maine	73.2	74.4	57.9	71.5	85.0	75.0	71.7	63.5	63.0	56.0
Maryland	57.7	72.6	75.0	82.7	79.8	79.9	84.8	79.9	87.3	85.9
Massachusetts	63.8	66.9	62.0	72.3	71.2	69.3	71.7	74.6	70.6	67.4
Michigan	66.2	77.4	64.0	78.0	75.5	76.0	80.9	73.2	95.3	89.0
Minnesota	57.6	71.1	67.5	71.3	68.9	68.2	76.3	66.6	75.2	76.7
Mississippi	(1)	(1)	71.1	79.7	50.1	49.2	43.8	18.8	22.1	16.9
Missouri	36.3	43.0	66.6	76.6	78.0	77.0	81.8	77.4	88.5	83.1
Montana								74.2	73.8	75.3
Nebraska		46.1	43.7	53.0	67.7	67.8	75.9	66.2	74.1	80.2
Nevada	57.5	73.7	74.4	90.0	76.5	61.6	71.4	70.1	69.2	71.4
New Hampshire	84.3	82.3	80.9	92.0	93.3	87.4	90.2	85.8	78.1	83.9
New Jersey	81.0	89.5	81.4	94.8	95.4	88.6	91.9	90.3	88.4	85.9
New York	89.3	91.7	80.5	89.6	89.3	87.5	92.3	86.3	84.3	84.6
North Carolina	(1)	91.2	71.9	9 .1	83.0	86.3	85.2	78.0	85.3	70.2
North Dakota								56.6	63.1	65.2
Ohio	87.6	90.4	84.4	94.4	94.4	93.4	91.9	86.2	95.5	91.5
Oregon	91.8	85.8	60.5	70.4	79.1	65.0	93.5	58.4	69.9	58.3
Pennsylvania	85.0	88.3	68.6	83.5	88.8	82.3	83.0	75.7	81.8	75.0
Rhode Island	58.8	46.6	40.2	49.4	48.7	48.1	53.4	63.0	59.2	56.2
South Carolina	(1)	79.6	60.4	101.0	83.9	43.0	35.0	29.1	25.2	18.0
South Dakota								70.7	78.0	85.4
Tennessee	(1)	39.7	66.2	74.6	75.1	73.1	77.6	64.0	70.8	56.6
Texas	(1)	(1)	56.3	54.6	68.8	80.2	78.3	79.4	88.3	61.4
Utah									79.4	84.5
Vermont	77.0	75.9	69.1	83.3	81.6	70.5	71.4	60.4	67.5	57.9
Virginia	(1)	(1)	66.2	77.6	64.1	81.7	83.2	75.3	71.0	59.6
Washington								67.3	63.1	64.9
West Virginia	51.6	58.0	61.2	83.6	82.6	86.7	94.5	90.3	93.6	91.3
Wisconsin	66.8	79.8	70.6	83.9	82.4	82.2	81.1	76.8	84.9	77.5
Wyoming								47.7	50.7	51.1
Total United States	73.8	78.1	71.3	81.8	79.4	77.5	79.3	74.7	79.3	73.2

PRESIDENTIAL TURNOUT BY STATE, 1904–40

State	1904	1908	1912	1916	1920	1924	1928	1932	1936	1940
Alabama	24.2	21.5	22.6	24.3	20.6	13.5	19.1	17.5	18.8	18.9
Arizona			38.6	48.7	46.8	44.4	47.9	55.1	52.0	57.0
Arkansas	33.8	40.2	30.7	40.0	20.9	15.3	21.4	22.1	17.3	18.2
California	61.7	60.2	46.9	58.0	47.2	50.8	59.0	64.0	66.0	73.4
Colorado	71.0	65.4	59.1	60.5	56.0	62.5	68.4	75.3	75.5	79.7
Connecticut	80.5	76.3	71.5	73.8	58.7	57.9	72.6	70.8	74.6	77.2
Delaware	82.0	86.2	84.1	86.1	75.1	68.1	75.3	76.3	79.8	79.4
Florida	24.4	26.2	24.2	33.8	30.3	17.0	33.0	30.5	31.3	40.9
Georgia	23.8	22.0	18.9	23.7	10.5	11.5	15.7	16.5	17.7	17.7
Idaho	65.3	65.8	59.8	67.4	61.1	65.2	66.0	74.4	71.8	77.0
Illinois	80.5	81.6	74.7	66.8	60.5	64.1	73.4	74.6	81.6	82.2
Indiana	89.7	89.9	77.8	81.9	71.0	70.7	74.9	78.9	78.7	81.1
Iowa	79.7	77.6	74.2	75.0	64.5	68.4	68.9	69.1	73.6	75.5
Kansas	78.1	82.5	76.3	65.8	58.0	64.1	65.9	71.1	76.6	75.1
Kentucky	77.7	84.0	74.6	82.8	71.8	61.0	67.7	67.4	59.9	59.5
Louisiana	15.6	19.8	19.3	21.6	14.1	12.4	20.1	23.4	27.3	29.4
Maine	49.5	53.2	63.4	65.1	46.9	44.9	60.2	66.3	64.4	65.0
Maryland	69.6	70.9	64.8	68.1	52.3	41.0	56.8	51.2	58.1	57.2
Massachusetts	67.6	65.1	63.4	62.8	53.3	56.6	74.0	69.5	75.9	78.7
Michigan	78.9	75.9	69.8	72.9	55.1	53.7	56.3	62.0	62.1	66.6
Minnesota	64.3	66.1	61.2	65.0	59.5	62.0	68.5	66.2	69.7	72.3
Mississippi	15.6	16.5	15.1	20.0	9.4	12.0	15.2	13.8	14.4	14.7
Missouri	74.9	79.7	74.9	81.5	67.6	63.3	69.1	70.9	77.3	74.4
Montana	65.8	61.9	63.3	68.0	61.4	59.2	65.3	70.3	70.8	72.2
Nebraska	70.1	77.8	77.1	84.5	55.7	63.8	71.5	72.1	75.6	75.4
Nevada	59.2	92.1	68.1	73.6	61.0	56.1	63.0	73.2	69.1	75.7
New Hampshire	81.6	80.8	78.2	77.3	67.5	67.4	77.8	77.5	77.8	79.6
New Jersey	83.6	82.4	69.1	70.7	59.1	60.7	75.6	72.0	75.0	76.1

PRESIDENTIAL TURNOUT BY STATE, 1904–40—Continued

State	1904	1908	1912	1916	1920	1924	1928	1932	1936	1940
New Mexico			59.6	77.8	62.3	61.8	60.3	69.7	68.7	66.6
New York	83.3	79.7	72.1	71.6	56.4	56.3	68.3	66.1	72.6	75.7
North Carolina	46.1	52.0	46.1	49.8	44.6	35.9	43.1	44.0	47.4	42.7
North Dakota	61.4	73.2	60.8	77.7	67.4	63.8	72.4	74.5	78.0	78.4
Ohio	83.1	87.5	74.8	76.5	62.6	57.8	66.9	65.5	71.8	75.4
Oklahoma		71.5	57.4	60.4	48.6	47.4	50.5	54.4	56.4	60.5
Oregon	47.6	47.3	51.8	54.2	52.3	55.3	57.7	60.7	62.5	67.1
Pennsylvania	74.3	71.8	64.4	63.4	42.8	45.8	62.7	53.1	72.5	67.6
Rhode Island	63.4	62.4	62.7	65.8	57.9	66.3	68.9	71.7	78.0	75.6
South Carolina	18.4	20.6	14.6	17.5	8.6	6.4	8.5	12.3	12.5	10.1
South Dakota	73.0	69.5	61.9	60.9	56.6	59.4	72.0	76.5	77.5	79.5
Tennessee	47.7	48.1	45.1	46.6	35.4	23.3	25.7	26.5	30.0	30.6
Texas	29.6	33.6	30.8	35.0	21.7	25.8	24.8	27.2	24.8	30.1
Utah	78.4	73.0	66.4	79.5	69.6	69.7	73.4	80.0	77.9	83.1
Vermont	50.7	48.9	56.8	58.2	45.3	51.3	66.8	66.6	68.5	22.1
Washington	60.9	59.0	50.8	54.7	52.4	51.2	56.6	64.2	66.6	70.6
West Virginia	89.2	86.9	81.9	83.6	71.7	75.2	76.4	81.9	84.9	83.0
Wisconsin	72.0	68.7	68.7	70.7	52.3	57.3	65.9	65.1	68.9	72.4
Wyoming	50.8	49.2	50.3	54.9	52.3	71.0	68.7	74.9	74.0	74.8
Total, United States	65.2	65.4	58.8	61.6	49.2	48.9	56.9	56.9	61.0	62.5

PRESIDENTIAL TURNOUT BY STATE 1944–68

State	1944	1948	1952	1956	1960	1964	1968
Alabama	15.0	12.6	24.2	27.6	31.2	36.0	51.5
Alaska					49.1	48.7	56.4
Arizona	42.2	45.4	53.9	47.8	53.8	54.7	43.6
Arkansas	19.3	21.9	36.9	38.0	41.1	49.9	52.5
California	65.1	63.2	69.4	64.0	67.9	64.7	61.0
Colorado	67.9	64.5	76.2	69.2	71.4	68.0	70.2
Connecticut	73.9	71.2	80.9	75.8	76.8	71.8	68.5
Delaware	66.9	68.5	78.4	72.7	73.6	71.1	71.7
Florida	33.5	34.1	47.6	43.6	50.0	52.7	58.2
Georgia	17.6	21.4	31.9	29.6	31.2	44.9	41.6
Hawaii					53.0	52.5	62.7
Idaho	64.5	63.1	78.2	75.2	80.7	75.8	72.8
Illinois	74.8	70.3	76.0	72.4	75.7	74.0	69.3
Indiana	71.7	67.2	75.7	73.7	76.9	74.0	71.5
Iowa	64.3	62.4	75.8	74.0	76.5	72.3	71.6
Kansas	62.2	65.0	71.7	67.4	70.3	64.8	63.5
Kentucky	51.9	49.6	58.9	58.6	60.5	52.9	46.8
Louisiana	25.1	27.5	40.2	36.0	44.8	47.3	55.6
Maine	57.3	49.0	63.1	61.8	72.6	65.6	67.5
Maryland	46.7	41.7	57.5	54.6	57.2	56.0	57.7
Massachusetts	71.0	71.5	75.0	72.0	73.8	71.3	67.8
Michigan	63.7	55.6	68.5	71.1	72.4	68.9	64.9
Minnesota	63.0	65.7	72.6	68.7	77.0	76.8	71.8
Mississippi	15.0	16.0	23.8	21.0	25.5	32.9	51.6
Missouri	62.2	61.0	71.8	68.8	71.8	67.4	63.1
Montana	59.0	62.3	71.8	71.6	61.4	69.8	65.0
Nebraska	67.9	58.2	71.9	67.6	71.4	66.6	59.9
Nevada	64.8	64.0	69.7	65.9	61.2	55.5	54.2
New Hampshire	73.5	70.3	79.2	74.4	79.4	72.3	70.9
New Jersey	69.1	63.0	72.3	68.9	71.8	68.6	65.1
New Mexico	48.8	53.4	60.5	56.8	62.1	63.9	63.3
New York	70.9	65.0	71.2	67.9	67.0	63.2	57.3
North Carolina	38.0	35.4	51.3	47.4	53.5	51.8	54.7
North Dakota	61.5	61.6	75.5	71.3	78.5	72.2	65.5
Ohio	66.9	58.4	69.7	66.4	71.3	66.6	63.6
Oklahoma	52.8	52.5	68.6	61.4	63.8	62.5	62.9
Oregon	58.4	56.5	69.6	71.1	72.3	69.6	64.4
Pennsylvania	59.8	56.0	66.5	65.5	70.5	68.1	63.2
Rhode Island	65.0	66.0	79.8	73.2	75.1	68.7	68.2
South Carolina	9.8	12.8	29.1	24.7	30.5	38.0	48.0
South Dakota	59.3	63.3	74.4	74.7	78.3	72.6	70.8
Tennessee	28.2	28.7	44.7	45.9	50.3	51.1	53.0
Texas	28.2	26.0	43.5	37.9	41.8	44.4	51.6
Utah	75.0	76.0	82.9	77.2	80.1	76.9	76.9
Vermont	56.9	54.5	66.8	66.5	72.5	68.0	65.5
Virginia	22.3	21.6	29.9	31.8	33.3	41.0	53.1
Washington	67.0	63.2	71.2	70.4	72.3	71.5	65.0
West Virginia	65.5	65.8	76.3	74.6	77.2	75.2	70.0
Wisconsin	65.7	59.8	72.5	67.8	73.4	70.8	68.0
Wyoming	63.3	59.6	72.5	67.4	74.0	73.2	69.3
District of Columbia						40.2	33.5
Total United States	55.9	53.0	63.3	60.6	64.0	61.8	60.6

[1] Figures not available.

Source: Compiled by Professor Walter Dean Burnham, Department of Political Science, Washington University, St. Louis, Mo.

APPENDIX IV.—TURNOUT IN U.S. SENTATE ELECTIONS, 1946–68

State	1946	1948	1950	1952	1954	1956	1958	1960	1962	1964	1966	1968
Alabama		[1]	[1]		[1]	[1]		[1]	21.5		40.5	44.4
Alaska							75.6	72.2	51.5		44.8	
Arizona	31.7		43.9	52.0		47.7	48.5		43.8	53.3		50.6
Arkansas		[1]		[1]	[1]	[1]		[1]	[1]		[1]	50.3
California	39.7		51.1	61.9	49.0	63.7	58.7		55.9	65.3		59.7
Colorado		70.8	53.3		56.0	66.8		71.6	57.2		55.8	66.5
Connecticut	49.9		62.0	75.7		76.4	66.2		63.3	71.1		66.1
Delaware	59.9	72.1		77.6	62.7		57.4	73.9		70.7	56.3	
Florida	[1]		[1]	[1]		[1]	[1]		28.3	45.2		52.7
Georgia	[2]	[2]	[2]	[2]	[1]	[1]		[1]	31.7		[1]	[1]
Hawaii								[3] 51.0	59.1	52.9	52.0	
Idaho	56.9	67.4	57.7		64.3	75.2		78.5	67.7		65.1	71.8
Illinois		66.0	60.7		56.1	70.0		74.9	59.5		59.4	67.4
Indiana	53.9		62.9	74.1		72.0	62.4		64.8	73.7		69.4
Iowa		58.2	50.6		51.3	70.7		74.2	48.8		52.4	69.3
Kansas		55.4	41.8		49.1	64.5		67.6	48.4		51.8	59.6
Kentucky	38.6	49.1	35.4	58.0	46.9	54.4		58.0	43.7		37.0	45.7
Louisiana	[1]	[1]			[1]	[1]		[1]	28.1		[1]	[1]
Maine	31.0	39.3		43.5	43.3		50.2	72.6		66.1	55.6	
Maryland	33.7		40.3	56.1		52.5	43.3		38.7	54.3		54.3
Massachusetts	53.8	63.7		73.3	57.5		58.7	74.9	64.7	71.2	60.9	
Michigan	40.9	51.7		66.2	49.2		48.8	71.4		66.5	51.1	
Minnesota	47.2	64.0		73.1	58.5		57.0	76.7		76.5	62.2	
Mississippi	[1]	[1]	16.8	[1]	[1]		[1]	[1]	[1]	[1]	31.5	
Missouri	42.8		48.3	70.3		66.3	44.0	70.9	45.9	65.3		61.2
Montana	64.0	69.2		72.5	60.2		57.5	71.5		70.9	65.8	
Nebraska	45.8	55.7	66.0	67.1	48.9		46.7	69.9		64.8	56.6	
Nevada	55.8		57.6	70.5	57.4	64.3	55.2		50.6	54.7		54.1
New Hampshire		61.1	53.7		48.4	71.0		78.4	59.5			67.7
New Jersey	45.4	57.0		66.	50.6		51.5	69.6		65.7	49.7	
New Mexico	48.9	63.9		63.8	49.1		49.1	61.2		63.8	49.8	
New York	51.7		52.7	66.6		64.5	53.1		51.8	63.5		56.1
North Carolina		[1]	[1]	[1]	[1]	[1]		[1]	31.5		31.7	48.8
North Dakota	[2]		50.9	68.0		64.4	54.0		64.3	71.9		65.3
Ohio	43.9		51.2	64.3	45.9	61.8	55.4		50.5	64.4		60.0
Oklahoma		49.3	45.7		43.9	62.9		61.8	46.1	61.6	42.9	59.3
Oregon		44.9	50.2		54.4	68.1		69.4	57.5		58.2	65.6
Pennsylvania	46.6		50.7	64.2		64.3	56.8		61.6	67.8		63.7
Rhode Island	53.1	60.5	55.4	77.1	62.2		63.6	75.0		70.8	59.0	
South Carolina		[1]	[1]		[1]			[1]	25.0		31.1	44.9
South Dakota	64.6	62.6		60.4	60.4	71.4		78.8	63.9		59.3	72.5
Tennessee	[1]	[1]		[1]	[1]		[1]	[1]		47.8	38.0	
Texas	[1]	[1]		[1]	[1]		[1]	[1]	15.8	44.2	24.6	
Utah	55.4		67.8	79.0		75.3	63.6		63.7	78.2		75.5
Vermont	32.2		37.5	66.7		69.6	56.6		52.3	70.2		[1]
Virginia	[1]	[1]		[1]			20.9	27.8		36.8	28.2	
Washington	45.2		47.7	68.6		69.7	54.1		54.8	69.4		67.3
West Virginia	52.2	68.2		77.7	53.1	70.2	55.6	76.3		71.5	46.4	
Wisconsin	48.8		50.2	71.3		65.4	50.1		52.8	70.4		67.0
Wyoming	49.5	60.0		72.3	62.4		62.7	74.5	59.4	74.2	66.0	

[1] Ran unopposed.
[2] Not available.
[3] 1959.

Source: COPE Research Department, Washington, D.C.

APPENDIX VI.—TURNOUT IN GUBERNATORIAL ELECTIONS, 1946–68

State	1946	1948	1950	1952	1954	1956	1958	1960	1962	1964	196	1968
Alabama											42.8	
Alaska							75.3		50.2		44.8	
Arizona	33.4	47.0	46.3	52.6	43.3	49.5	48.0	58.4	44.2	53.9	42.6	51.1
Arkansas									31.7	52.9	49.7	52.3
California			52.6		50.3		60.1		57.9		57.7	
Colorado	47.6	68.6	53.4	69.7	56.6	67.7	55.3		57.5		58.1	
Connecticut	48.0	63.6	63.4	75.7	63.1		66.6		63.4		57.8	
Delaware		71.6		77.6		70.9		73.8		70.5		67.6
Florida										47.4	41.2	
Georgia	(1)	(1)	(1)	(1)					35.4		34.6	
Hawaii								[2] 52.4	59.0		52.0	
Idaho	57.3		58.1		65.0		63.6		66.9		65.1	
Illinois		66.0		74.0		70.8		74.2		73.2		68.2
Indiana		63.8		73.6		71.6		76.5		73.6		69.2
Iowa	37.5	57.6	50.0	72.9	51.5	72.3	49.7	74.1	49.5	71.3	54.9	68.9
Kansas	47.1	58.7	49.8	67.0	49.5	67.6	58.3	70.2	49.7	64.0	50.1	62.9
Kentucky			33.5	(3)	45.8	54.2	45.2		47.2		43.7	
Louisiana										49.8		50.1
Maine	31.9	37.4	43.7	45.6	43.8	55.9	49.5	72.7	50.6		56.3	
Maryland	35.0		42.2		44.2		43.9		42.0		44.2	
Massachusetts	52.8	65.0	59.6	73.2	57.9	75.0	59.8	74.8	65.1	72.0	62.1	
Michigan	42.1	53.0	45.7	67.2	50.2	66.4	49.7	72.1	60.0	67.7	51.5	
Minnesota	47.4	63.5	60.7	74.7	59.8	71.9	57.5	77.4	62.1		6.34	
Mississippi												[4] 34.7
Missouri		59.7		70.4		66.6		71.2		65.7		62.2
Montana		69.8		72.9		72.1		72.3		71.1		68.7
Nebraska	45.5	55.2	54.9	67.5	48.4	64.8	47.2	69.9	53.7	66.5	56.8	
Nevada	55.3		56.1	58.1			55.5		50.5		52.5	
New Hampshire	46.6	61.0	54.2	75.7	57.1	72.9	57.3	79.2	61.0	72.1	57.4	67.3
New Jersey						56.9			56.2		52.7	
New Mexico	48.7	64.4	47.9	63.9	49.0	61.6	49.5	62.2	48.4	62.2	50.2	59.7
New York	50.8		50.9		49.3		54.9		52.7		54.0	
North Carolina										51.0		52.9
North Dakota	(1)	62.1	50.1	72.6	52.7	66.6	56.5	78.7	65.7	73.0		67.8
Ohio	45.2	50.1	54.2	67.4	47.5	62.1	57.7		52.5		47.9	
Oklahoma	36.5		46.6		44.5		39.1		49.2		45.5	
Oregon	34.3		49.7		54.2	68.0	55.4		57.5		58.0	
Pennsylvania	46.5		50.1		53.0		56.8		61.6		56.9	
Rhode Island	53.5	61.1	55.2	75.4	62.4	73.8	64.0	75.3	63.1	71.7	60.5	68.4
South Carolina											31.4	
South Dakota	65.3	63.2	72.7	60.6	60.6	71.7	64.6	78.5	64.4	73.9	59.6	71.7
Tennessee											28.7	
Texas									28.0	43.2	23.5	46.0
Utah		74.3		79.2		75.8		79.2		78.4		75.9
Vermont	31.6	51.2	36.9	59.9	48.2	69.0	56.2	71.6	52.3	70.2	57.7	65.5
Virginia											[5] 20.9	
Washington		53.1		69.9		70.1		71.4		71.5		68.9
West Virginia		68.6		78.2		71.3	54.4	76.3		74.1		68.9
Wisconsin	50.0	58.9	50.5	71.7	51.8	66.9	50.4	72.8	53.1	71.3	48.6	68.4
Wyoming	49.4		54.2		61.9		61.8		59.3		65.0	

[1] Not available.
[2] 1959.
[3] Incomplete.
[4] 1967.
[5] 1965.

Source: COPE Research Department, Washington, D.C.

APPENDIX V

TURNOUT IN U.S. HOUSE OF REPRESENTATIVES-ELECTIONS, 1920–68

[Vote as a percentage of the civilian population of voting age]

Year:	
1920	41.4
1922	32.4
1924	41.0
1926	30.1
1928	48.2
1930	34.1
1932	50.2
1934	41.8
1936	54.0
1938	44.5
1940	56.2
1942	32.7
1944	53.0
1946	37.6
1948	48.6
1950	41.6
1952	58.2
1954	42.2
1956	56.6
1958	43.4
1960	59.4
1962	48.9
1964	57.8
1966	45.6
1968	54.8

Source: U.S. Bureau of the Census, Statistical Abstract of the United States: 1962, 83d edition, Washington, D.C., 1962; Congressional Quarterly, Washington, D.C.

APPENDIX VII.—TURNOUT IN SELECTED LOCAL AND SPECIAL DISTRICT ELECTIONS, 1969

City	Type of election [1]	Percentage of turnout
Akron, Ohio	2, 3	39.9
Atlanta, Ga	1, 4, 5, 6, 7	36.4
Austin, Tex	2	27.8
Boise, Idaho	1, 2	43.6
Boston, Mass	2, 8	33.0
Buffalo, N.Y	1	55.7
Birmingham, Ala	2	6.8
Charlotte, N.C	1, 2	25.5
Cincinnati, Ohio	2	37.7
Cleveland, Ohio	1	53.2
Columbus, Ohio	2, 3, 9, 10, 11	53.2
Dallas, Tex	1, 2	9.1
Dayton, Ohio	1, 3, 12	27.1
Des Moines, Iowa	2	33.2
Detroit, Mich	1, 2, 13, 14	58.6
El Paso, Tex	1, 3, 5, 15	17.7
Fort Worth, Tex	1, 2	14.7
Hartford, Conn	1	39.8
Houston, Tex	1, 2, 16	28.4
Los Angeles, Calif	1, 2, 6, 10, 16	48.8
Louisville, Ky	1	26.8
Miami, Fla	1, 2	11.1
Minneapolis, Minn	1, 5, 14, 16, 17, 18, 19, 20	48.5
New Haven, Conn	1, 5, 13, 14, 15, 21, 22, 23, 24, 25.	45.1
New York, N.Y	1	45.2
Oklahoma City, Okla	2	4.4
Omaha, Nebr	1, 2	35.4
Philadelphia, Pa	1, 16, 26, 27, 28	49.7
Phoenix, Ariz	1, 2	28.4
Pittsburgh, Pa	1, 2	56.9
Richmond, Va	11, 14, 21, 29	32.9
Rochester, N.Y	2, 6	47.1
San Antonio, Tex	2	16.9
San Diego, Calif	2, 10	26.6
Seattle, Wash	1, 2, 30	51.2
St. Louis, Mo	1, 5, 16	27.3
St. Petersburg, Fla	1, 2	19.9
Syracuse, N.Y	1, 2, 6	47.9

[1] Key: 1, mayoral; 2, city council; 3, municipal judge; 4, president board of aldermen; 5, board of aldermen; 6, board of education; 7, city executive committee; 8, school committee; 9, city auditor; 10, city attorney; 11, clerk of courts; 12, city commissioners; 13, city clerk; 14, city treasurer; 15, tax collector; 16, city controller; 17, park commissioners; 18, library board directors; 19, school directors; 20, board of estimate and taxation; 21, city sheriff; 22, town clerk; 23, registrar of vital statistics; 24, selectman; 25, constable; 26, district attorney; 27, magistrates; 28, inspectors of elections; 29, commissioner of revenue; 30, corporation council.

Source: Rand McNally, Commercial Atlas & Marketing Guide, Washington, D.C., 1969; Congressional Quarterly, Washington, D.C.; local election officials.

APPENDIX VIII.—TURNOUT IN SELECTED DEMOCRATIC NATIONS, 1920–68

UNITED STATES

Year	Turnout
1920	49.2
1924	48.9
1928	56.9
1932	56.9
1936	61.0
1940	62.5
1944	55.9
1948	53.0
1952	63.6
1956	60.6
1960	64.0
1964	61.8
1968	60.6

GREAT BRITAIN

Year	Turnout
1922	71.3
1923	70.8
1924	76.6
1929	76.1
1931	76.3
1935	71.2
1945	72.7
1950	84.0
1951	82.5
1955	76.7
1959	78.8
1964	77.1
1966	75.9

CANADA

Year	Turnout
1921	70.2
1925	68.7
1926	70.

APPENDIX VIII.—TURNOUT IN SELECTED DEMOCRATIC NATIONS, 1920-68—Continued

CANADA

1930	76.1
1935	76.2
1940	70.9
1945	76.3
1949	74.8
1953	67.9
1957	75.0
1958	80.6
1962	80.1
1963	80.3
1965	75.9
1968	75.7

Source: Compiled by Prof. Walter Dean Burnham, Department of Political Science, Washington University, St. Louis, Mo.

TURNOUT IN THE MOST RECENT ELECTIONS IN OTHER SELECTED DEMOCRACIES

Country	Election year	Turnout
Denmark	1968	89.3
Finland	1966	84.9
France	1968	80.0
Germany	1969	86.8
Ireland	1965	75.1
New Zealand	1966	86.6
Norway	1969	82.5
Sweden	1968	89.3

Source: Compiled by Richard M. Scammon, Governmental Affairs Institute, Washington, D.C.

APPENDIX IX—S. 4236, H.R. 18979

A bill designating certain election days as legal holidays

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6103(a) of title 5, United States Code, as it will exist on and after January 1, 1971, pursuant to the first section of the Act entitled "An Act to provide for uniform annual observances of certain legal public holidays on Mondays, and for other purposes", approved June 28, 1968 (82 Stat. 250; Pub. L. 90-363), is amended by inserting between—

"Veterans Day, the fourth Monday in October." and

"Thanksgiving Day, the fourth Thursday in November." the following new item:

"Election Day, the first Tuesday after the first Monday in November in 1972, and in every fourth year thereafter."

APPENDIX X—S. 4238, H.R. 19010

A bill amending title 13 of the United States Code by authorizing the Secretary of Commerce through the Bureau of the Census to undertake a quadrennial enrollment of those persons to vote in elections of the President and Vice President that meet the qualifications of the various States other than residency. This Act is to be known as the Universal Enrollment Act of 1970

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Universal Enrollment Act of 1970.

NATIONAL DIRECTOR OF ENROLLMENT

SEC. 2. (a) The Director of the Bureau of Census shall serve as the National Director of Enrollment.

(b) The National Director of Enrollment may appoint additional staff personnel as deemed advisable and develop the procedures deemed necessary to enroll quadrennially all citizens to vote for President and Vice President who meet the qualifications of the various states except residency.

DUTIES OF THE NATIONAL DIRECTOR OF ENROLLMENT

SEC. 3. The National Director of Enrollment shall—

(a) establish and supervise a Federal system for the enrollment of all persons who meet the qualifications for enrollment in the State in which they reside, except that there shall be no residency requirement for President or Vice President;

(b) assist and encourage all qualified persons to enroll to vote in Federal elections;

(c) conduct a continuing study of Federal, State, and local election practices and procedures;

(d) provide advisory, educational, and informational services to State and local authorities regarding elections.

(e) encourage and foster, to the maximum extent possible, State and local efforts to achieve full voter participation in elections;

(f) collect the results of all Federal elections held in the United States, analyze such results in a manner to enable the voters to better understand such results, and provide for the publication of such results and analyses;

(g) compile and maintain the laws and procedures in effect for each election jurisdiction in the United States and make such information available upon request to any interested person;

(h) provide assistance upon the request of local communities to assist such communities in solving their election problems.

ENROLLMENT OF VOTERS

SEC. 4 (a) The program to enroll all unenrolled persons in any State who have the qualifications for enrollment in such State shall be carried out during a three week period immediately preceeding the week in which the Presidential election is to be held in such State.

(b) During the enrollment period referred to in subsection (a), national enrollment officials acting under the supervision of the National Director of Enrollment shall conduct an intensive drive to enroll all persons who meet the qualifications for enrolling as voters in each election jurisdiction and who have failed to enroll under State law.

(c) No person shall be enrolled by a national enrollment official unless it is determined by such official that such person meets the qualifications prescribed by the laws of the State concerned for enrolling for voting in Federal elections. Whenever such determination has been made with respect to any person his name shall be entered on a enrollment roll compiled by the national enrollment officials for the election district concerned.

(d) Each person who is found to be qualified to enroll to vote shall be issued an enrollment certificate in such form as may be prescribed by the Commission containing the person's name, address, and signature, and the name of the national enrollment official concerned. The identical information shall appear on the enrollment roll referred to in subsection (c). The enrollment roll containing a person's name and other information shall be available at the particular voting place within the election jurisdiction where such person may vote.

(e) Any person enrolled to vote pursuant to this section shall be permitted to vote in the same Federal elections which he would have been permitted to vote had he enrolled under State procedures. When any such person appears at the appropriate voting place to vote he shall be required to present the enrollment certificate issued him pursuant to subsection (d). He shall also be required to sign the enrollment roll a second time beside his first signature.

(f) In any case in which a person has failed for any reason to enroll to vote prior to election day and otherwise meets the State qualifications for voting with the exception that there shall be no residency qualification for voting for President and Vice President as provided in section 3, subsection (a), he may—

(1) contact the election official in charge of the election district concerned and he shall have the authority to validate such person's qualifications and add his name to the enrollment roll, and such person shall be permitted to vote, or

(2) appear at the appropriate voting place on the day of election, sign an affidavit stating that he meets the requirements for enrollment and voting, in which event he shall be enrolled and may cast a special ballot for the offices being contested. A special ballot cast pursuant to clause (2) shall be placed in an envelope and sealed with information relating to the enrollment of the voter. The election official concerned shall have the responsibility of determining the eligibility of such person to vote in such election. If the election official determines such person was eligible to enroll and vote the ballot shall be counted together with other ballots cast in the same manner and shall be added to the final election tally.

(g) Any person who appears at the appropriate voting place on the day of election and signs an affidavit stating that he was issued an enrollment certificate under this section but has lost such certificate shall be permitted to cast a special ballot for the offices being contested. The same procedure with respect to a special ballot cast under this subsection shall be followed as in the case of a special ballot cast under subsection (f).

(h) Any person absent from the election district in which he is eligible to vote shall be permitted to cast a special absentee ballot provided at a voting place in any other election district upon presentation to the appropriate election officials of identification showing his name, address, and signature. A special absentee ballot cast pursuant to this subsection shall be mailed, registered mail, special delivery, air mail to the election official of the election district in which such person is eligible to vote. The election official shall determine whether such person was eligible to vote and, if it is determined such person was elegible to vote, the sealed ballot cast by such person shall be counted in the same manner as special ballots cast pursuant to subsection (f). All special ballots cast pursuant to this section shall be sealed separately from other ballots cast in the same manner or in any manner that would permit identifying a particular voter with a particular ballot. Special absentee ballots mailed pursuant to this subsection shall be transmitted by the United States Post Office Department without charge.

(i) National enrollment officials, as well as all other election officials and the staff under the supervision of the National Director of Enrollment, shall be considered public officials for the purposes of section 201 of title 18, United States Code.

ENROLLMENT INFORMATION

SEC. 5. (a) No national registry of persons shall be compiled or maintained.

(b) The enrollment roll compiled in any congressional district pursuant to this Act shall be made available to any State or local election official upon request and permanent possession of such enrollment roll shall be given to any such official 30 days after the results of the election have been certified if a request has been made therefor. Otherwise, the enrollment roll in each election district shall be destroyed by the election official 30 days after the election results have been certified.

ESTABLISHMENT OF COMMISSION ON FEDERAL ELECTIONS

SEC. 6. (a) There shall be established a Commission to be known as the National Enrollment Commission (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of nine members, seven of whom shall be appointed by the President by and with the advice and consent of the Senate. The Secretary of Commerce and the Director of the Bureau of the Census shall serve as members

of the Commission. Not more than five of the members shall at any one time be of the same political party. Members of the Commission shall be appointed for a term of six years, except that the terms of office for the first members appointed shall be as follows: three members shall be appointed for terms of two years; two members shall be appointed for terms of four years; and two members shall be appointed for terms of six years. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed may be appointed only for the unexpired term of his predecessor.

(c) The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. Neither the Chairman nor the Vice Chairman shall be full-time federal employees. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

(d) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitations with respect to party affiliations as the original appointment was made.

(e) Five members of the Commission shall constitute a quorum.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 7. (a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive the sum of $150 per day for each day spent in the work of the Commission, shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with chapter 57 of title 5, United States Code.

(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with the provisions of chapter 57 of title 5, United States Code.

DUTIES OF THE COMMISSION

SEC. 8. (a) The Commission shall—

(1) consult with, advise, and recommend to the National Director of Enrollment, appointed under section 2 of this Act, methods for effectively carrying out the duties of the Commission under this Act;

(2) review complaints of malfeasance and nonfeasance against the National Enrollment Director or those under his jurisdiction and report to the President the results of the Commission's review;

(3) recommend to the National Enrollment Director how enrollment programs in specific election jurisdictions should be improved;

(b) The Commission shall submit an annual report to the President and to the Congress not later than June 30 each year of its activities under this act together with such recommendation for legislative or administrative action as it deems advisable.

STAFF

SEC. 9. (a) The Commission may appoint and fix the compensation of such staff personnel as it deems advisable; and may procure temporary and intermittent services to the same extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

ADDITIONAL POWERS OF THE COMMISSION

SEC. 10. (a) The Commission or any duly authorized subcommittee or member thereof may, for the purpose of carrying out the provisions of this Act, hold such hearings, sit and act at such times and places, administer such oaths, and require by subpena or otherwise the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Commission or such subcommittee or member may deem advisable. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or before such subcommittee or member. Subpenas may be issued under the signature of the Chairman or any duly designated members of the Commission, and may be served by any person designated by the Chairman or such member.

(b) In the case of contumacy or refusal to obey a subpena issued under subsection (a) by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such court, upon application made by the Attorney General of the United States at the request of the Chairman of the Commission, shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee or member thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry. Any failure of any such person to obey any such order of the court may be punished by the court as a contempt thereof.

(c) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman, on a reimbursable basis or otherwise, such statistical data, reports, and other information as the Commission deems necessary to carry out its functions under this Act. The Chairman is further authorized to call upon the departments, agencies, and other offices of the several States to furnish, on a reimbursable basis or otherwise, such statistical data, reports, and other information as the Commission deems necessary to carry out its function under this Act.

DISTRICT DIRECTORS

SEC. 11. (a) In each year in which a Federal election is held, the National Director of Enrollment shall appoint a District Director for each congressional district. District Directors shall be residents of the congressional district.

(b) It shall be the responsibility of the District Director in each congressional district to organize and supervise the enrollment of all persons residing in such district who can meet the qualifications for voting in Federal elections in the State in which they reside but have failed to enroll to vote.

(c) District Directors shall be paid at a rate not to exceed $100 a day for individuals.

(d) Except as provided in subsection (e), in any year in which a Federal election is held in any State the Commission shall allocate not more than $100,000 per congressional district to the District Director for the purposes of carrying out the provisions of this Act.

(e) (1) Where the Commission finds that 90 per centum or more of the persons qualified to enroll to vote in Federal elections in any congressional district were actually enrolled to vote in the most recent Federal election, the Commission shall grant to the appropriate State and local officials of such congressional district the sum of $100,000 to help defray enrollment and election costs incurred in such district. Whenever a grant is made under this paragraph no grant shall be made under subsection (d).

(2) When the Commission finds that 90 per centum or more of the persons qualified to enroll to vote in Federal elections in any State were actually enrolled to vote in the most recent Federal election, the Commission shall grant to such State a sum determined by multiplying $100,000 by the number of congressional districts in such State qualifying for grants under paragraph (1) of this subsection. Grants made under this paragraph shall be for the purpose of helping the State defray the cost of conducting Federal elections and maintaining full voter enrollment.

DISTRICT STAFF DIRECTORS

SEC. 12. The National Enrollment Director for each congressional district not qualifying under provisions of section 7, subsection (e) (1) or (2) shall employ a District Staff Director for a period of six months, beginning July 1, in each year in which Federal elections are held. The District Staff Director shall assist the District Director in supervising the enrollment program carried out in the district. The salary of District Staff Directors shall be fixed by the Commission.

REGISTRATION OFFICIALS

SEC. 13. (a) The District Staff Director, under the supervision of the District Director, in each congressional district shall recruit persons to serve as national enrollment officals. It shall be the duty of such officials to enroll persons who meet the State requirements to enroll and vote in Federal elections with the exception that there shall be no residency requirement for President or Vice President.

(b) Persons who are recruited to serve as national enrollment officials shall be given a brief training course prior to assuming any enrollment duties under this Act. The training program shall be conducted under the supervision of the District Director concerned in accordance with regulations prescribed by the Commission. The duties of national enrollment officials shall be prescribed in regulations promulgated by the Commission and such duties shall be carried out in each congressional district under the supervision and control of the District Director and the District Staff Director of such congressional district. Persons recruited to serve as national enrollment officials shall serve voluntarily without compensation.

(c) National enrollment officials, as well as District Directors, District Staff Directors and their staffs, shall be considered public officials for the purposes of section 201 of title 18, United States Code.

DEFINITION

SEC. 14. As used in this Act, the term "Federal election" means any general or special election held solely or in part for the purpose of electing any candidate for the office of President, Vice-President or presidential elector.

DISTRICT OF COLUMBIA ENVIRONMENT—DRUG ADDICT ON GRAND JURY

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. RARICK. Mr. Speaker, the administration of justice in our Nation's Capital received attention when a U.S. district grand juror considering narcotics cases was arrested on drug charges.

As if the arrest of a grand juror was not revolting enough, we are advised that the same grand juror was already on probation from a previous narcotics conviction.

With convicted narcotics pushers serving on grand juries, where they can compromise the identity of narcotics agents, one gets some indication of the deterioration in the administration of justice in our Nation's Capital.

In most jurisdictions, responsible public officials screen jury lists to make sure that only citizens of good moral conduct

are accepted. Likewise, on voir dire examination, prospective jurors are questioned to make certain that convicted criminals and those with criminal records are not selected.

Washington, D.C., may be promoted as a model city to some but its officials are not protecting the interests of the population when they allow this kind of breakdown in public justice.

I include a clipping from the Washington Daily News:

POT JUROR HERE CHARGED IN POT CASE

(By Albert Crenshaw)

A member of a U.S. District grand jury, which had been considering narcotics cases, was arrested today outside U.S. District Court on marijuana charges.

U.S. Atty. Thomas Flannery said James C. White, 24, of 1903 Kenyon-st nw, was already on probation when he and the rest of the jury were empaneled yesterday.

Police said the presence of the man in the jury's hearings may have exposed several police undercover agents who will have to be reassigned as a result.

"The man was in a position to view all our undercover agents," said Fourth District Lt. Robert F. DeMilt, whose men made the arrest. "It is hard to say how many he may have recognized, but we know of at least one policewoman who was working in his neighborhood who appeared before him."

The lieutenant said it was difficult to estimate how much information he might have passed on to others in the drug world, but "he's certainly not going to keep that information to himself."

"We are going to have to do some drastic reshuffling to protect the lives of our agents," Lt. DeMilt said.

Police said they became suspicious of Mr. White because of the thoro knowledge of the "glossary of the drug people" he exhibited during the grand jury hearings, Lt. DeMilt said.

Mr. White was arrested on Aug. 25, 1969, and charged with unlawful entry and violation of the Uniform Narcotic Act (possession). He was put on probation until Jan. 26, 1971 on the narcotics charge.

A spokesman at U.S. District Court said that grand jurors are simply picked off the petit jury rolls for the District and no background checks are made. The spokesman said the petit jury lists are made up from tax rolls and the city directory. He said a person can be convicted of a crime and still serve.

He also said that the jury will continue to sit with 22 members instead of 23. He noted that as long as the jury has 16 members—a quorum—it can continue to sit.

The officers reported their findings to the Fourth Precinct, and during their discussions another officer recognized the name as that of a man who he said had made three purchases of drugs from him in October and November.

Lt. DeMilt said the reason Mr. White had not been arrested at the time was that "we always try to get to the suppliers in these cases."

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,500 American prisoners of war and their families.

How long?

GOD IS UNKNOWN AT THIS ADDRESS

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. LEGGETT. Mr. Speaker, a recent column by satirist Arthur Hoppe, published December 7, 1970, described a hypothetical divine reaction to a military chaplain's prayer for a high body count of Vietcong.

Mr. Hoppe's humor is as excellent as usual. But there is nothing humorous and, unfortunately, there is nothing hypothetical about Colonel—now Brigadier General—George Patton's request that his chaplain pray for death and destruction. General Patton—son of the World War II hero—is the man who talks about how "I like to see the arms and legs fly." He is the man who sent out Christmas cards featuring a color photograph of a stack of dismembered Vietcong bodies. Least humorous of all, he is a man who, to at least some elements of the Defense Department, is just what the country needs; he has been promoted rapidly through the ranks. Someday he may be Army Chief of Staff, and we may find him sitting at the President's elbow in a nuclear crisis. Think of all the arms and legs he could set flying then.

Mr. Speaker, it is an unpleasant fact that the largest item in our budget is the Defense Department, that the largest item in the Defense budget is the Vietnam war, and that for several years the prime objective of that war was a high body count. We would not like to say "Death is our most important product," but this is the appearance we have presented to the world for too long. Now, thanks to General Abrams, we have deemphasized the body count. We must continue the process; we must negotiate a return of our POW's in exchange for withdrawal, and we must get out.

Only then will we be able to turn our attention, our economy, and our chaplains' prayers to constructive purposes.

I insert in the RECORD at this point the Arthur Hoppe column entitled "The Chaplain Who Hasn't a Prayer."

The column follows:

THE CHAPLAIN WHO HASN'T A PRAYER

(By Arthur Hoppe)

A former Army surgeon said the commanding officer of the 11th Cavalry Regiment in Vietnam, Colonel George S. Patton III, asked a chaplain to pray for a big body count of Viet Cong. The chaplain, testified Dr. Gordon Livingston, then delivered the following prayers: "Oh, Lord, give us the wisdom to find the bastards and the strength to pile on."—News item.

Scene. The Heavenly Real Estate Office. The Landlord is seated at his desk, absorbed in his work, as his aide, Mr. Gabriel enters, a yellow sheet of paper in his hand.

LANDLORD. Hmmm, Galaxy 3472 is still wobbling a bit in its path across the firmament. Now if I were to nudge it a few million light years to the left. . . .

GABRIEL. Excuse me, sir. A Prayergram for you.

LANDLORD. Another? What does Billy Graham want this time?

GABRIEL. No, Sir. It's from a chaplain in Vietnam.

LANDLORD (concerned). Oh, the poor man, trying to serve brotherhood in the midst of all that killing. What does he ask for, Gabriel?

GABRIEL. Wisdom and strength, sir.

LANDLORD. Request granted. No man more needs the wisdom to see what's right and the strength to do it. Ah, it's good to grant a prayer again. It's been a long time. Now, where was I? If I take two parsecs of stardust . . .

GABRIEL. Excuse me, sir. But the request is for—let me read it—"the wisdom to find the —— and the strength to pile on."

LANDLORD. Pile on? Dear me, is that one of those touch-and-feel religious services? I may be a bit old-fashioned but . . .

GABRIEL. No, sir. It's a soldier's term for mass killing, as in pile bodies on bodies.

LANDLORD (shocked). But why would a chaplain want to kill masses of illegitimate children?

GABRIEL. He's using the term "bastards" in the vulgar sense, sir, to express hatred for the intended victims.

LANDLORD (rising to his feet). Vulgarity? Hatred? Blood lust? This, from one of my shepherds? Why, Gabriel? Does he think that if he kills more of his fellow men, the world will be a better place?

GABRIEL. I doubt it, sir. He simply wants to kill those he hates because he fears them. And he fears his fellow man because he has lost faith.

LANDLORD. Yet, to show his faith he sends a prayer. But what a strange concept he has of me, Gabriel, to ask that I spread hatred, promote vulgarity and act as his accomplice in mass murder. By me! The man believes I'm Jack the Ripper.

GABRIEL (angrily). It's the vilest blasphemy of all! Punish him! Afflict him with boils! Rot his teeth! Tear out his . . .

LANDLORD (covering his ears). Gabriel, Gabriel, sometimes I think you're only human.

GABRIEL (crestfallen). I . . . I'm sorry, sir. I guess I got carried away. (All businesslike again.) Do you want to answer this prayer, sir? You haven't answered many lately. I'm afraid they're beginning to lose faith in the effectiveness of their prayers.

LANDLORD (sadly). How can I answer them, Gabriel? How can I? No, stamp it with the usual message.

Gabriel, sighing, takes out a rubber stamp and unhappily inks across the face of the Prayergram:

"Unknown at This Address"

TERROR IN SOUTH VIETNAM—THE PULPING OF A PEOPLE—II

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. SCHMITZ. Mr. Speaker, the North Vietnamese Communists and their South Vietnamese terrorist arm continue to operate according to the guidelines set down by Lenin:

If we had tried to sway them by words and arguments, if we had tried to sway them by anything but terror, we would not have held out for even two months, we would have been fools. Lenin's Selected Works, Vol. III, p. 66, 1943 edition.

On December 2 this year I inserted in the RECORD the first of a series on Communist terror in South Vietnam. This series consists of the daily roundup of terrorist activities published by the national police of South Vietnam. This is simply a brief description of the terrorist incidents which have been reported in the previous 24 hours. Let me point out that the daily roundup of terrorist activities does not include military casualties but only civilians—men, women, and children—who have been murdered, maimed, or kidnaped by the Communist terrorists.

The mass media tends to be generally mum on the subject of continuous, organized, policy guided, enemy atrocities. Perhaps this is because this type of terror is so commonplace that it is no longer newsworthy. However, it is my opinion that this protracted pulping of the population is one of the essential factors which must guide our view when considering what our actions should be toward the enemy in Southeast Asia and on the subject of communism in general.

The bulletins follow:

ROUNDUP OF TERRORIST ACTIVITIES—NOVEMBER 21, 1970

Two 122mm rockets landed in the Citadel, Hue city (Thua Thien Prov.) at 0015 hours Nov. 19th. The rockets struck about 500 meters north-west of the 1st ARVN Division's Headquarters. Five civilians were wounded in the attack and three houses were severely damaged.

Including the above incident, there were 10 enemy terrorist attacks reported in which 3 Vietnamese civilians were killed, 30 wounded and 21 kidnapped. Details follow:

Nov. 18—One civilian was wounded when he stepped on a mine just outside Phu Cuong hamlet, Phu Loc dist., Thua Thien Prov.

Nov. 16—In Kontum Prov., a 7-man enemy squad entered Plei-or hamlet in the Kontum dist., 10 km south west of Kontum city. They extorted food from the residents and, on departure, kidnapped one man.

Nov. 15—One civilian was wounded by small arms fire in Nhon Phu hamlet, Phong Dien dist., Phong Dinh Prov.

Nov. 14—A Vietnamese military vehicle ran over a mine near Mo Cong hamlet, Phuoc Ninh dist., Tay Ninh Prov. The truck was heavily damaged, but the driver escaped injury. A woman, passing by when the mine exploded, was wounded.

Nov. 13—A plastic explosive detonated in the Tan Tien Theater, Dien Khanh dist. town, Khanh Hoa Prov. Eight civilians and eight military were wounded.

One member of the PSDF was assassinated in Lai Thieu hamlet, Phung Hiep village, Phong Dinh Prov.

Two VC, disguised as ARVN soldiers, entered Loc Khe hamlet, Trang Bang dist., Hau Nghia Prov., and assassinated the hamlet chief.

Nov. 12—Also in Hau Nghia, a VC platoon entered Binh Ha hamlet, Cu Chi dist. at 2000 hours. They abducted 20 PSDF, but released them all at 0600 hours the next morning.

Nov. 11—A bus ran over a mine in Huu Thanh village, Tra On dist., Vinh Long Prov. One passenger was killed and three children and 11 adults wounded.

ROUNDUP OF TERRORIST ACTIVITIES—NOVEMBER 23, 1970

Ten incidents of terrorism have been reported in which 4 Vietnamese civilians were killed, 6 wounded and 11 kidnapped. Details follow:

Nov. 19—Four 122mm rockets landed near Binh Phung hamlet, Phu Ninh dist., Tay Ninh Prov. Two teenagers were wounded.

One PSDF member was wounded in Cai Ranh hamlet, Kien Thien dist., Chung Kien Prov.

Nov. 18—Two civilians were wounded in a VC attack on Quoi Dien village, Hung My dist., Kien Hoa Prov.

Nov. 17—While collecting money for the flood victims of MAI, the Ngoc An hamlet chief was assassinated by a VC unit in Ngoc Hoa hamlet, Duc Long dist., Chung Kien Prov.

In Tay Ninh Prov., a PSDF dealer was assassinated while working in a rice paddy near Phuc Hai hamlet, Kien Hanh dist.

The Truong Phu hamlet chief was killed in an engagement with an enemy force in Truong Khanh village, Long Phu dist., Ba Xuyen Prov.

Nov. 16—Six PSDF members were abducted in Binh An hamlet, Cu Chi dist., Hau Nghia Prov.

Nov. 15—Ten M-70 grenades were fired into Thanh Hong village, Thien Giao dist., Binh Thuan Prov. One civilian was wounded.

A Hoi Chanh was assassinated in Binh Long hamlet, Duc Hoa dist., Hau Nghia Prov.

Nov. 12—Five PSDF members were captured by the VC when they walked into an enemy ambush in Phu Hai village, Phung Thuan dist., Phung Dinh Prov.

ROUNDUP OF TERRORIST ACTIVITIES—NOVEMBER 24, 1970

Eleven acts of terrorism have been reported in which 4 Vietnamese civilians were killed, 13 wounded and 7 kidnapped. Details follow:

Nov. 22—One civilian was wounded when seven mortar rounds landed in Ba Vat hamlet, Don Nhon dist.. Kien Hoa Prov.

Ben Tre city, the capital of Kien Hoa, received four 82mm rounds, wounding two civilians.

One civilian was wounded when three 60mm mortar rounds hit in the Dai Loc dist., Quang Nam Prov.

Nov. 21—Two national policemen were wounded in the defense of Phu Tri hamlet, Phong Thuan dist., Phong Dinh Prov.

Nov. 20—The enemy fired on a motor sampan going to market in Dinh Thuy village Mo Cay dist., Kien Hoa Prov. Two civilians aboard the sampan were killed.

A three-wheeled bus carrying 14 passengers hit a mine while traveling through Hoai Duc dist. of Binh Tuy Prov. Five civilians were wounded. Two more mines were discovered in the immediate vicinity and were destroyed in place.

A policeman was wounded when he stepped on a mine while patrolling in Phong Dien dist., Thua Thien Prov.

In Phuoc Long Prov., terrorists kidnapped a truck driver and also took his vehicle. The enemy has demanded 500 liters of rice in return for the release of the victim.

Nov. 18—One child was killed and another wounded in a terrorist attack in Can Duoc dist., Long An Prov.

An NVA company and an unknown number of VC entered Phu Van hamlet, Hoai An dist., Binh Dinh Prov. They extorted rice and money from the residents and took a number of ARVN uniforms. Upon leaving, they assassinated one male resident, kidnapped five children and took medicine and documents from the village headquarters building.

Nov. 15—One youth was kidnapped from Binh Lam hamlet, Thien Giao dist., Binh Thuan Prov.

ROUNDUP OF TERRORIST ACTIVITIES—NOVEMBER 25, 1970

Eleven terrorist incidents have been reported in which 14 Vietnamese civilians were killed, 6 wounded and 1 abducted. Details follow:

Nov. 25—One woman was wounded by an explosion near the 2nd Precinct Saigon Information Office at 0540 AM.

Nov. 23—A VC squad abducted one man from Long Ho Thuong hamlet. Huong Tra dist. in Thua Thien Prov.

Nov. 21—In Binh Dinh Prov. terrorists abducted and later assassinated a farmer who was seized while working in a rice field in An Loi hamlet, An Nhon dist.

A pregnant women and a child were killed by a terrorist near Rung Dau hamlet, Hieu Thien dist., Tay Ninh Prov.

A PSDF inter-team leader in Phuoc Lai village, Can Giuoc dist., Long An Prov. outwitted an enemy group sent to assassinate him and captured an NVA with his pistol and an M.26 grenade. The PSDF leader was slightly wounded.

Nov. 20—One man was wounded in Bau Vung hamlet, Hieu Thien dist., Tay Ninh Prov. when terrorists fired on a motorbike.

Nov. 19—In Kien Phong Prov. a woman and a child were killed and two children were wounded when enemy units fired fifteen 82mm motar rounds into Binh Han Chung village, Kien Van dist.

Five persons were assassinated by a VC unit that entered Thuan My village, Binh Phuoc dist., Long An Prov. The victims included the village clerk, a PSDF, two other civilians and an ARVN soldier home on pass.

Nov. 18—One child was killed and another wounded by a terrorist set explosive in Xom Xoai hamlet, Ben Cat dist., Binh Duong Prov.

The 8th Precinct Saigon Chieu Hoi Service Chief, and two other civilians were killed in a VC ambush near Binh Tri hamlet, Binh Phuoc dist., Long An Prov.

Nov. 13—A 14 year old boy was killed by terrorists in Xom Xoai hamlet, Ben Cat dist., Binh Duong Prov.

ROUNDUP OF TERRORIST ACTIVITIES—NOVEMBER 26, 1970

Ten terrorist incidents have been reported in which four Vietnamese civilians were killed, nine wounded and 12 kidnapped. Details follow:

Nov. 23—One squad of VC entered Cho Hamlet, Ben Luc dist., Long An Prov. The enemy checked the homes of 25 disabled veterans before taking two of the veterans outside their homes and assassinating them.

Six civilians were wounded when terrorists exploded a bomb in Thu Bon hamlet, Duc Duc dist., Quang Nam Prov.

An enemy platoon, dressed in ARVN uniforms, wounded the driver of a three-wheeled bus when they stopped the vehicle on Highway 1 near Dai Thuan hamlet. Phu My dist., Binh Dinh Prov. The enemy unit kidnapped one passenger.

Nov. 22—Two civilians were wounded when a VC platoon skirmished with local defense forces in Bau Vung hamlet. Hieu Thien dist., Tay Ninh Prov.

Nov. 21—A VC unit infiltrated Hoa Thanh hamlet, Thien Giao dist., Binh Thuan Prov. They kidnapped two civilians, extorted 60 kilos of rice and left a number of handbills.

In Phu Yen Prov., a VC squad entered Ngoc Phong hamlet, Tuy Hoa dist., damaged the hamlet Administration building and kidnapped four children.

Nov. 20—Four women members of the PSDF were kidnapped from Ben Cui hamlet, Ben Cat dist., Binh Duong Prov.

One man was assassinated in Thanh Lien hamlet, An Nhon dist., Binh Dinh Prov.

Nov. 18—A PSDF group leader was kidnapped from Phuoc Thuan hamlet, Khien Hanh dist., Tay Ninh Prov.

Nov. 17—A child was killed when he stepped on an enemy booby-trap in Bao Dieu hamlet, Cu Chi dist., Hau Nghia Prov.

ROUNDUP OF TERRORIST ACTIVITIES—NOVEMBER 27, 1970

Eleven incidents of terrorism have been reported in which four Vietnamese civilians were killed, six wounded and nine kidnapped. Details follow:

Nov. 25—A terrorist squad entered Phuoc Hung hamlet, Phu Loi dist., Thua Thien Prov. and kidnapped an 39-year-old woman. Her husband has been reported kidnapped during the 1968 Tet offensive.

In Kien Hoa Prov., a terrorist threw a grenade at a police position. One civilian was wounded.

Nov. 24—The local RD team leader was wounded when he stepped on a booby trap near Trung Tay hamlet, Hoa Vang dist., Quang Nam Prov.

Nov. 20—One man was assassinated in An Dinh hamlet, Duc Hue dist., Hau Nghia Prov.

Also in Hau Nghia, a woman was assassinated in Dinh Thuy hamlet, Duc Hoa dist.

Two civilians were wounded when a logging truck hit a mine in Trang Bom village, Duc Tu dist., Bien Hoa Prov.

Nov. 19—In Lam Dong Prov., terrorists kidnapped the R'r'Hang Ung deputy hamlet chief.

Also in Lam Dong, a woman was kidnapped from Lam Loc hamlet.

In Pleiku Prov., a VC company conducted a raid on Plei Tong Dau hamlet.

They wounded one civilian and kidnapped five, including the hamlet chief.

Nov. 17—One civilian was kidnapped from Phu Hoa hamlet, An Phu dist., Chau Doc Prov.

In an attack on My Dien hamlet, Gia Rai dist., Bac Lieu Prov., the enemy killed one child and one member of the local PSDF. One woman was wounded.

ROUNDUP OF TERRORIST ACTIVITIES—NOVEMBER 28, 1970

Nine incidents of terrorism have been reported in which 2 Vietnamese civilians were killed, 19 wounded and 7 kidnapped. Details follow:

Nov. 25—Five PSDF were wounded in a terrorist attack on Phuoc Thanh hamlet, Phuoc Long dist., Bac Lieu Prov. The hamlet chief and his deputy were wounded.

Six civilians were wounded by an enemy mine which exploded in Giao Thanh village, Thanh Phu dist., Kien Hoa Prov.

Also in Kien Hoa, one civilian was wounded when enemy mortar rounds damaged a public office building in Tan Loi hamlet, Ham Long dist.

An enemy unit, attempting to enter Loc Tu village, Phu Loc dist., Thua Thien Prov., engaged the local PSDF and RD cadre. One PSDF member and one civilian were killed and two others wounded.

Terrorists kidnapped a 16-year-old boy from Loc Hai village, Phu Loc dist., Thua Thien Prov.

A 4-man VC team entered Truc Lam hamlet, Huong Tra dist., Thua Thien Prov. and attempted to assassinate a 40-year-old woman. The victim was wounded and another woman was kidnapped when the enemy were forced out of the hamlet.

Nov. 24—Also in Thua Thien, one civilian was kidnapped from Loc Thuy village, Phu Loc dist.

Nov. 22—Four boys, all aged 14, were kidnapped from Hoa Quang village, Tuy Hoa dist., Phu Yen Prov.

Nov. 21—Terrorists threw an M-26 grenade at a PSDF unit in Son Hoa hamlet, Tinh Bien dist., Chau Doc Prov. The explosion wounded two PSDF.

ROUNDUP OF TERRORIST ACTIVITIES—DECEMBER 1, 1970

Nineteen incidents of terrorism have been reported in which 11 Vietnamese civilians were killed, 34 wounded and 9 kidnapped. Details follow:

Nov. 28—Five policemen were wounded when one of them stepped on a mine near Phu Ninh hamlet, Ham Long dist., Kien Hoa Prov.

A grenade was thrown into a PSDF training class in Danang City's Third District injured an instructor and a PSDF trainee.

Nov. 27—One man was kidnapped from Con Phong hamlet, Que Son dist., Quang Nam Prov.

Nov. 26—The halmet chief and the deputy hamlet chief were killed and five PSDF members wounded in a terrorist attack on Vinh My hamlet, Phuoc Long dist., Bac Lieu Prov.

The enemy fired twenty 82mm mortar rounds into Phuoc Long dist. town, Bac Lieu Prov. One woman and two policemen were wounded.

In Dinh Tuong Prov., two mortar rounds landed in My Tho city, killing one child and wounding three adults.

One woman PSDF member was kidnapped from Phong Hoa hamlet, Dien Ban dist., Quang Nam Prov.

Also in Quang Nam, another civilian was kidnapped from Con Phong hamlet, Que Son dist.

Two B-40 rockets wounded a Hoi Chanh in Vi Nghia hamlet, Duc Long dist., Chuong Thien Prov.

One woman was wounded by a grenade thrown into a house in Ninh Thanh hamlet, Kien Thien dist., Chuong Thien Prov.

Also in Chuong Thien, an enemy unit of approximately 200 men attacked Ta Soul hamlet, Kien Thien dist. Six civilians were killed and seven wounded.

Nov. 25—The hamlet chief and three PSDF were wounded in a terrorist attack on Binh Ta hamlet, Bac Hoa dist., Hau Nghia Prov.

Terrorists entered Tho Loc hamlet, An Nhon dist., Binh Dinh Prov. and assassinated an inter-family chief.

Six terrorists entered Binh Cong hamlet, Binh Phuoc dist., Long An Prov. and assassinated a PSDF team leader.

Nov. 24—A child stepped on a booby trap wounding himself and a PSDF member standing near-by. The incident occurred in Ngan Son hamlet, Tuy An dist., Phu Yen Prov.

Also in Phu Yen, four civilians were kidnapped from Phu Hoi hamlet, Tuy An dist.

One young boy was kidnapped from a field in Binh My Thuan village, Thien Giao dist., Binh Thuan Prov.

Also in Binh Thuan, a young girl was kidnapped from An Thuan hamlet, Thien Giao dist.

Nov. 17—One civilian was wounded when he stepped on an enemy booby trap near An Phu hamlet, Trang Bang dist., Hau Nghia Prov.

ROUNDUP OF TERRORIST ACTIVITIES—DECEMBER 2, 1970

Two Vietnamese civilians were killed, five wounded and six kidnapped in nine terrorist incidents reported. Details follow:

Nov. 29—Two civilians were kidnapped from Tan Rai hamlet in Lam Dong Prov.

Nov. 28—Six VC entered Thanh Ha village, Ben Luc dist., Long An Prov. and kidnapped three members of the PSDF.

The hamlet chief of Gia Luong hamlet, Phu Loc dist., Thua Thien Prov. was wounded by enemy sniper fire. His son, who was walking with him, was also wounded.

Nov. 25—One PSDF was wounded when he stepped on a mine near Khuong Tho hamlet, Ly Tin dist., Quang Tin Prov.

Another enemy mine killed a civilian on his way to a ricefield near Khuong Binh hamlet, also in Quang Tin's Ly Tin dist.

In a third Quang Tin incident, one PSDF was killed in a VC attack on Khanh Tho hamlet, Tam Ky dist.

Nov. 24—The enemy exploded a mine in Hoa Long village, Hoa Vang dist., Quang Nam Prov. The PSDF leader was wounded.

Nov. 23—One man was kidnapped from Binh Thanh village, Hieu Thien dist., Tay Ninh Prov.

Nov. 15—The enemy fired an M79 round into Phuoc Hoa hamlet, Phu Giao dist., Binh Duong Prov. One man was wounded.

POVERTY—A TRAGEDY FOR OLDER AMERICANS

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. GIAIMO. Mr. Speaker, earlier this week, I pledged my full support to a proposal to create a House Select Committee on Aging. For the benefit of any of my colleagues who fail to see the urgent need for such a committee, I would like to quote from a statement made on December 4, 1970, by John B. Martin, Director of the 1971 White House Conference on Aging:

Our older people are falling steadily behind other age groups in their income position. *Lack of income has become the Number One problem for a substantial number of the 20 million Americans who are age 65 or older.*

There have been some improvements in the overall economic position of the older population through increased Social Security payments and from Medicare and Medicaid. Nevertheless, *the income status of millions of older people is intolerable.*

In 1969 the median income of older families was less than 48 percent of the median income of younger families. Older people living alone or with non-relatives had a median income only 43 percent of that for younger people. When older people retire there is a drop in income from one-half to two-thirds despite Social Security benefits or other income sources. *Many are plunged from a modest standard of living to the poverty level. They are becoming the new poor of America. . . .*

Some of the basic facts are these:

Almost nine out of ten older people now receive Social Security benefits. Of these, one quarter of the married couple beneficiaries and one half of the non-married beneficiaries had other income of less than $40 per month per person. Average Social Security benefits are $117 a month for retired workers.

One quarter of all older people live in households whose income falls below the poverty level. In the 10-year period for which poverty data is available, the number of poor has declined. But it has declined much faster for those under age 65 than it has for the 65-and-older group. The aged poor now represent 20 percent of the total poor as compared with only 15 percent in 1959.

Despite the decline in the number of aged poor over the years, the actual total increased from 4.6 million to 4.8 million between 1968 and 1969.

Seventeen percent of the families headed by older persons and 47 percent of the older people living alone or with non-relatives are living below the poverty level for their types of households. Among black older Americans, 42 percent of the families headed by older persons and 75 percent of the individuals living alone or with non-relatives are living in poverty.

It should be noted that even the level of living set by the Bureau of Labor Statistics in its retired couples budget is well below the means of most older people. The average Social Security budget for a couple retired in 1950 met one-half the BLS budget cost at that time. Today it meets less than one-third of that cost.

Inflation hits older people the hardest because their incomes rise slowly and because the greatest price increases have taken place in such necessities as home maintenance, insurance, taxes, medical care and transportation.

More Americans are spending more years in retirement than ever before. This puts a greater strain on their available resources. The most seriously affected are older widows or unmarried women who form the largest single element in the older population.

About two million older people are receiving Old Age Assistance, but for many the amount they receive is below the poverty level, averaging as low as $50.40 last June in two States.

Private pension systems and coverage have been growing, but the rate of growth has dropped off in recent years. Vesting, portable pensions, coverage and survivor benefits (mainly for widows) constitute serious unresolved problems. Pension income provides about five percent of the total income of the older population.

Individual savings toward retirement are impossible for most people because of low earnings, necessary expenditures and taxes.

The principal assets of older people are in home ownership and other non-liquid assets that cannot be used for daily expenses.

Eighty-three percent of all older people are not in the labor force and probably fewer than 500,000 could return to regular, gainful employment. Based on current trends low income in old age does not appear to be a problem that will solve itself. Unless action is taken, the problem will not go away . . ."

These are the facts, Mr. Speaker. Who can deny that they are tragic and disgraceful? Who can deny that the elderly American is not getting his fair share of this Nation's prosperity? Who can deny the need for immediate action to provide the elderly American with the comfort and security he so richly deserves?

I urge, Mr. Speaker, that all standing committees of this House with the proper jurisdiction turn their attention to this critical problem. I urge further that legislation to create a Select Committee on Aging be passed as quickly as possible when the 92d Congress convenes next month.

The elderly American cannot afford to wait. He needs our help now. I will do all I can to see that he gets it.

CAPITOL HILL EMERGENCY BLOOD DRIVE

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. HOSMER. Mr. Speaker, I rise to call attention to a critical situation.

During the past 22 years, the American Red Cross has performed an outstanding humanitarian service by collecting and storing whole human blood for medical purposes. Once collected, Red Cross blood is used to save the lives of those injured in accidents, American soldiers wounded in battle, citizens needing whole blood during surgery and children suffering from leukemia and other blood diseases. Any of my colleagues who have ever needed blood for themselves or for their families know that there is no substitute for human blood and no substitute for this valuable public service which the Red Cross performs without charge.

For the past two decades, the generosity and kindness of Americans has been overwhelming. Hundreds of thousands of our fellow citizens have given their blood on a regular basis. Untold thousands of lives have been saved because of their willingness to donate.

Today, the Red Cross faces a critical and a unique situation. The need for blood continues to rise; new surgical techniques—such as open heart surgery—as well as new methods of blood processing and use have created enormous demands for blood. All of us welcome these new blood-use methods because they mean that more lives can be saved. Additionally, the rash of highway accidents during the Christmas holidays demands that large stores of blood be kept available for treating injured motorists.

However, the level of public blood donations has not kept pace with the growth in needs for blood. Hospitals and research organizations now must pay anywhere from $15 to $50 per pint of blood. Many commercial donors are found unreliable and the dependence upon transients—whose medical histories cannot be investigated—has resulted in regional outbreak of hepatitis.

The Red Cross must depend upon the good will and generosity of donors who give out of a desire to help their fellow men. The Red Cross cannot afford to pay donors for their blood. For these reasons, we now face a serious and a critical shortage of blood. Regular donors find it especially difficult to take time to give their blood during the busy holiday season.

In response to this situation, a group of congressional staffers is organizing the "Capitol Hill Emergency Blood Drive." They are asking all eligible Capitol Hill workers to donate a pint of blood over the holidays. On Tuesday, December 22, they will bring buses to Capitol Hill to transport donors to the Red Cross donation center.

I urge my colleagues to support this worthwhile effort themselves and to urge their staffs to do so, too. I hope that many from the Hill will take time to donate a pint of blood here in Washington or at home, in their communities. I am sure that all offices will look benevolently on the time off for 1 to 2 hours it may take to go down to the Red Cross and donate a pint of blood.

In a recent syndicated writing, columnist Sylvia Porter states the need for programs such as the "Capitol Hill Emergency Blood Drive" as follows:

BLOOD BANK PROGRAM FACING 22-YEAR LOW

(By Sylvia Porter)

One of the worst shortages of blood since the Red Cross Blood Program began 12 years ago will threaten us this Christmas—unless you, an employer, employe or just plain concerned citizen, take the steps in the days immediately ahead to avert it. Volunteer blood donations always plunge to a very low level at Christmas. While donations decline during most other holiday periods too, the downtrend is acute at Christmas because you're so busy with activities outside your normal routine and you simply prefer not to schedule yourself to donate blood.

The supply of blood from volunteers is already running about 20 per cent below demand—a chronic deficit mounting to more than 1,000,000 pints a year—and it's growing steadily. If the usual trend develops this Christmas, the deficit might soar to 40 per cent. Says Dr. T. J. Greenwalt, national medical director of the American Red Cross Blood Program: "We have not yet found ways to freeze blood at reasonable cost so we can store it for future use. This drastic shortage, therefore, could have disastrous results."

Among those results surely would be: postponement of all but the most urgent surgery at a time when the accident rate skyrockets; sharply increased reliance on blood bought from donors at prices ranging from $4 to $25 a pint. Studies show that the overwhelming incidence of hepatitis traced to transfused blood involves blood sold by donors.

The areas for improvement are obvious. Less than 3 per cent of all eligible donors contribute our total volunteer supply; less than 20 per cent of all donors are "new" each year; donations are rising at a sluggish 2 per cent annual rate despite a nationwide network of collections via 1,680 local Red Cross chapters and 1,200 institutional blood banks belonging to the American Assn. of Blood Banks; industrial plants and businesses furnish only 27 per cent of all whole blood, a percentage which should properly be doubled.

To combat the shortage, the American Red Cross is preparing an intensive program of collections and publicity. "We will redouble our cooperative efforts with all blood groups in the community," George Elsey, newly-elected president of the ARC, told me. "It is essential that we prevent a dangerous emergency."

Meanwhile, as an employer, this is what you can do:

Call a meeting at once of your employe groups responsible for blood donations to make sure your recruiting program is at its peak efficiency during these next few weeks.

Get from your local Red Cross chapter or the community Blood Bank a supply of their excellent promotion materials on the blood program and make them available to your employes.

Arrange with the local Red Cross chapter or Blood Bank to have the bloodmobile come to you at the time your employes prefer.

Ask your employe group to make themselves into an "emergency donor" unit to be ready on short notice to meet unusual blood needs during the Christmas period.

Give those donating blood extra time off—on top of the customary one-half day.

Give your Christmas party after the bloodmobile has gone.

As an employe or just a citizen, this is what you can do:

Vow to make a Christmas gift of your blood and get a friend (between ages 18 and 66) to go with you to contribute too.

Encourage the college students home for the holidays in your neighborhood to visit the bloodmobile and provide blood coverage for their parents and younger sisters and brothers for a year.

Check the last time you donated and, if you're eligible, donate now.

While you're at it, join a blood donor group, build a blood "bank account" for

your own—or a dear one's—use whenever needed. You could save yourself thousands of dollars in a future emergency.

And just don't ever forget: No amount of dollars can ever fill a blood bank.

Further details about the "Capitol Hill Emergency Blood Drive" will be provided by staff volunteers David Luken and Gary Donnelly of my office at extension 6987.

PRESIDENT ALFREDO STROESSNER GIVES PARAGUAY GREAT LEADERSHIP

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. COLLINS of Texas. Mr. Speaker, Paraguay has made tremendous progress under its capable President Alfredo Stroessner. I visited with President Stroessner while I was in Asuncion, Paraguay, this week.

We have all heard so much regarding the living legend of General Stroessner. And I found that even more should be said.

Since 1954, he has provided the guiding leadership that has built stability for Paraguay. We arrived at the airport around 9 in the evening. As we drove in through the suburbs, I noticed everyone walking on the streets with complete ease. We saw eight teenage girls walking in a group and I asked if there were any danger. And the answer was definite: Women and children are completely safe, night and day, because of the positive direction of President Stroessner.

In the entire country there are less than 20,000 men in the army, navy, air force, and the police. But these men are dedicated to maintaining peace and protecting their neighbors. In the United States, we could learn from the example of Paraguay where law and order is respected. The people in Paraguay are all happy, relaxed, and walk the streets with confidence.

I asked U.S. Ambassador Raymond Ylitalo about the successful leadership that President Stroessner had given Paraguay since 1954. Ylitalo is impressed with the President's ability. Stroessner knows the job of every Minister of his Cabinet, and could take any desk and do a superior job. Ylitalo told me the President stays in close contact with every Government activity. To top it all, General Stroessner is a very hard worker, starting in each morning at 4:30 in his office.

While I was in Paraguay he was busy traveling around the country to all the graduations to hand out the diplomas. He likes people and is proud of his young, clean-cut high school graduates.

And Alfredo Stroessner is a religious man. The day I left Paraguay he was attending a 4:30 breakfast and then joining the 100,000 pilgrims who walked to Caacupe to celebrate mass honoring the Virgin Mary.

Paraguay has stable foreign affairs under the direction of the Ministry of Dr. Sapena-Pastor. While inflation has run rampant in most South American countries, Paraguay has kept level with the American dollar for the past 12 years. When I asked Dr. Sapena-Pastor how they held the line, he put his hand on his belt and tightened it up, because the President believes in a balanced budget.

When I had a conference with President Stroessner I was impressed. He is alert and a very intelligent man. He runs his office on schedule and he is always on time. And I might add that this driving dynamo keeps everyone around him very much on time.

Stroessner is a warm, friendly man. Saturday afternoon he went fishing and caught a 40-pound dorado. He had his driver bring it by to give it to Ambassador Ylitalo just like neighbors do in the States. If you have never tasted dorado, I want to tell you to try it, as it is the most delicious fish you ever tasted.

Wherever I went in Paraguay, everyone spoke highly of President Stroessner. The man on the street, the government official, the soldier, the housewife—to all of them Alfredo Stroessner is "The Excellency" and he is respected by all.

Many South American countries have rich minerals. Venezuela has oil; Chile has copper; Bolivia has tin; and Peru has gold. But Paraguay with no minerals, has the greatest asset of all—it has warm, friendly people.

And up beyond the Equator, the people of the United States respect and admire Alfredo Stroessner and the patriotic country of Paraguay. When we look for friends at the U.N., Paraguay always stands beside us. When there was turmoil in the Dominican Republic, Paraguay quickly rushed a volunteer battalion. And as the President remarked:

We had no AWOL's—when the plane loaded up we found two men extra, but I gave them permission to also go.

We live in a mixed-up world today. Sometimes we wonder who are our real friends. There is one thing of which the United States is always certain. The people of Paraguay are always our friends. Alfredo Stroessner is a man you can depend on. When the chips are down, when the tough decisions must be made—and we need to know who the United States can count on—we turn to Alfredo Stroessner and the great country of Paraguay—our true friends.

HARRIMAN ADDS SMUDGE TO ALREADY POOR RECORD

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. DERWINSKI. Mr. Speaker, a frank and penetrating commentary on the diplomatic record compiled by Ambassador W. Averell Harriman was contained in an article by the international correspondent of the Copley Press, Dumitru Danielopol, in the November 26, San Diego, Calif., Union. Mr. Danielopol, a former Rumanian diplomat, is well equipped by virtue of his training and experience to analyze the Harriman record. The subject matter is quite timely in its reference to Southeast Asia, and I insert the article into the RECORD at this point:

HARRIMAN ADDS SMUDGE TO ALREADY POOR RECORD

(By Dumitru Danielopol)

The time: summer 1962.

The place: Tokyo, Japan, a briefing room at the U.S. Embassy.

The treaty for the "neutralization" of Laos had just been signed despite vehement opposition from Laotian Prime Minister Gen. Phoumi Nosavan, who wanted to continue fighting the Reds. They would not respect the treaty and withdraw their troops, he argued.

But the U.S. chief negotiator, Ambassador W. Averell Harriman, had stood firm. He pushed the treaty through.

"The pipsqueak (Nosavan) wants to tell the President of the United States what is best for Laos," Harriman told U.S. reporters.

Nosavan proved to be right, however. The country was never neutralized.

It has remained a battleground and a route for North Vietnam troops into South Vietnam. Nosavan lives in exile in Thailand.

The story is so familiar.

Harriman did the same thing in Romania in 1946. He offered U.S. Government guarantees for "free and unfettered" elections to persuade a reluctant King Michael and the three heads of the democratic parties, Iuliu Maniu, Dinu Britianu and Titel Petrescu, to recognize a Soviet-imposed Communist front government under Petru Groza.

Harriman knew at the time that the Reds would not stick to the promise of free elections and that they would ultimately take over. But he insisted.

King Michael is now in exile in Switzerland. The three Romanian leaders died in Communist jails.

Now the same Harriman is at it again. He is trying to undermine the South Vietnam government.

In an article in Look Magazine entitled "Vietnamization Is Immoral," the veteran ambassador accuses the Thieu government of refusing to agree to a coalition government with the Reds, of sabotaging the peace talks in Paris, of leading an unpopular and repressive regime, etc.

The ambassador is bitter toward Thieu for refusing to rush to Paris in October 1968, when President Johnson halted the bombings a few days before elections that brought Richard Nixon to the White House.

"Some believe," Harriman says, "that if we had started actual negotiations during the week before election day, it might well have a small, but vital, difference in the elections."

Obviously, Harriman, a life-long Democrat, believes it would have been enough to elect Hubert Humphrey.

He goes on to accuse President Nguyen Thieu of "scuttling" the negotiations. "If Humphrey had been elected," he says, "we would have been well out of Vietnam by now."

Harriman does not explain why President Johnson did not make his move sooner and the suspicion is deep that it was more of a political tactic to save Humphrey than a diplomatic move to secure peace.

Only two weeks earlier Sen. Everett Dirksen, Republican of Illinois, had warned about a "gimmick" such as an election-eve bombing halt.

Why has there been no sign since 1968 that the Reds were ready to negotiate? Harriman says, "the chair was broken." That's not good enough. Ambassador Philip Habib, who has been in Paris since the talks began, says flatly that Hanoi has never made the slightest move toward compromise.

Harriman followed his article with an unpardonable insult to President Nixon. He appeared at the Soviet Embassy in Washing-

ton for the 53rd anniversary of the October Revolution and in the presence of Soviet diplomats publicly criticized an official U.S. boycott of the celebrations.

The boycott was called to emphasize U.S. indignation over Russia's treatment of three Americans, two generals and a major, who were being held in violation of the Consular Treaty.

Harriman is venerated by many as an elder statesman and an oracle. I prefer to judge him by his record. It is not impressive.

PROPOSED CHANGE IN TRUTH IN LENDING REGULATION ON AGRICULTURAL CREDIT TRANSACTIONS

HON. LEONOR K. SULLIVAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mrs. SULLIVAN. Mr. Speaker, many of the Members, I am sure, will be interested in knowing that the Federal Reserve is contemplating a change in its truth in lending regulation dealing with agricultural credit transactions, specifically, the requirement under regulation Z that when a farmer's residence is made part of the collateral for credit, there has to be a 3-day waiting period before a credit transaction can be completed, during which time the debt can be canceled.

The 3-day right of rescission period on credit transactions involving a security interest in one's home is one of the cardinal protections accorded homeowners under the Truth in Lending Act, and is intended to eliminate one of the worst pretruth in lending abuses in the consumer credit field, particularly in home improvement sales. Homeowners were frequently persuaded to sign contract forms without realizing that they were, in effect, giving the seller or lender a mortgage on the residence. If the work contracted for were not done properly, or not done at all, the homeowner's subsequent refusal to pay the contract amount often led to foreclosure and loss of the home.

The hearings of the Subcommittee on Consumer Affairs of the House Committee on Banking and Currency in 1967 on the legislation which later became the Consumer Credit Protection Act of 1968 contained many references to this kind of credit abuse. Hence, we were delighted to accept a floor amendment to the truth in lending title, proposed by the present Governor of New Jersey, the Honorable William T. Cahill, providing for a 3-day cooling-off period for credit transactions involving a security interest in the debtor's residence. This amendment was modified somewhat in conference but was enacted in a form generally faithful to the Cahill proposal.

MANY AGRICULTURAL CREDIT TRANSACTIONS AFFECTED

As interpreted by the Board of Governors of the Federal Reserve System in regulation Z, the rescission clause applied not only in instances where a second mortgage on the residence was utilized as part of a credit transaction, but also where State law permits the filing of mechanic's or materialmen's liens which could lead directly to foreclosure of the residence.

Since agricultural credit is covered under Truth in Lending, many ordinary transactions between farmers and their suppliers or bankers or other creditors have been covered by the rescission clause unless the creditor waives any rights he might have under State law to take action leading to foreclosure of the farmer's property, including his residence, for failure to pay the debt. As a result, many of these routine transactions have required a 3-day waiting period between contracting for a sale or loan and its consummation, unless, of course, a bona fide emergency situation required immediate delivery of the goods, or performance of the work, in which case the farmer could waive his rescission rights.

PROPOSED CHANGE IN REGULATION Z

The Board of Governors now proposes to eliminate the 3-day waiting period on extensions of credit "primarily for agricultural purposes." Because of the many inquiries my subcommittee has received from time to time from Members of the House on the operation of the agricultural aspects of Truth in Lending Act, I am submitting for inclusion in the CONGRESSIONAL RECORD at this point the announcement of the Federal Reserve on this proposed amendment in the regulation. Comments are being invited by the Board until January 18, 1971.

The material referred to is as follows:

FEDERAL RESERVE PRESS RELEASE

DECEMBER 10, 1970.

The Board of Governors of the Federal Reserve System today issued for comment a proposed amendment to its Truth in Lending Regulation Z relating to the extension of credit for agricultural purposes involving the right of rescission. Comments should be received by the Board no later than January 18, 1971.

The proposed amendment would permit farmers to obtain funds, goods or services in agricultural credit transactions without waiting for the expiration of the three-day rescission period when their residence is part of the collateral for credit.

A copy of the proposal is attached.

FEDERAL RESERVE SYSTEM

[12 CFR Part 226]

[Reg. Z]

Truth in lending

Delay of performance in agricultural credit transactions subject to the right of rescission

Pursuant to the authority contained in the Truth in Lending Act (15 U.S.C. 1601), the Board of Governors is considering amending § 226.9(c) of Part 226 to read as follows:

(c) *Delay of Performance.* Except as provided in paragraph (e) of this section, the creditor in any transaction subject to this section, other than an extension of credit primarily for agricultural purposes, shall not perform, or cause or permit the performance of, any of the following actions until after the rescission period has expired and he has reasonably satisfied himself that the customer has not exercised his right of rescission:

(1) Disburse any money other than in escrow;

(2) Make any physical changes in the property of the customer;

(3) Perform any work or service for the customer; or

(4) Make any deliveries to the residence of the customer if the creditor has retained or will acquire a security interest other than one arising by operation of law.

The amendment consists of the insertion of the words "other than an extension of credit primarily for agricultural purposes." The purpose of the amendment is to permit farmers to obtain money, goods, or services in agricultural credit transactions involving the right of rescission without being obliged to wait until the expiration of the rescission period.

To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data, views, or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 18, 1971. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information.

By order of the Board of Governors, December 10, 1970.

(signed) KENNETH A. KENYON,
Deputy Secretary.

INTERGOVERNMENTAL COOPERATION ACT OF 1970

HON. L. H. FOUNTAIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. FOUNTAIN. Mr. Speaker, I want to inform the House that last Monday the Intergovernmental Relations Subcommittee voted to report out a clean bill incorporating the susbtance of H.R. 7366, Intergovernmental Cooperation Act of 1969; H.R. 10954, Grant Consolidation Act of 1969, and H.R. 17112, Program Information Act. I introduced the clean bill (H.R. 19933) on Wednesday with the cosponsorship of the gentlewoman from New Jersey (Mrs. DWYER), the gentleman from Ohio (Mr. BROWN), and the gentleman from Michigan (Mr. VANDER JAGT)—all members of the subcommittee.

During the past year and a half the subcommittee has carefully studied this legislation and coordinated and conferred with appropriate officials of the executive branch concerning its provisions, especially those dealing with grant consolidation. I am, therefore, satisfied that the clean bill represents a sound and feasible vehicle for achieving the objectives of the three bills which the subcommittee considered.

The President and his administration are especially interested in the grant consolidation provisions of this legislative proposal.

While the subcommittee did not view enactment of H.R. 19933 as a practical possibility so late in the session, the measure was approved by the subcommittee and voted out during these closing days so that Members will have an opportunity to study the clean bill prior to its introduced at the beginning of the 92d Congress.

We would be most pleased to have the present sponsors of H.R. 7366; H.R. 10954, and H.R. 17112, as well as all our col-

leagues, join us next year in cosponsoring this valuable legislation for the improvement of intergovernmental relations in the United States, including the more efficient and effective administration of Federal grant-in-aid programs.

Mr. Speaker, I include the text of the clean bill, H.R. 19933, at this point in the RECORD for the information of the Members:

H.R. 19933

A bill to improve the financial management of Federal assistance programs, to facilitate the consolidation of such programs, to strengthen further congressional review of Federal grants-in-aid, to provide a catalog of Federal assistance programs, and to extend and amend the law relating to intergovernmental cooperation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act be cited as the "Intergovernmental Cooperation Act of 1970".

TITLE I—DEFINITIONS

SEC. 101. The definition of "Federal assistance", "Federal financial assistance", "Federal assistance programs", or "federally assisted programs", in title I of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098; Public Law 90–577) is amended to read:

"(7) The term 'Federal assistance,' 'Federal financial assistance', 'Federal assistance programs', or 'federally assisted programs', means any assistance provided by a Federal agency in the form of grants, loans, loan guarantees, contracts (except contracts for the procurement of goods and services for the Federal Government), or technical assistance, whether the recipients are a State or local government, their agencies, including school or other special districts created by or pursuant to State law, or public, quasi-public, or private institutions, associations, corporations, individuals, or other persons. The term does not include any annual payment by the United States to the District of Columbia authorized by article VI of the District of Columbia Revenue Act of 1947 (D.C. Code, secs. 47–2501a and 47–2501b)."

SEC. 102. Title I of the Intergovernmental Cooperation Act of 1968 is further amended by adding the following definition at the end thereof:

"(8) The term 'functional area' means any general category of activity having a common objective, such as education, health, housing, manpower, or transportation."

TITLE II—ACCOUNTING, AUDITING, AND REPORTING OF FEDERAL ASSISTANCE FUNDS

SEC. 201. Such Act is further amended by adding at the end thereof a new title as follows:

"TITLE VII—ACCOUNTING, AUDITING, AND REPORTING OF FEDERAL ASSISTANCE FUNDS

"STATEMENT OF PURPOSE

"SEC. 701. It is the purpose of this title to encourage simplification and standardization of financial reporting requirements of Federal assistance programs, to promote among Federal agencies administering such programs accounting and auditing policies that rely on State and local financial management control systems meeting certain criteria, and to authorize the issuance of standards for the audit of Federal assistance programs.

"MORE UNIFORM FINANCIAL REPORTING

"SEC. 702. The President shall, to the extent feasible, promulgate rules and regulations simplifying and making more uniform the financial reporting required of recipients under Federal assistance programs.

"FEDERAL AGENCIES' RELIANCE ON THE FINANCIAL MANAGEMENT CONTROL SYSTEMS OF STATES AND THEIR POLITICAL SUBDIVISIONS

"SEC. 703. (a) Federal agencies administering Federal assistance programs shall adopt accounting and auditing policies that, to the maximum extent feasible, rely on evaluation of accounting and auditing of such programs performed by or for States and local governments without performing a duplicate audit unless deemed necessary.

"(b) Pursuant to rules and regulations promulgated under section 702 hereof and the standards issued under section 704(a) hereof, heads of such agencies, or such agency as is designated by the President in subsection (h) of this section, shall determine the adequacy of the financial management control systems employed by recipient jurisdictions, including but not restricted to a determination of (i) whether reports are prepared in accordance with applicable requirements and are supported by accounting and other records; (ii) whether audits are carried out with adequate coverage in accordance with the auditing standards issued; and (iii) whether the auditing function is performed on a timely basis by a qualified staff which is sufficiently independent of program operations to permit a comprehensive and objective auditing performance.

"(c) Heads of such agencies, or such agency as is designated by the President in subsection (h) of this section shall evaluate audits performed to determine their acceptability in lieu of audits which otherwise would be required to be performed by such agencies. To the extent that audits are acceptable, duplicate audits will not be performed. Where audits are not acceptable, the agencies shall make whatever audits are necessary to assure that Federal funds are properly expended.

"(d) Periodic review and testing of the operations of such control systems shall be undertaken by such agencies to verify the continuing acceptability of the systems for the purpose of section 703(a).

"(e) Each Federal agency administering Federal assistance programs shall encourage greater cooperation with the personnel operating the financial management control systems of recipient jurisdictions by maintaining continuous liaison with such personnel, and by collaborating in the development of accounting systems, audit standards and objectives, and audit schedules and programs.

"(f) Each such agency administering more than one Federal assistance program shall, to the extent feasible and permitted by law, coordinate and make uniform the auditing requirements of such programs.

"(g) Each Federal agency administering a Federal assistance program shall, to the extent feasible, establish cross-servicing arrangements with other Federal agencies administering Federal assistance programs under which one such agency would conduct the audits for another.

"(h) The Office of Management and Budget, or such other agency within the Executive Office of the President as the President may designate, shall be responsible for overseeing the effective implementation of this section and is hereby authorized to prescribe such rules and regulations as are deemed appropriate for its administration.

"STANDARDS OF AUDITING TO BE DEVELOPED

"SEC. 704. (a) The President of the United States or such agency as he may designate, in cooperation with the Comptroller General, is hereby authorized to develop and issue standards of auditing for the guidance of Federal agencies and State and local governments, as well as independent public accountants, engaged in the review and audit of Federal assistance programs. Such issuances shall serve the purpose of providing guidance to the various audit organizations but shall not be construed as relieving such audit organizations of the responsibility for the effective administration of their audit programs.

"(b) The Comptroller General shall, in the course of carrying out his audit responsibilities, consider and report to the Congress on the utilization made by Federal agencies of the audits performed by State and local governments, or independent public accountants, and on the implementation of the standards issued pursuant to subsection 704(a). A summary report shall be made at the end of each fiscal year, beginning with the first full fiscal year following the date of enactment of this Act.

"SEC. 705. Nothing in this title shall be construed to diminish the authorities and responsibilities of the Comptroller General of the United States under existing law."

TITLE III—CONSOLIDATION OF FEDERAL ASSISTANCE PROGRAMS

SEC. 301. Such Act is further amended by adding after title VII, as added by section 201 of this Act, the following new title.

"TITLE VIII—CONSOLIDATION OF FEDERAL ASSISTANCE PROGRAMS

"PART A—DEVELOPMENT AND TRANSMITTAL OF CONSOLIDATION PLANS

"STATEMENT OF PURPOSE

"SEC. 801. The President shall from time to time examine the various Federal assistance programs provided by law and with respect to such programs shall determine what consolidations are necessary or desirable to accomplish one or more of the following purposes:

"(1) to promote better administration and more effective planning;

"(2) improve coordination;

"(3) to eliminate overlapping and duplication; and

"(4) to promote economy and efficiency to the fullest extent consistent with the achievement of program goals.

"PREPARATION, TRANSMITTAL, AND REFERENCE OF PLAN

"SEC. 802. (a) When the President, after investigation, finds that a consolidation of Federal assistance programs is necessary or desirable to accomplish one or more of the purposes set forth in section 801, he shall prepare a Federal assistance consolidation plan (hereafter in this title referred to as a 'consolidation plan') for the making of program consolidations, and shall transmit the plan (bearing an identification number) to the Congress, together with a declaration that, with respect to each consolidation included in the plan, he has found that the consolidation is necessary or desirable to accomplish one or more of the purposes set forth in section 801, and a declaration as to how each program included in the plan is functionally related.

"(b) Each such consolidation plan so transmitted—

"(1) shall place responsibility for administration of the consolidated program in a single Federal agency;

"(2) shall specify in detail the terms and conditions under which the Federal assistance programs included in the plan shall be administered, including but not limited to matching, apportionment, and other formulas, interest rates, and planning, eligibility, and other requirements; except that the President shall, in selecting applicable terms and conditions, be limited by the range of terms and conditions already included in the Federal assistance programs being consolidated: *Provided*, That all of the Federal assistance programs being consolidated shall terminate and their authorizations expire not later than the earliest termination or expiration date specifically provided for any of

such programs under the law in effect when the plan was submitted;

"(3) shall set forth in the message transmitting the plan to the Congress the difference between the terms and conditions of the individual Federal assistance programs to be consolidated under the plan and those that will be applicable after the plan goes into effect, and shall also set forth the reasons for selecting such terms and conditions;

"(4) shall provide for the transfer or other disposition of the records, property, and personnel of individual Federal assistance programs affected by the consolidation;

"(5) shall provide for the transfer of appropriations or other budget authority in such manner that the aggregate amount of appropriations and other budget authority available for carrying out the Federal assistance programs involved in the plan shall be available for the consolidated program, and the aggregate amount of authorizations of appropriations or other budget authority for such programs shall be deemed authorization of appropriations and other budget authority for the consolidated program; except that any appropriations or portions of appropriations which are made for or transferred to the consolidated program and which are unexpended by reason of the proviso in paragraph (2) or otherwise by reason of the operation of this title may not be used for any purpose, but shall revert to the Treasury;

"(6) shall provide to the extent appropriate for determining the affairs of a Federal agency or part thereof whose programs have been transferred as a consequence of the consolidation; and

"(7) may authorize an officer to delegate any of his functions under the plan.

"(c) Each consolidation plan shall provide for only one consolidation of two or more Federal assistance programs.

"(d) consolidation plan may not provide for, and may not have the effect of—

"(1) consolidating any Federal assistance programs which are not in the same functional area;

"(2) providing any type of Federal assistance included in the plan to any recipient who was not eligible for Federal assistance under any of the programs included in the plan, nor excluding any recipient from eligibility for any type of Federal assistance for which such recipient was eligible under one or more of the programs included in the plan; or

"(3) transferring responsibility for the administration of the programs included in the plan to any agency or officer who was not responsible for the administration of one or more of such programs prior to the taking effect of the plan.

"(e) The President shall have a consolidation plan delivered to both Houses on the same day and to each House while it is in session, except that no consolidation plan may be delivered within thirty calendar days following the delivery of a previous plan in the same functional area.

"(f)(1) Each consolidation plan transmitted to the Congress under subsection (a) shall be promptly referred to the committee of each House of Congress having legislative jurisdiction over the programs involved for its consideration, and any such plan so transmitted which involves the consolidation of Federal assistance programs coming within the legislative jurisdiction of two or more committees respectively of either House of Congress shall be promptly referred to each such committee for its consideration; and in any such instance the provisions of sections 814 through 817 shall apply to each such committee.

"(2) A consolidation plan shall also be referred to the Committee on Government Operations of each House in each instance where a reorganization described in subsection (b) and to be accomplished pursuant to such plan would be subject to the jurisdiction of such committees if submitted in the form of substantive legislation or a reorganization plan; and in such instance the provisions of sections 814 through 817 shall apply.

"EFFECT ON OTHER LAWS AND REGULATIONS

"SEC. 803. (a) To the extent that any provision of a consolidation plan which becomes effective under this title is inconsistent with any provision of any statute enacted prior to the taking effect of the plan, the provision of the plan shall control to the extent that such plan specifies the provisions of the statute to be superseded.

"(b) Any regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, or other action made, prescribed, issued, granted, or performed with respect to any matter affected by a consolidation plan which becomes effective under this title shall be deemed to be modified to the extent of any inconsistency thereof with the plan but shall otherwise continue in effect.

"(c) A suit, action, or other proceeding lawfully commenced by or against the head of any Federal agency or other officer of the United States, in his official capacity or in relation to the discharge of his official duties, does not abate by reason of the taking effect of a consolidation plan under this title. On motion or supplemental petition filed at any time within twelve months after the plan takes effect, showing a necessity for a survival of the suit, action, or other proceeding to obtain a settlement of the questions involved, the court may allow the suit, action, or other proceeding to be maintained by or against the successor of the head or officer under the plan or, if there is no successor, against such agency or officer as the President designates.

"EXPIRATION DATE

"SEC. 804. A provision contained in a consolidation plan may take effect only if the plan is transmitted to the Congress before April 1, 1973.

"PART B—CONGRESSIONAL CONSIDERATION

"EFFECTIVENESS OF PLAN

"SEC. 811. (a) Except as otherwise provided in subsection (c) of this section, a consolidation plan shall become effective at the end of the first period of ninety calendar days of continuous session of the Congress after the date on which the plan is transmitted to it unless, between the date of transmittal and the end of the ninety-day period, either House passes a resolution stating that the House does not favor the plan.

"(b) For purposes of subsection (a) of this section—

"(1) continuity of session is broken only by an adjournment of the Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the ninety-day period.

"(c) Under provisions contained in a consolidation plan, a provision of the plan may be effective at a time later than the date on which the plan otherwise is effective.

"(d) A consolidation plan which becomes effective shall be printed (1) in the Statutes at Large in the same volume as the public laws and (2) in the Federal Register.

"RULEMAKING POWER OF SENATE AND HOUSE

"SEC. 812. Sections 813 through 817 are enacted by the Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in the succeeding sections of this part; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"TERM OF RESOLUTION

"SEC. 813. For the purpose of sections 811 and 814 through 817, the term 'resolution' means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the —— does not favor the consolidation plan numbered —— transmitted to Congress by the President on ——, 19—.', the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled.

"REFERENCE OF RESOLUTION TO COMMITTEE

"SEC. 814. A resolution with respect to a consolidation plan shall be referred to the appropriate committee or committees in accordance with the provisions of section 802 (f) (and all resolutions with respect to the same plan shall be referred to the same committee or committees) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

"DISCHARGE OF COMMITTEE CONSIDERING RESOLUTION

"SEC. 815. (a) If any committee which has had jurisdiction over a consolidation plan for a period of sixty calendar days and to which a resolution with respect to such plan has been referred has not reported such resolution within ten calendar days after introduction of that resolution, it will be in order to move to discharge all committees to which such resolution has been referred from the further consideration either of such resolution or of any other resolution with respect to the plan in question, except that no such notion to discharge may be made after any committee to which the resolution has been referred has reported a resolution with respect to the same plan.

"(b) A motion to discharge is highly privileged and may be made only by an individual favoring the resolution. Debate thereon shall be limited to not more than two hours, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(c) After the motion to discharge is agreed to, the motion may not be renewed, nor may another motion to discharge a committee be made with respect to any other resolution with respect to the same consolidation plan.

"PROCEDURE AFTER REPORT OR DISCHARGE OF COMMITTEE; DEBATE

"SEC. 816. (a) Anytime after any committee has reported or has been discharged from further consideration of a resolution with respect to a consolidation plan, it is in order to move to proceed to the consideration of the resolution even though a previous motion to the same effect has been disagreed to. If resolutions concerning the same plan have been reported by two or more committees, the motion shall be directed to that report which was earliest reported. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(b) Debate on the resolution shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable

An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"DECISIONS WITHOUT DEBATE ON MOTION TO POSTPONE OR PROCEED

"SEC. 817. (a) Motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution with respect to a consolidation plan, and motions to proceed to the consideration of other business, shall be decided without debate.

"(b) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a consolidation plan shall be decided without debate."

TITLE IV—CONGRESSIONAL AND EXECUTIVE OVERSIGHT OF FEDERAL ASSISTANCE PROGRAMS

SEC. 401. Section 601 of such Act is amended by adding at the end thereof the following new subsection:

"(c) Each committee of the House and Senate having legislative jurisdiction over grant-in-aid programs shall separately or jointly conduct studies of such programs at least six months prior to their expiration or, in the case of grant-in-aid programs covered by subsections (a) and (b) of this section, six months prior to the expiration of the period specified in such subsections. Each such committee shall advise its respective House of its findings and recommendations, with special reference to the considerations cited in clauses (1) through (4) of subsection (a) of this section. Nothing in the section shall preclude the Committee on Government Operations of each House from conducting studies of such programs and requesting assistance under sections 602 and 603 of this title."

SEC. 402. Title VI of such Act is amended by adding at the end thereof the following new section:

"REPORTS BY FEDERAL AGENCIES

"SEC. 605. (a) Heads of Federal agencies administering one or more Federal assistance programs shall make a report to the President and the Congress on the operations of such programs not later than January 31 following the end of each fiscal year, beginning with the first full fiscal year after the date of enactment of the Intergovernmental Cooperation Act of 1970. Such reports shall, among other things, describe—

"(1) the overall progress and effectiveness of administrative efforts to carry out each program's statutory goals;

"(2) the consultative procedures employed under each program to afford recipient jurisdictions an opportunity to review and comment on proposed new administrative regulations, and basic program changes;

"(3) intradepartmental and interdepartmental arrangements to assure proper coordination at headquarters and in the field with other related Federal assistance programs;

"(4) efforts and progress in simplifying and making more uniform (i) application forms and procedures and (ii) financial reporting and auditing requirements and procedures;

"(5) efforts and progress in relying on the internal or independent audits performed by or for States and units of local government;

"(6) the feasibility of consolidating individual Federal assistance programs with others in the same functional areas, where such exist;

"(7) the practicability of delegating more administrative discretion, including application approval authority, to field offices;

"(8) whether changes in the purpose, direction, or administration of such Federal assistance programs, or in procedures and requirements applicable thereto, should be made; and

"(9) the extent to which such programs are adequate to meet the growing and changing needs for which they were designed."

TITLE V—PROGRAM INFORMATION ACT

SEC. 501. Such Act is further amended by adding after title VIII, as added by section 301 of this Act, the following new title:

"TITLE IX—PROGRAM INFORMATION ACT

"SHORT TITLE

"SEC. 901. This title may be cited as the 'Program Information Act'.

"DEFINITION

"SEC. 902. For the purposes of this title—

"(a) The term 'Federal domestic assistance program' means an activity of a Federal agency which provides assistance or benefits, whether in the United States or abroad, to any State or local government, or any instrumentality thereof, any domestic profit or nonprofit corporation, institution, or individual, other than an agency of the Federal Government.

"(b) A 'Federal domestic assistance program' may in practice be called a program, an activity, a service, a project, or some other name regardless of whether it is identified as a separate program by statute or regulation and which can be differentiated from any other such program on the basis of its legal authority, its administering office, its purpose, its benefits, or its beneficiaries.

"(c) 'Assistance or benefits' means grants, loans, loan guarantees, scholarships, mortgage loans and insurance; assistance in the form of provision of Federal facilities, goods or services, donation or provision of surplus real and personal property; and technical assistance.

"(d) 'Administering office' means the lowest subdivision of any Federal agency that has direct operational responsibility for managing a Federal domestic assistance program.

"EXCLUSION

"SEC. 903. This title does not apply to any activities related to the collection or evaluation of national security information.

"CATALOG OF FEDERAL DOMESTIC ASSISTANCE PROGRAMS

"SEC. 904. The President shall transmit to Congress no later than May 1 of each regular session a catalog of Federal domestic assistance programs, referred to in this title as 'the catalog,' in accordance with this title.

"PURPOSE OF CATALOG

"SEC. 905. The catalog shall be designed to assist the potential beneficiary identify all existing Federal domestic assistance programs wherever administered, and shall supply information for each program so that the potential beneficiary can determine whether particular assistance or benefits might be available to him for the purposes he wishes.

"REQUIRED PROGRAM INFORMATION

"SEC. 906. For each Federal domestic assistance program, the catalog shall—

"(1) identify the program, including the name of the program, the authorizing statute, the specific administering office, and a brief description of the program and its objectives.

"(2) describe the program structure, including eligibility requirements, formulas governing the distribution of funds, types of assistance or benefits, uses and restrictions on the use of assistance or benefits, and obligations and duties of recipients or beneficiaries.

"(3) provide financial information, including current authorizations and appropriations of funds, the obligations incurred for past years, the current amount of unobligated balances, and other pertinent financial information.

"(4) identify the appropriate officials to contact, both in central and field offices, including addresses and telephone numbers.

"(5) provide a general description of the application process, including application deadlines, coordination requirements, processing time requirements, and other pertinent procedural explanations.

"(6) identify closed related programs.

"FORM OF CATALOG

"SEC. 907. (a) The program information may be set forth in such form as the President may determine, and the catalog may include such other program information and data as in his opinion are necessary or desirable in order to assist the potential program beneficiary to understand and take advantage of each Federal domestic assistance program.

"(b) The catalog shall provide in separate sections: (1) information concerning all Federal domestic assistance programs for which State and local governments or their instrumentalities may be eligible, and (2) information concerning all Federal domestic assistance programs for which recipients other than State and local governments or their instrumentalities may be eligible. The catalog may include, at the discretion of the President, additional sections in which there is provided information on other types of assistance programs not specified in section 902(c).

"(c) The catalog shall contain a detailed index designed to assist the potential beneficiary to identify all Federal domestic assistance programs related to a particular need.

"(d) The catalog shall be in all respects concise, clear, understandable, and such that it can be easily understood by the potential beneficiary.

"QUARTERLY REVISION

"SEC. 908. The President shall revise the catalog at no less than quarterly intervals. Each revision—

"(1) shall reflect any changes in the program information listed in section 906.

"(2) shall further reflect addition, consolidation, reorganization, or cessation of Federal domestic assistance programs, and shall provide for such Federal domestic assistance programs the program information listed in section 906.

"(3) shall include such other program information as will provide the most current information on changes in financial information, on changes in organizations administering the Federal domestic assistance programs, and on other changes of direct, immediate relevance to potential program beneficiaries as will most accurately reflect the full scope of Federal domestic assistance programs.

"(4) may include such other program information and data as in the President's opinion are necessary or desirable in order to assist the potential program beneficiary to understand and take advantage of each Federal domestic assistance program.

"PUBLICATION AND DISTRIBUTION OF THE CATALOG

"SEC. 909. (a) The President (or an official to whom such function is delegated pursuant to section 910 of this title shall prepare, publish, and maintain the catalog and shall make such catalog and revisions thereof available to the public at prices approximately equal to the cost in quantities adequate to meet public demands, providing for subscriptions to the catalog and revisions thereof in such manner as he may determine.

"There is authorized to be distributed without cost to Members of Congress and Resident Commissioners not to exceed five thousand copies of catalogs and revisions.

"There is authorized to be distributed without cost to Federal agencies, State and local units of government and local repositories not to exceed ten thousand copies of catalogs and revisions as determined by the President or his delegated representative.

"(b) The catalog shall be the single authoritative, Government-wide compendium of Federal domestic assistance program information produced by a Federal agency. Specialized catalogs for specific ad hoc purposes may be developed within the framework, or as a supplement to, the Government-wide compendium and shall be allowed only when specifically authorized and developed within guidelines and criteria to be determined by the President.

"(c) Any existing provisions of law requiring the preparation or publication of such catalogs are superseded to the extent they may be in conflict with the provisions of this title.

"DELEGATION OF FUNCTIONS

"SEC. 910. The President may delegate any function conferred upon him by this title including preparation and distribution of the catalog, to the head of any Federal agency, with authority for redelegation as he may deem appropriate."

TITLE VI—EXTENSION OF CERTAIN PROVISIONS OF THE INTERGOVERNMENTAL COOPERATION ACT OF 1968 TO POLITICAL SUBDIVISIONS

SEC 601. Section 202 of such Act is amended to read as follows:

"SEC. 202. No grant-in-aid to a State or a political subdivision therein shall be required by Federal law or administrative regulation to be deposited in a separate bank account apart from other funds administered by the State or political subdivisions therein. All Federal grant-in-aid funds made available to the States or to political subdivisions therein shall be properly accounted for as Federal funds in the accounts of the State or of the political subdivisions therein. In each case the agency of the State or of the political subdivisions therein concerned shall render regular authenticated reports to the appropriate Federal agency covering the status and the application of the funds, the liabilities and obligations on hand, and such other facts as may be required by said Federal agency. The head of the Federal agency and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to the grant-in-aid received by the States or by the political subdivisions therein or to the sub-grants made by the States or by the political subdivisions."

SEC. 602. Section 203 of such Act is amended to read as follows:

"SEC. 203. Heads of Federal departments and agencies responsible for administering grant-in-aid programs shall schedule the transfer of grant-in-aid funds consistent with program purposes and applicable Treasury regulations, so as to minimize the time elapsing between the date of transfer of such funds from the United States Treasury and the date of disbursement thereof by a State or by a political subdivision therein; or between date of disbursement by a State or by a political subdivision therein and the date of transfer by the United States Treasury. States and the political subdivisions therein shall not be held accountable for interest earned on grant-in-aid funds, pending their disbursement for program purposes."

BRYCE HARLOW

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. ANDERSON of Illinois. Mr. Speaker, I enjoyed on yesterday listening to the euphoniums of praise in honor of departing Presidential counselor, Bryce Harlow. In sketching his background, the illustrious majority leader, the gentleman from Oklahoma (Mr. ALBERT), made reference to the fact that he had risen above a Democratic background to become a leader in the Republican Party. I was reminded then that proselytes by conversion are often even more zealous than those who are originally born into the faith. It has surely been so in the case of Bryce Harlow whose dedicated service to the Republican Party in so many ways can scarcely be matched by any other living American. We view his departure from his present post with genuine regret. However, we are certain that his counsel and advice will continue to be available. We wish him every happiness and much success as he rejoins his former associates.

SENATOR PEARSON, OF KANSAS, WORKING ON A "RURAL RENAISSANCE"

HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. SEBELIUS. Mr. Speaker, in the December 1 issue of the Hutchinson News, there is an editorial in reference to my good friend and colleague, the senior Senator from Kansas, JIM PEARSON.

As a Congressman representing rural and smalltown America, I am concerned over what I consider to be a serious imbalance in our Federal effort to improve our Nation's social and economic well-being.

Too often it seems as if the social and economic needs of rural and smalltown America have been overlooked or ignored as we try to mount an effective program of improvement for the 1970's. JIM PEARSON recognizes his need and has repeatedly sponsored programs based upon the philosophy that the social and economic needs of both urban and rural America are interdependent. If we are going to achieve a more even distribution of our population and improve both our overcrowded urban areas and our countryside, our social and economic programs in the 1970's must benefit and be applicable to all of our citizens.

As the Hutchinson News editorial points out, Senator PEARSON has been working on a "rural renaissance" for his entire political life. Those of us vitally interested in the revitalization of rural and smalltown America owe him a debt of gratitude for his leadership and continued efforts in this regard. The editorial from the Hutchinson News follows:

FIGHTING RURAL BLIGHT

Sen. James Pearson has been hammering away at a rural renaissance for most of his current term.

He began with the Rural Job Development Act, to provide tax incentives for new industries locating in rural areas. This was followed by a proposal for a Rural Community Development Bank, to provide credit for expansion in the same areas, and a Rural Development Highways Act to improve transportation facilities.

Despite some support from Presidents Johnson and Nixon, it has been slow going.

Partly, as Sen. Pearson noted last week, because new ideas take a while to mature in Washington. Partly because of a lack of strong administration leadership.

But mostly because of a lack of sympathy from urban Congressmen, the majority, who practice the same foot-dragging in this problem as do rural Congressmen toward the plight of the city poor.

The city legislators also have expressed some fear that these programs will deepen the metropolitan plight by siphoning badly-needed jobs. This is a short-range view. The bills are aimed at creating new jobs, not re-locating old ones. Even if the cities should lose some workers to the country this would benefit both.

The Pearson program may come about by evolution. Cities rapidly are losing their appeal, particularly to students and young adults. Urban blight may force some relocations. But this natural development could stand a prod from the government, and Pearson's proposals are a good start.

CONGRESSIONAL REPORT TO THE NINTH DISTRICT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. HAMILTON. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

CURRENT PERFORMANCE OF THE NATION'S ECONOMY

The current performance of the American economy is without historical precedent. With prices and unemployment rising simultaneously, the President and his economic policy-makers are confronted with a real dilemma.

During 1969, the government's restrictive monetary and fiscal policies achieved, in part, their purpose of slowing demand, output and employment. The rate of Federal spending has been reduced and the cost of borrowing money has been increased.

Unemployment has increased from 3.5 percent to 5.6 percent, however. Factories are producing about 80 percent of capacity, or less, and there is a gap between actual and potential production in this country at an annual rate of perhaps $40 billion.

For a while it seemed as if the aim of slowing inflation was being achieved. But last October's increase in consumer prices (representing an annual rate of 7.2 percent) showed that the situation had worsened again. The typical U.S. worker lost 64 cents in buying power in October alone as a result of higher prices and a drop in the average weekly pay.

In the past, a decline in output and demand eventually had a stabilizing effect on price levels. But recent figures showing continued price increases, along with a decline in production, make our traditional economic indicators extremely perplexing.

Part of the answer to the puzzle is that we are in the longest period of inflation that the Nation has experienced, and that fact in itself has created an inflationary psychology with upward pressures on price levels, especially wages.

It has now become apparent that the government's fiscal and monetary policies should be aimed at expanding demand and production, which should gradually reduce un-

employment. The degree of expansion is the point of a continuing debate.

Some of the President's advisors are advocating a rapid expansion of the economy next year—increasing the total, output of goods and services as much as 8 percent. With this kind of growth, unemployment surely will decline. Others, however, regard this target as too ambitious and likely to create worse inflation.

The President has been exceedingly candid about the economy and has conceded past errors in policy. He told U.S. manufacturers recently, ". . . we can, and must, do better." He has announced, too, a decisive turn in his economic policy making it clear that the government will now take a strongly expansionary direction.

The President has said he will plan his fiscal 1971 budget as if the country were at full employment and the economy was producing full revenue. This means the budget will show a deficit, since the economy is operating at less than full employment. Increased government expenditures, however, should spur an increase in the economy.

Although he came into office strongly opposed to "jawboning" against wage and price increases, as one columnist put it, ". . . the White House jaws have begun to click." The President now raises the threat of action in areas where the government has—through law or regulation—an impact on supply or wages. He has moved to increase domestic production and foreign imports of crude oil, and he has called for a change in construction industry bargaining.

He has remained as opposed as ever to mandatory wage and price controls. The President has edged closer, by these recent actions, to an incomes policy in which he uses government persuasion or pressure in specific cases to hold down wages and prices.

It is clear that the President's economic policy has decisively shifted from the fight against inflation to the fight against unemployment.

A LIFE OF DEVOTION

HON. WILMER MIZELL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. MIZELL. Mr. Speaker, at this time I would like to ask my colleagues to join with me in honoring the memory of William Yost Preyer, the father of my distinguished colleague in the North Carolina delegation, RICHARDSON PREYER.

"Mr. Will," as he was affectionately known to hundreds of people in the Piedmont area of North Carolina, passed away Tuesday at the age of 82, following a life of devotion to his community, to American free enterprise, to his church, and to his family.

I am sure that all the Members of this House join me in extending our deepest sympathy to our colleague, Mr. PREYER, and to his family.

I would like to insert in the RECORD the following article and editorial chronicling the life and contributions of William Yost Preyer. Both pieces appeared in the Greensboro Daily News of December 9, 1970.

WILLIAM YOST PREYER DIES AT 82 AFTER A LONG ILLNESS

Funeral for William Yost Preyer, 82, of 603 Sunset Drive, former president of Vick Chemical Co. (now Richardson-Merrill Inc.) and long-time Greensboro civic leader, who died Tuesday morning at his home after a long illness, will be held at 11 a.m. Thursday at the First Presbyterian Church.

He was the father of Congressman L. Richardson Preyer, who, with his other four brothers, was at their father's bedside for his last illness.

Conducting the funeral will be the pastor, Dr. John A. Redhead, and the associate pastor, the Rev. William Currie. Burial will be in Green Hill Cemetery. Elders of the church and the Greensboro Kiwanis Club will attend as a group.

Memorial gifts may be made to the Presbyterian Home in High Point, the Children's Home Society of North Carolina in Greensboro and Greensboro College.

In addition to Congressman Preyer, Mr. Preyer is survived by four sons, William Y. Preyer Jr. of Greensboro; Dr. Robert O. Preyer of Cambridge, Mass., professor of English at Brandeis University; Dr. Norris W. Preyer of Charlotte, professor of history at Queens College; and Fred L. Preyer of Kirkland, Wash., president of the Advance Muffler Co., headquarters in Los Angeles, Calif.

Also surviving are a sister, Mrs. N. L. Eure of the Presbyterian Home in High Point; and 17 grandchildren.

"Mr. Will" joined Vick Chemical Co., in 1919 "at the bottom of the ladder." He retired as president in 1948 after serving in that capacity for 10 years.

He continued as a director and a member of the company's finance committee for a number of years after his retirement as president.

Mr. Preyer once said that he was "a lover of music and fun" and that his hobby was "acting as toastmaster and hearing and telling good jokes."

He delighted in telling one story about the early days of Vick Chemical Co. The late Lunsford Richardson, head of the company and very frugal, went on a trip leaving his son, H. Smith Richardson, in charge.

Preyer said, "I was in the shipping department and Smith suggested that we straighten things up while his father was away. Well, I really followed orders and cleaned out a lot of stuff we hadn't used in years—materials used in a lot of home remedies we'd discontinued.

"Mr. Lunsford returned and complimented me on how neat everything was. Then he discovered I'd thrown out those old materials, and he hit the ceiling . . . He let me know he was the boss."

His sunny personality affected all who knew him, and his ability to make civic undertakings seem like fun brought success to the many campaigns he led.

Those who attended the countless luncheon and dinner meetings at which he presided or spoke could attest that he excelled at his hobby. To see him at the speakers' table was to know there was going to be some humor in the program.

Mr. Preyer's attributes were recognized while he was a very young man. At 21 he was made a steward in the West Market Street Methodist Church. At that time, he was the youngest man ever to hold that position.

In his work with the church he was instrumental in bringing one of the first Chautauqua programs to Greensboro and was largely responsible for the presentation of Lyceum courses here.

A big man in business circles, Mr. Preyer also was big physically. Those who did not know him in his youth might find it surprising to learn that he was quite an athlete.

At one time he held the high jump record at the Greensboro YMCA, and he and his late brother, A. T. Preyer, won the doubles championship in local tennis for several years.

Mr. Preyer came to North Carolina from Cleveland, Ohio, where he was born on June 4, 1888.

When Mr. Preyer was 16, his father, the late Robert O. Preyer, bought an interest in the Greensboro Sash, Door and Blind Co. and the family moved here.

Not long after that, his father died and the lumber business was hit by a depression. Mr. Preyer gave up his plans to attend Trinity College, now Duke University, and went to work for the Guilford Lumber Co. as a salesman.

On June 15, 1916, he married Mary Norris Richardson of Greensboro. Two years later, his father-in-law, L. Richardson, founder of the Vick Chemical Co., asked him to assist in the real estate end of the business.

Because he foresaw great possibilities for the Vick company, Mr. Preyer quit his $150 a month job at the lumber yard and went to work for Richardson at $85 a month.

He advanced rapidly and worked in the production phase of the Vick business, after which he devoted several years to purchasing.

The big flu epidemic of World War I struck the nation in 1918 shortly after Mr. Preyer went with Vick. The company's "croup and pneumonia cures" were in great demand and the business grew and grew by leaps and bounds.

Mr. Preyer became the company's second vice president in 1929 and later that year became first vice president. He remained in that position until 1933, when he became treasurer and first vice president, then executive vice president in 1937. He was president from October, 1938, to November, 1948.

His duties with Vick required him to make regular weekly trips to New York. For almost 20 years he spent four days a week in New York and three days in Greensboro. He claimed he was the world's champion commuter.

In New York he came to love the theater, but at home he preferred to play golf in the afternoons and bridge in the evenings. For vacations he went to his summer house at Southport, Conn., but in 1949 he remodeled a house at Roaring Gap and spent most of his vacations there.

Several years after his marriage, he joined his wife's church, the First Presbyterian Church of Greensboro. He was elected a deacon in 1929 and an elder in 1934.

In New York he was a member of the Rockefeller Center Luncheon Club, the Cloud Club, New York Athletic Club, Advertising Club and Metropolitan Club.

In his long active career he was a director of the National Amusement Co. of Greensboro; a director of Richardson Realty Inc., chairman of the board, vice president and a director of the Re-Insurance Corp. of New York, an honorary alumnus of Davidson College, president of the North Carolina Society of New York, president of the Greensboro Chamber of Commerce, on the executive committee of the local Boy Scout council, president of the Greensboro Kiwanis Club, president of the Greensboro Country Club (twice), and a member of the Sedgefield Country Club.

He had recently been made an honorary trustee of Greensboro College.

WILLIAM YOST PREYER

Larger than life is a cliche; but it accurately describes a few individuals we encounter.

"Mr. Will" Preyer was that kind of man.

It was true of him, we are told, when he was a young man, making his way in Greensboro of the depression years—bestowing the gifts of a genial personality on all he met, possessed of a keen mind, a generous heart, an energetic body, an understanding spirit.

It was equally true in his maturity as corporation executive in New York City, a farseeing and effective leader in his wife's family's enterprise, the old Vick Chemical Company, today Richardson-Merrill.

It was also true in the fullness of his

years when he returned to Greensboro in 1948, where he identified immediately with the community's church, civic and educational leadership.

Nobody should misjudge the ingredients that comprised Mr. Preyer's radiant personality. He was no Pollyanna. He knew full well the tragedies of life. But he made it his business never to curse the darkness. Always instead he espoused, actively and joyously, those activities which would help produce light—and enlightenment. No job was too menial for his attention; no person too humble for his concern.

Mr. Preyer once called himself "a lover of music and fun." His hobby, he said, was "acting as toastmaster and hearing and telling jokes." True. But that was only part of the story. Nobody could make a better informal speech or preside over an occasion or a happening with more aplomb. He made his associates enjoy the business of fund-raising and other tedious endeavors. It was delightful to watch him conduct a meeting, to see his mind probe toward a consensus, always steadily but humanely. He knew how to inspire the best in people to make them work together.

Mr. Preyer's awareness of the importance of the qualities of the spirit grew with his advancing years. Few men are born with such insight. The list of his public benefactions and secret charities is lengthy. In area after area, from serving as Santa Claus every year for the Presbyterian Home to imposing corporate and civic decisions in New York and Greensboro, he made his impact felt. Only his friends and associates know all the details—from young post-college girls first set adrift in the big city and made to feel at home to small children (now grown) who still treasure Kennedy half-dollars he gave them in a moment of inspiration.

In his church, Mr. Preyer was a strong oak, perennially ready to support every constructive enterprise. In his home he reared a fine family of five boys, who in varied ways reflect his sterling qualities. In the community he served tirelessly always with a smile and loving hand.

So Greensboro not only is saddened by Mr. Preyer's death on Tuesday. It is greatly bereft. Yet the memories of such a splendid pilgrimage give us inspiration. Being larger than life, he somehow showed us life's potential.

MATHER AFB COMPLETES SEVEN YEARS OF ACCIDENT-FREE OPERATION

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. LEGGETT. Mr. Speaker, on December 2, 1970, the 3535th Navigation Training Wing at Mather Air Force Base in my district completed its seventh year of accident-free flying. These 7 years involved a total of more than 400,000 flight hours.

The 3535th is the only Air Force navigator, bombardier, and electronic warfare school in the country. It has been turning out about 1,000 navigators per year, and plans are under way to increase output to 1,200 per year.

Col. William H. Luke and the officers and men of the 3535th are to be commended for this brilliant and outstanding safety record.

THE ANNALS OF POLITICS

HON. MICHAEL J. HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. HARRINGTON. Mr. Speaker, last Thursday, I inserted in the RECORD the first part of a New Yorker magazine article by Richard Harris entitled "The Annals of Politics" describing how the Senate defeated the nomination of Judge Harrold Carswell. Today I would like to commend to the attention of the Members of the House the second and final installment of this most incisive article.

Harris brings into close analytical perspective the strategy used to defeat the Carswell nomination and the story it tells about the character of our political institutions, most specifically the character of the Nixon Presidency. As Harris quotes one Senator who voted for Carswell and who then attempted to put the controversy into some perspective:

That's all part of the way we do business here. It's just politics . . . I'm sure the debate showed the people, including the people in Congress, what the Supreme Court should be and what the Senate could be.

Certainly this article articulates in a most comprehensive manner the dynamics of the Carswell nomination defeat and should be read for any in depth understanding of the issues and personalities involved:

ANNALS OF POLITICS: DECISION II

(By Richard Harris)

Few lines of work make one less disposed to defy established authority than the law. When that authority is the President of the United States and the issue involves his policy and his prestige, only a lawyer who is uncommonly relaxed about the opinions of his colleagues and his fellow-citizens, about his relations with his clients, including those with cases before the government, and about the state of his tax returns would ordinarily be eager to stand up to him openly. Yet President Nixon's nomination, last January, of George Harrold Carswell to be an associate justice of the Supreme Court finally brought lawyers rallying by the thousands—from Wall Street, from law schools, from large cities and small towns across the country, and from the Administration itself—to challenge the President. Only a handful of lawyers had come out against the nomination of Clement F. Haynsworth to fill the same vacancy on the Court a few months earlier; the case against Haynsworth concerned not his legal qualifications but his sense of ethics, and apparently that was not enough to arouse many members of the legal profession sufficiently for them to risk open opposition. However, once Carswell was shown to be unfit as a judge that his taking the seat once occupied by Oliver Wendell Holmes would demean the Supreme Court as an institution, even lawyers who had cautiously avoided any kind of public controversy throughout their professional lives set out to do what they could, both publicly and privately, to defeat the nomination.

Senator Birch Bayh, Democrat of Indiana and leader of the opposition to Carswell in the Senate, where the nomination was being considered last winter and spring, felt that his side probably needed the support of the nation's lawyers more than anything else if undecided senators were to be persuaded to vote against the nomination. Nearly two months after Mr. Nixon sent Carswell's name to the Senate, four prominent lawyers in New York got four hundred and fifty colleagues—attorneys in private practice, law-school deans and professors, heads of local bar associations, and former high government officials—to sign an open letter calling on the Senate to reject Carswell's nomination. Not long afterward, Bayh decided that it would be more helpful if a number of top lawyers in Washington's leading law firms who had formerly served in high posts in the government were to put their prestige and their contacts to work in a more direct fashion. Accordingly, he got in touch with a number of men who possessed such credentials—among them Joseph A. Califano, Jr., President Johnson's top aide; Harry McPherson, another Johnson aide; Lee White, special counsel to Presidents Kennedy and Johnson; Lloyd Cutler, director of the President's Commission on the Causes and Prevention of Violence; Clifford Alexander, former member of the Equal Employment Opportunity Commission; and John Douglas and Stephen Pollak, former Assistant Attorneys General. The men, all of whom were eager to do whatever they could to defeat the nomination, gathered in Bayh's office on March 19th. "We went over head-count sheets and discussed ways of influencing individual senators through their more important constituents and campaign contributors," Califano recounted later. "Bayh was in his shirtsleeves, and it reminded me of going over head counts with L.B.J." The group devised and agreed upon a number of tactics—a high-level attack on the American Bar Association's Committee on the Federal Judiciary for its careless examination of Carswell's qualifications and for its decision to make, in his case, only a distinction between the terms "qualified" and "not qualified" instead of employing the more precisely descriptive terms that had been used in evaluating Supreme Court nominees in the past; refutation of Attorney General John N. Mitchell's public claim that the American Bar Association had "unanimously" found the nominee "highly recommended," whereas actually only twelve of the hundred and fifty thousand lawyers who belonged to the Association had made the determination, and then had said only that he was "qualified;" and a concerted effort to get in touch with lawyers throughout the country who might be able to influence members of the Senate. To a large extent, this last approach had to be kept secret, in order to protect those who were unwilling to let their part in the anti-Carswell campaign be known. To keep the operation more or less under cover, Bayh set up a separate office in his suite and assigned a volunteer named Ronald Platt, who had taken a week off from his job with the Matt Reese political consulting firm, to coordinate all the contacts made; only Platt was to know who was calling whom and what the results were.

When the meeting broke up, Califano and Cutler went directly to Califano's office at Arnold & Porter and drafted a telegram to Lawrence E. Walsh, the head of the American Bar Association's committee, stating that Carswell failed to meet "the minimum requirements of professional ability and judicial temperament to sit on the Supreme Court" and requesting that the committee reconvene to hear the most recent objections to the nomination and then present the facts to the Senate. Once the text was ready, the two men got on separate telephones and talked eight leading members of the bar into signing it—the deans of the Harvard, Yale, University of Pennsylvania, and U.C.L.A. Law Schools; Samuel I. Rosenman and Francis T. P. Plimpton, who had worked on the open letter; Neal Rutledge, a prominent Miami lawyer and the son of a former Chief Justice; and Warren Christopher, Deputy Attorney General under President Johnson. "It was a hell of a tough document, and we had

some doubt about whether the men we called would sign it," Califano said afterward. "I was especially uneasy about Mr. Plimpton, but he merely suggested a couple of minor changes and agreed on the spot. I understand that he was an absolute tiger throughout this whole thing." Califano and Cutler decided not to make the telegram public, because they feared that its disclosure would be interpreted by Walsh as an attempt to force his hand. As it happened, Walsh didn't answer the wire until the case was closed, and, as far as was known, he didn't mention it to the other members of the committee. After a week had passed without a reply, Cutler and Califano drafted another telegram, signed by the same men, and demanded a response. Once again Walsh ignored their request, whereupon they released the text of both wires to the press. That, too, had no effect on Walsh, but it had a strong effect on Charles A. Horsky, a member of the committee, who was infuriated by Walsh's high-handed behavior and edged closer to making the move that several people had been pushing him toward—disclosure of a crucial and, at this point, generally unknown meeting he had had with Carswell the night before the Senate hearings on the nomination began. Although Horsky held off for a time, his private discussions about the episode soon leaked out, and before many days had passed just about everyone on the Hill had heard about it.

During this period, John Douglas, one of the other participants at the lawyers' meeting in Bayh's office, set out to pull off a scheme of his own—a letter against the nomination to be signed by former clerks to Supreme Court justices. Within a matter of ays, more than two hundred of them had signed the letter—a list ranging alphabetically from Dean Acheson, former Secretary of State, to Edwin Zimmerman, former Assistant Attorney General. On the theory that a large proportion of the law professors in the country had studied at Harvard and Yale Law Schools, Douglas then asked Dean Derek Bok, of Harvard, and Dean Louis Pollak, of Yale, to get in touch with whomever they or anyone else in their schools knew on law faculties everywhere. Again within a matter of days, letters opposing the nomination poured in from the faculties of most of the major and many of the minor law schools in the country. Heads of local bar associations rallied to the cause, too, and then specialists in various legal fields added their protests—among them that in property law Carswell had been unable "to state the facts in any comprehensible fashion," that in tax law he had "adduced conclusions . . . unsupported by any reasoning," that in criminal law his opinions were "characterized, at best, by unimaginative, mechanical mediocrity," and that in contract law he had shown that he was "an absurd constructionist."

The principal targets of the lawyers' work were undecided senators. For instance, in the course of an attempt to get Senator Frank E. Moss, Democrat of Utah, to join the opposition, Dean Pollak recalled that a former dean of the University of Pennsylvania Law School was close to several professors at the University of Utah Law School, so Pollak called him and he called his friends, who immediately began organizing the faculty there and working on prominent lawyers and businessmen in Salt Lake City. Shortly afterward, Senator Moss announced that he would vote against Carswell. When the rumor that Senator J. William Fulbright, Democrat of Arkansas, was unhappy about the nomination reached a young lawyer on Bayh's staff, P. J. Mode, he called Dean Bok and asked if he knew anyone who was close to Fulbright. Bok replied that he didn't but that Francis Plimpton was close to George Ball, former Under-Secretary of State, who was close to Fulbright. Bok asked Plimpton to get in touch with Ball, and when Ball learned that his old friend the chairman of the Foreign Relations Committee was badly in need of advice on this domestic matter he dropped in to see him.

The lawyers working with Bayh were astonished by the response to their appeals. "It was fantastic," Califano said not long ago. "Those of us who knew government from the inside tried to recall all the important contacts we had, however remote, and we used them to the hilt. Ordinarily, most people in this town are reluctant to use up their credit with somebody unless some personal advantage is involved. But this time nobody cared about anything like that. One of the lawyers I called was a man of considerable influence in his state, and I hardly knew him and had nothing to offer in return. He responded immediately, and said that he was utterly opposed to Carswell and that he was willing to do anything—anything at all—to stop him from going on the Court. Time after time, men said things like 'I wanted to help, but I didn't know anything could be done. Just tell me what to do and I'll do it.' I discovered a widespread apprehension among lawyers that the integrity of the judiciary was at stake. A tremendous number of lawyers around the country are deeply disturbed by what's been happening to the law *within* the government and about how it's being perverted for political ends. I talked to men who have done nothing but practice straight law and who were frantic about what's been going on at the Justice Department, about its part in carrying out the Southern strategy and turning out all those phony and un-Constitutional anti-crime bills. A lot of new law-school graduates from the top schools won't go near the place now, whereas they used to flock there to get experience. And men who've been in the Department for ten or twenty years are leaving in droves. Anyway, the lawyers of America were really shaken by the Carswell nomination. They set out to defeat it, and they succeeded."

On March 22nd, three days after the group of lawyers went to work, Senator Fred R. Harris, Democrat of Oklahoma, proposed on a television interview show in the capital that the best way to settle the Senate debate on whether Carswell's nomination should be confirmed might be to recommit the nomination to the Judiciary Committee, which had approved it back in mid-February by a vote of thirteen to four, for further study. This parliamentary device was by no means unusual, but it had not been suggested before in the Carswell case, and it struck everyone as perhaps an ideal way out of what was becoming an embarrassingly awkward dilemma for many members of the Senate. By that time, the feeling there was that if senators were free to vote as they wished, Carswell would be overwhelmingly defeated; in fact, one conservative Southerner who publicly supported him confessed in private that if the nomination were to be decided by secret ballot he would get perhaps ten votes. Recommitting the nomination, most agreed, would let those who wanted to oppose it, but didn't dare to for political reasons, say that they merely wanted answers to the questions which had been raised since the hearings ended before they sent Judge Carswell to the Supreme Court—an explanation that neither the President nor ordinary citizens could decently argue with. At the same time, it was generally admitted that if the nomination was sent back to committee it would die there, because its opponents on the committee would block action on it until either the President or Carswell himself withdrew it to avoid further humiliation. Senator Fulbright particularly favored this solution—in fact, he had recommended it to Harris—and the day after it was broached on television he told Bayh that he not only would vote for a motion to recommit the nomination but would offer the motion personally if Bayh liked. Bayh mentioned this to the Majority Leader, Senator Mike Mansfield, of Montana, who instructed an aide to poll the Democrats on how they would vote on such a proposal. On March 23rd, two days before the Easter recess, Mansfield told Bayh and the Republican leader of the anti-Carswell forces, Senator Edward Brooke, of Massachusetts, that a recommittal motion would probably carry if they could produce twelve Republican votes in favor of it. Brooke had been working ceaselessly among his fellow-Republicans, and by this time he was fairly Confident that six of them—Richard S. Schweiker, of Pennsylvania; Charles McC. Mathias, Jr., of Maryland; Robert W. Packwood and Mark O. Hatfield, of Oregon; Charles H. Percy, of Illinois; and Winston L. Prouty, of Vermont—would line up with those who had already announced their opposition to Carswell—Charles Goodell and Jacob K. Javits, of New York; Clifford P. Case, of New Jersey; and Brooke himself—to make ten votes. If Marlow W. Cook, of Kentucky, who had led the fight for Haynsworth, came around, as Brooke believed he would, that would provide the eleventh vote and it would almost certainly persuade two or three other Republicans to go along with him.

That day, a conference committee between the Senate and the House approved the Elementary and Secondary Education Act and sent it to both bodies for a final vote. To the dismay of Southerners in the Senate, the conferees had nullified the bill's so-called Stennis amendment, which had been tacked on as a rider by Senator John Stennis, Democrat of Mississippi, to require that the civil-rights guidelines, which were applied to seven states in the Deep South, be applied uniformly throughout the country. The purpose of the amendment was to compel the Justice Department to deploy its already undermanned forces outside the South and thereby weaken their effect where it was most needed. When the conference report reached the Senate, Mansfield—now clearly impressed by the Bayh-Brooke teamwork and the growing roster of Carswell's opponents—announced that the report would be the pending order of business. The Southerners saw that Mansfield had outmaneuvered them and intended to use the report to force them to accept a bill they didn't want so they could get to vote on Carswell before the opposition built up any more strength. Senator Robert Griffin, of Michigan, the Minority Whip, came to their defense and angrily objected to the move, but Mansfield, unruffled as always, replied that, under the rules of the Senate, conference reports took precedence over bills and executive nominations.

By now, it was clear to anyone who could count that the nomination was in grave peril—anyone, that is, outside the White House, where confidence in Carswell's confirmation was still high. One prominent Republican senator was later to suggest that the White House staff be required to take a refresher course in addition, but others put the failure down to the White House intelligence system, for although Schweiker, Mathias, Packwood, Percy, and Fulbright had been shaken loose from the pro-Carswell column, no one on the liaison staff downtown seemed to be aware of it. Around this time, Brooke happened to be at the White House on other business, and he took the opportunity to tell the President, "I want you to know that I am working day and night to defeat your nomination to the Supreme Court." Mr. Nixon, who apparently concluded that Brooke was merely playing to the liberal and black grandstands back home, smiled indulgently and went on with the previous conversation. On the afternoon of March 24th, Senator Griffin visited the White House

and assured John Ehrlichman, one of the President's two or three closest advisers, that the nomination was in grave danger. Ehrlichman refused to believe it. "We sort of got to rely on the staff down there," Bayh remarked later. "Its failure to assess the situation clearly meant that the enormous pressure the White House can always exert wasn't present until it was too late." Finally, Griffin's warning was checked out, and when the President was told of the danger he summoned Deputy Attorney General Richard Kleindienst, who was acting head of the Department of Justice while Attorney General Mitchell was on vacation in Florida, and angrily told him that since he was officially responsible for screening candidates for federal judgeships and for getting him into the Carswell mess, he had better get them all out of it.

On March 25th, Bayh met in the Majority Leader's office with the other leaders of the anti-Carswell forces—Brooke and Javits, along with Democratic Senators Joseph Tydings, of Maryland, and Philip Hart, of Michigan (Senator Edward M. Kennedy, the Majority Whip, who was one of the original senators to work against the nomination, was out of town)—to discuss what might be done to obtain two more weeks before the vote was taken, a period that all of them agreed was essential to create the maximum opposition at the proper time. Bayh asked how the others felt about filibustering to delay a vote that long, and Javits flatly refused to engage in one, saying, "I will not filibuster against my own President." Hart refused, too, because he opposed filibusters in principle, and Tydings and Brooke took no position. Although Bayh felt that they weren't doing their utmost if they didn't use whatever means were available to them, he dropped the idea of a filibuster. Then they discussed a maneuver that Mansfield had tested on Carswell's supporters earlier that day on the floor—an agreement by which they would allow a vote on the education bill on April 1st if Bayh's side would agree to a vote on recommittal on April 6th and, that failing, to a vote on confirmation on April 8th. Senator Roman Hruska, Republican of Nebraska, who was leading the fight for Carswell's confirmation, feared that the opposition might filibuster if he refused to accept this arrangement, so he had agreed to it; now, once the filibuster idea was discarded, the Bayh-Brooke side agreed, too. That provided the two weeks, and it also raised the question of who would be the best person to move for recommittal. Bayh mentioned Fulbright's offer, but Brooke was against accepting it, and pointed out that the White House was still unaware of Fulbright's change of mind, and that if it saw him break ranks and join the leadership of the opposition more danger signals would be raised all over the place and pressure would be turned on at once. Instead, Brooke went on, it would be far better for Bayh himself to make the motion. "As surprising as it may seem, you should do it because they don't dislike you downtown," he explained. "They feel you're simply doing what a liberal senator should do."

Late the same afternoon, Bayh offered the motion that both sides had accepted—in the form of a unanimous-consent agreement—and it was adopted at once. Then Fullbright took the floor and announced that he would vote for recommittal, although he said nothing about how he stood on confirmation. Hatfield also announced that he would vote for recommittal and went on to indicate that he would vote against confirmation as well by releasing the text of a telegram he had sent to the President urging him to withdraw the nomination as the only way to resolve "the crisis of confidence that confronts our governmental process." In a radio interview, Packwood angrily attacked the recommittal move, saying, "There are probably six to eight senators who don't want [Carswell] and who don't have the guts to vote against him." Then he demonstrated that he wasn't one of them by announcing that he would oppose both recommittal and confirmation. It was widely assumed that the White House had put Packwood up to this, but he privately denied it and said that actually he was sorry he had made such an intemperate remark about his colleagues, even though he felt it was true. Still, one anti-Carswell aide said that at the time "the soundings coming out of Packwood's office turned bad, so bad that his name was placed on the questionable list." To put it back firmly where Packwood said it would be, appeals were made to some leading members of the Dorchester Conference, a group of several hundred liberal Republicans that Packwood had organized in Oregon some years earlier for a dual purpose—to air topics that were not often aired in orthodox Republican circles, and to help him reach the Senate—and they went to work to make sure that he kept his promise to vote against Carswell. Despite the growing list of defectors, the White House didn't seem unduly alarmed and did nothing more than put out a statement saying, "The President is firm in his support for Judge Carswell."

On the day that the unanimous-consent agreement was reached, the *Washington Post* ran a front-page story describing the meeting that took place in Carswell's Washington hotel, on January 26th, at which Carswell had met with Horsky and Norman P. Ramsey, another member of the American Bar Association's Committee on the Federal Judiciary, which was about to vote to recommend the nominee as "qualified" for a seat on the Court. The *Post* reported that in 1956, when Carswell was U.S. Attorney in Florida, he had helped transform a segregated municipal golf club into a segregated private club to circumvent a recent Supreme Court ruling prohibiting segregated public recreation facilities. Then the article went on to assert that Carswell had admitted to the two men that he had been "an incorporator of a segregated Tallahassee country club on the night before he swore to the Senate that he had no such role." (Actually, the story had been broken several days earlier by Fred P. Graham, of the New York *Times*, but the editors had buried it in the back pages in the first edition and then, deciding that it was "too soft," had cut it out entirely.)

Now that the story was no longer mere gossip, a young lawyer on Kennedy's staff, James Flug, telephoned Horsky and asked what conditions he wanted before he would recount the details of his meeting with Carswell in a letter or a memorandum. After thinking it over, Horsky replied that if a member of the Judiciary Committee asked him for such a document he would honor the request but that under no circumstances would he divulge the committee's deliberations on the subject. Flug informed Kennedy, Bayh, Tydings, and Hart of the offer, and got authorization from Kennedy to make the request officially. Flug passed on Kennedy's request, and Tydings also called Horsky to accept his offer personally. Following several lengthy telephone conversations with Flug, who acted as intermediary, Horsky drafted a memorandum describing the encounter, got Ramsey to approve it, and sent copies to Kennedy and Tydings. The memorandum, which came to be known as the Horsky memo, began by stating that Horsky and Ramsey had visited Carswell at the committee chairman's request to ask about the golf-club episode. After that, the key section stated, "Mr. Horsky, who had brought to the meeting photostatic copies of a number of papers having to do with the corporate organization of the club, then showed Judge Carswell the papers from the Certificate of Incorporation on which the names and signatures of the incorporators of the club appeared, showing him as an incorporator."

Since Carswell had assured the committee, under oath and on two separate days, that he was utterly unfamiliar with the contents of these papers, there could be no doubt now that he had deceived the Senate. As it was, though, Horsky's revelation came too late to have much effect. By this time, most of the senators who were finally to vote for Carswell had already announced their intention, and they were, as the Washington saying goes, "locked in." For instance, a couple of days before news of the Horsky memo was published, Senator John Sherman Cooper, Republican of Kentucky and one of the most respected men in the Senate, had announced that he would vote for Carswell and then refused to withdraw his support despite the appearance of the memo and the pleas of some of his oldest friends and closest associates that he change his mind. Cooper had provided a good part of the ten-vote margin against Haynsworth's nomination, for when he revealed that he would oppose it there had been a stampede of other Republicans to line up with him. Cooper's endorsement of Carswell shocked liberals and moderates both in the Senate and out, since he had often been their leader—in the fight against the A.B.M., for example—and was almost always their ally. Perhaps the most surprised of them all was Clarence Mitchell, head of the Washington branch of the N.A.A.C.P., who had talked with Cooper before both the Haynsworth and the Carswell votes and had come away as strongly convinced by his second visit as he had been by the first that the Senator would vote no.

To Cooper, the cases were essentially different. "My general position has been to support a President's decision in such matters," he explained later. "I expected to support Abe Fortas for Chief Justice, but then the facts that were brought out changed my mind. In the Haynsworth affair, I felt that although he hadn't personally profited from his decisions in the cases where he held stock in companies that were litigants before his court, he had violated the federal statute and the judicial canons, both of which instruct judges to disqualify themselves in such cases. Since Haynsworth was a good lawyer, he must have known this, and yet he neither disqualified himself nor disclosed his violations during the Senate hearings on his nomination. That forced me to oppose him. With Carswell, the main questions for me were whether he was a racist and whether he had deceived the committee about the golf-club incident. To vote against him on the ground of the 1948 speech, where he promised he would always defend white supremacy, I would have had to conclude that his bias had continued. I read most of the hearing record and twenty of his opinions, and I couldn't conclude that. While he wasn't as competent a judge as could have been nominated, I finally decided that to vote against him I would have had to be as biassed as they said *he* was. On the second question, I would have had to be convinced that the golf club was made into a private corporation solely to exclude Negroes. That wasn't it at all. The place was bankrupt, and they were trying to keep it open."

Passing over affidavits from numerous Tallahassee citizens, black and white and high and low, along with newspaper articles published at the time stating that the exclusion of Negroes was generally accepted as the reason for making the public course private, and also passing over the question of how a municipal facility—whether it is a waterworks or a golf club—can go bankrupt, Senator Cooper went on to say that neither had he found the Judge dishonest in his appearance before the Judiciary Committee. "In the first morning's hearing, Carswell ad-

mitted two or three times after his first lie that he had been an incorporator," the Senator explained. "Since he admitted this, however belatedly, I couldn't see how he had deceived the committee." Ignoring Carswell's repeated insistence on the day *after* these admissions that he had never seen the papers in question and had no idea of what they contained, Senator Cooper went on to concede that Carswell did not have an exemplary judicial record. Just the same, he added, he did not feel that the Judge had been unfair in civil rights cases, as a number of witnesses had charged, and cited a decision in which Carswell ordered his own barber to serve black customers, an order desegregating rest rooms in Tallahassee, a ruling that a one-hour notice before holding demonstrations was too arbitrary, and his role in setting up the Florida State University Law School and insisting that it be open to all races. To Carswell's opponents, of course, these cases seemed like a machine-gunner's putting a couple of blanks among the live bullets in his ammunition belt. As for stories about Carswell's hostility to civil-rights lawyers, Senator Cooper argued that most of the testimony on this point was hearsay, although he failed to explain how the three witnesses who testified about it had relied on hearsay when they had discussed only their own experiences in Judge Carswell's court.

In the end, the sole argument against Carswell that the Senator found persuasive was one made by Senator Hart—namely, that whether or not Carswell was a racist, the black community believed that he was, which was just as bad. (In one of the most eloquent speeches made during the debate, Hart had asked, "If I were a black American, would I ever be able to convince myself that that little part of G. Harrold Carswell, in his pledge always to support white supremacy might not be a part of him tonight and tomorrow when I am in front of him?") "That point had some weight with me," Cooper went on. "But then I wondered if I could decide the issue on that basis when I believed he had no animus toward Negroes. On that basis, one would have to oppose *any* judge from the South, because every judge, as Justice Holmes once said, is to an extent a product of his environment, like anyone else." Environment notwithstanding, no one had ever levelled the charge of racism against such men as Elbert P. Tuttle, who had been chief judge of the Fifth Circuit Court of Appeals until he retired in 1967 and who had withdrawn his earlier endorsement of the Carswell nomination after some of the more damaging facts about Carswell's record—his apparent racism and his extraordinarily high reversal rate—were revealed; or John Minor Wisdom, who sat on the Fifth Circuit with Carswell and who had said when asked for his appraisal of the nominee, "I stand with Tuttle." Finally, Senator Cooper disagreed that Carswell's record on the bench was an obstacle. "That argument against him rested upon subjective judgments concerning his ability and capacity for growth, which are a matter of speculative opinions," he explained. To Carswell's critics, there was little of a speculative nature about his record on civil-rights and habeas-corpus cases. As for subjective judgments, few senators who felt free to decide the issue on its merits were willing, in these perilous times, to put a man with such a record on the Supreme Court, where he might sit for thirty years or more, in the hope that he would turn out all right.

No one in Washington questioned Senator Cooper's sincerity, which was regarded with much the same awe as his rocklike integrity. In some quarters, it was speculated that his staff, which was largely conservative, had been dismayed by his leadership of the fight against the A.B.M. and his pivotal role in blocking Haynsworth and may not have fully informed him about Carswell's record. Various other explanations went the rounds, among them one to the effect that President Nixon had promised to make him the Administration's leader in the Senate debate on the Strategic Arms Limitation Treaty (SALT) talks in exchange for his vote for Carswell. But others felt that no one, including the President, would dare offer a man like Cooper a deal of any kind. On this point, the Senator himself said later, "The President didn't talk to me about Carswell on his own initiative. I just happened to be in the White House during the SALT discussions, and I told him that I had decided to vote for Carswell. In fact, I had made up my mind to a week before. Having told him this, I said that I would make a statement and a speech about my position when the Senate reconvened after Easter. Afterward, one of the President's aides called my decision right away—four days earlier than I had planned. Since I was going to announce it anyway, I agreed." Still, there were lingering doubts, because he was not content merely to cast his vote in favor of the nomination but worked actively for Carswell among other senators. As one of them said later, "John was really out there in the trenches on this one."

Soon after Cooper's announcement, the two leading Republicans in the Senate—George Aiken, of Vermont, and John J. Williams, of Delaware—also came out for Carswell. Aiken had voted against a major Presidential nomination only once in his thirty years in the Senate, and now he jovially told a colleague that he would vote for anyone the President named, unless the fellow had murdered someone—lately. As for Williams, who has been called the conscience of the Senate, one of his fellow-Republicans said after his public statement, "It's true that he has a big conscience, but it's also true that he usually brings it down on the side of conservative causes." Around this time, the White House released a telegram from eleven of Carswell's eighteen active and semi-retired colleagues on the Fifth Circuit Court of Appeals endorsing him. This move, which was interpreted as an attempt to cancel the effect of the Horsky memo, was credited to Kleindienst. It was also put down as an exceedingly clumsy maneuver, because it demonstrated not so much that nearly two-thirds of Carswell's fellow-judges supported him as that more than a third of them opposed him. "Haynsworth didn't solicit his fellow-judges for an endorsement, as Carswell did," Senator Cook said later. "They made it on their own initiative. Carswell had to solicit, and even then he couldn't get seven out of the eighteen. There were judges who said they absolutely wouldn't endorse him. Imagine what they faced. If Carswell went on the Supreme Court, their decisions would be subject to his review and comments. Or if he lost they would have to face him constantly in person. That they still refused to endorse him had a big effect on many senators." Some of them were also said to have been affected by a statement that Judge Wisdom made explaining why he had refused to put his name on the telegram. "I think the Court [of Appeals] has no business as a court endorsing or not endorsing a man as a nominee for the Supreme Court," he said." It seems to me it violates separation of powers. But when it comes to individual opinion, I think that this moment is not the time to appoint a reactionary to the Supreme Court. It shows a lack of understanding of the urgency of the situation."

During the Easter recess, most senators went home to get a bit of rest and to mend a few fences. Many of them ran into surprisingly deep feeling against the President's choice for the Supreme Court, but few of them found quite the angry mood that confronted Senator Hiram L. Fong, Republican of Hawaii, when he got home. Although he had good reason to oppose Carswell—chiefly because of the islanders' resentment of any taint of racism—Fong had voted for the nominee in the Judiciary Committee and was expected to support him the rest of the way. At the beginning of his visit, the Senator announced that while he would vote against recommittal, he hadn't yet decided whether or not he would vote for confirmation. Subsequently, Fong's chief aide, Robert Carson, was asked what pressures had been brought to bear for and against Carswell in the Senator's case, and he answered, "There was no pressure on the Senator. No one would try to exert pressure on him because it is well known that he is not susceptible to any form of pressure. On an issue like this, he simply takes a judicious stand. He gathers all the facts, puts them in the proper legal and social balance, and then, keeping an entirely open mind, decides the issue solely on its merits." It was a nice civics-book description of a senator at work, but it was somewhat at odds with the facts. Actually, Fong was probably the object of as much pressure as any other Republican senator, and just about everyone involved believed that of the Republicans who finally voted against Carswell he was among the few who had decided the issue entirely on the political merits. To begin with, the White House had promised him a federal judgeship for one of his friends and help in setting up an East-West trade center in Hawaii if he voted for Haynsworth. He did, but when that nomination went down to defeat the White House offered the same rewards for his vote in favor of Carswell. That, it was reported, didn't sit well with Fong, and to help him take a judicious stance the other side began to create counter-pressure.

This assignment fell to Gary Burns Sellers, a young lawyer who served as one of the top commanders of Nader's Raiders and was that outfit's specialist on Capitol Hill. At the time, Sellers was on loan to Representative Philip Burton, Democrat of California, to help in his efforts to devise a coal-mine-safety bill, and Burton gave him time, if he saw fit, to work against the nomination. At the outset, Sellers had concentrated on stirring up opposition to Carswell in Hawaii during his spare time. (Most of the work had to be done by telephone, and Fong was an ideal subject for Sellers to work on in his spare time, since the difference between Washington time and Hawaii time allowed him to spend his evenings in Washington talking to people during their afternoons in Hawaii.) At first, Sellers was at a loss about what was the best way to proceed, but then he recalled a classmate and fraternity brother from his days at the University of Michigan Law School named Stuart Ho, whose father was reputed to own a sizable part of Honolulu and was undoubtedly a man of great influence. Sellers rang up Honolulu Information and learned not only that young Ho had three telephone numbers, perhaps indicating that he was a man of some influence, too, but that one of them was the number of the state legislature. Sellers called this number and found that Ho, a Democrat, was the majority leader of the house of representatives. Sellers got through to Ho after several calls, reminded him of their university ties, and went on to describe what was happening in Washington over the Carswell nomination. To Sellers' delight, it turned out that Ho had introduced a resolution condemning the nomination and had just been wondering how he could pry it out of the committee where it was languishing. Sellers told him that Fong was one of the swing votes, and urged Ho to press for action on his resolution as one way of bringing pressure to bear on Fong. Ho promised to do what he could, and then gave Sellers

the names of several people in Washington who were close to Fong and might be able to influence him. Sellers got in touch with them at once, and while they went about softening up the Senator he tracked down, through another contact from his university days, a couple of newspapermen in Hawaii. When he got through to them on the telephone, he found that, like Ho, they were unaware of Fong's pivotal role in the fight against Carswell. Assuring Sellers that they were dead set against the nomination, they promised to help and asked what they could do; he said that the most effective approach would probably be to hammer away at how crucial Fong's part in the affair was, since this would encourage his constituents to write and urge him to oppose the nominee. "That was what we needed most," Sellers said afterward. "We wanted Fong to come into his office when he got back to Washington and find letters stacked to the ceiling." To keep the pile of mail and the pressure on Fong mounting, Sellers called his press contacts in Honolulu almost every day to fill them in on the latest developments—usually the news that another senator had come out against Carswell, which, Sellers pointed out, made Fong's role even more crucial. The papers played up these stories and ran editorials demanding that Fong stand up against the nomination, whatever the President's displeasure. One dividend of the campaign was that it gave Ho the lever to pry his resolution out of the lower house and push it through both bodies. At the same time, Representative Patsy Mink, Democrat of Hawaii, who was also home for the holiday, went around the islands attacking Carswell and calling on the voters to demand that Fong vote against him. If he didn't, she told several audiences, she might be compelled to run against Fong when he came up for reelection the following fall. In the end, these efforts created a typhoon of feeling against Carswell. When Fong was asked by reporters, just before he left for Washington, where he now stood, he replied that he still opposed recommittal but that he had examined the merits of the issue and had decided he would have to vote against confirmation, too.

Sellers' attempts to persuade other senators to consider the same merits that had brought Fong around proved less successful. The next target was Senator James B. Pearson, Republican of Kansas, whose political views ranged from moderate to liberal but whose state was inflexibly conservative. Pearson was Brooke's closest friend in the Senate, but Brooke had not approached him for his vote, because he knew that leaders of the Republican Party in Kansas had threatened Pearson with the fiercest primary fight of his career in 1972 if he opposed the President now. Once again Sellers turned to his university friends and acquaintances, and finally located several alumni who were lawyers in Kansas. He explained the deep concern in Washington over the prospect of Carswell's reaching the Supreme Court, and, as before, just about everybody offered to help. They gathered signatures on petitions, arranged for letter-writing campaigns, and appealed directly to Pearson's closest friends. Recalling that the Senator was known as a deeply religious man, Sellers discussed this with a friend in Washington who came from Kansas and who knew the Senator's minister there. The friend was as concerned about the nomination as Sellers, and agreed to telephone the minister and ask him to help. When the request was made, the minister replied that he had already tried and had failed. Undaunted, Sellers set out to verify a rumor that had been going around for some time—that Judge Carswell had told the chancellor of the University of Kansas, who was a native of Florida and a friend, that he must have moved North "to get away from the niggers," a move that, according to the rumor, Carswell said he had been contemplating, too. The chancellor was on vacation in Mexico, but Sellers tracked him down and called to ask that he publicly confirm the story if it was true. The chancellor refused to make any comment. He also refused to confirm the rumor privately, which might have been enough to persuade Pearson to change his vote. Unaware of Sellers' appeals, Kennedy's aide Flug made a similar call, with similar results. "I knew that if we got the chancellor to tell the story, that alone would knock Carswell out," he said later. "I pleaded with the man for confirmation, but I just got nowhere." Afterward, Sellers called a couple of faculty members at the University of Kansas School of Medicine and described his efforts to certify the rumor. When the chancellor alighted from the airplane bringing him home from vacation, practically the entire medical faculty was waiting on the tarmac, and their spokesman demanded that they be told whether the story was true. Again the chancellor refused to answer, saying only that he might not get the usual state grants if he rocked the boat. While that may have seemed to be an admission that Carswell had made the reported remark, it wasn't enough for Pearson, and he stayed with the Administration.

Sellers also went after Senator Jennings W. Randolph, Democrat of West Virginia, in the hope that if a senator from a border state were shaken loose senators from the Deep South who were unhappy about the nomination might use the opening as an escape route. Randolph was due to come up for reelection in 1972, and it was believed that his opponent in the Democratic primary would be Representative Ken Hechler, author of "The Bridge at Remagen," who had settled in Huntington some years earlier to launch a political career. Since West Virginia is a desperately poor state, with what seems to be an incurable unemployment problem, its voters had more to worry about than whether a "son of the South" was being mistreated by Northerners, and this inclined Sellers to believe that Randolph would be taking little or no political risk if he opposed Carswell but would get some valuable credit with liberals at home who might otherwise line up behind Hechler. To get this message across, Sellers and a couple of associates got in touch with the lobby that, under Hechler's leadership, had pushed through compensation for West Virginia coal miners who had contracted black-lung disease. While this group worked on Randolph, Sellers worked on his staff, who promised to do what they could. Then he turned to John D. Rockefeller IV, a Democrat and the West Virginia secretary of state. Sellers asked Rockefeller's aides to do what they could to persuade his Republican father-in-law, Senator Percy, to persuade Randolph to join the opposition. Randolph wouldn't be persuaded. "In fact, he wouldn't even swerve," one of the men involved in this effort said later. "He's completely out of touch with the times, and just lumbers on like an aged elephant headed for its doom." His doom promised to be fairly comfortable. Just before the Haynsworth vote, the Administration announced, through Randolph's office and without mentioning Hechler, a three-million-dollar grant for an urban-renewal project in Hechler's district. Randolph, as it turned out, voted for Haynsworth.

Up to the Easter recess, Carswell's critics made no serious mistakes, but during the recess one of them, a newcomer to the fray, made such a spectacular blunder that he endangered the entire cause. Near the end of March, Senator Alan Cranston, Democrat of California, heard that Charles F. Wilson, a Negro who had written the Judiciary Committee stating that in his numerous appearances as a private civil-rights lawyer before Judge Carswell he had been treated with unfailing courtesy, had later told Vincent H. Cohen, another Negro lawyer, that the letter was a fraud; Wilson had signed it, Cohen told Cranston, but he hadn't written it. According to the story, the author of the letter was Assistant Attorney General William H. Rehnquist, who had taken this step on Kleindienst's orders, after it was learned that Wilson now worked for the government—for the Equal Employment Opportunity Commission in Washington. According to Cohen, he had asked Wilson to sign an affidavit relating this episode, but Wilson had declined, whereupon Cohen drew up his own affidavit describing the conversation. The issue was of some importance, for the Wilson letter constituted the only favorable report on Judge Carswell's treatment of civil-rights lawyers. Ten others had testified or submitted affidavits stating that he had been unfailingly rude to them, and Wilson's letter stating that in his numerous appearances before Carswell "there was not a single instance in which he was ever rude or discourteous to me" had been endlessly cited, in the Senate and out, on Carswell's behalf. In any event, Cranston's staff collected what information it could find on short notice—some of it inaccurate, such as the allegation that the Administration could fire Wilson if he refused to sign the letter (he was protected under Civil Service regulations). Cranston compounded this sloppy staff work by failing to ask Wilson if he could substantiate what he had told Cohen, on the ground that it would be unfair to pressure the man as the other side had. At a well-attended press conference on March 30th, Cranston revealed the Wilson story, but when reporters called Wilson he immediately denied it and said that although he had been "assisted" in drafting the letter, Cranston's charges were "absolutely untrue." Three hours later, Kleindienst and Rehnquist held a press conference, too, and said that Cranston's charges were "deliberately misleading" and "absolutely false." But each time Kleindienst tried to substantiate this, Rehnquist got up and unwittingly refuted him—as, for instance, when Kleindienst said that the Department had had nothing to do with Wilson's letter and then Rehnquist described how he had visited Wilson at his home to discuss the matter and had drafted the letter himself. However, this sort of contradiction received far less coverage and attention than Wilson's denial. Afterward, several senators were believed to have been so angered by what appeared to be a vicious smear that they were tempted to vote for Carswell. Cook was thought to be one of them, but he privately denied that the episode had had that effect on him. "It may have said something about Cranston, but it said nothing at all about the man we were concerned about—Carswell," he explained. Whatever effect the affair had on the outcome finally, it undeniably left a bad impression of Carswell's opponents, who now began to look not just desperate but ruthless.

In the end, responsibility for the debacle was taken by Joseph L. Rauh, Jr., vice-chairman of the A.D.A. and counsel to the Leadership Conference on Civil Rights, who had been deeply involved in the Carswell fight from the start. "Wilson came to me first and offered to hold a press conference under the auspices of the Leadership Conference to reveal that the letter was a fake," Rauh said not long ago. "I asked him to put the facts in an affidavit, but he refused. So I refused to have anything to do with him. One of the basic rules of legal practice is that if somebody is willing to rat on somebody else, you'd better get a sworn statement or he may rat on you, too. Guys who are on the level will go along, and guys who aren't won't. If he was willing to tell his story to the press, why wasn't he willing to put it in writing? I should have warned the others on our side, but it never occurred to me that

anyone with experience—least of all a senator—would get snared." There was doubt in other quarters whether Wilson had intentionally laid a trap for anyone. Instead, these people felt, he had succumbed to internal and external pressures almost concurrently—he wanted to expose Carswell, but when the time came and the risks loomed ahead of him he backed away. In any case, Sellers was less inclined to place the blame for the fiasco on Rauh than on Cranston, who, he felt, was more gentleman than politician. "He should have called Wilson in and told him what he was going to do and bluffed him into going along or being made to look like an Uncle Tom," Sellers explained. "A lot of people in this town want to be neutral about everything. At a time like this, you have to say to them, 'You're not neutral, you're opting for the status quo, and in this case, that's bad. If Cranston had charged Wilson with betraying his own people to keep a cushy job, he could have driven him into a corner and *made* him tell the truth. You don't win in this game by being polite."

The day after the Cranston press conference, Rauh stopped off at the New Senate Office Building to deliver a letter he had composed, containing twenty points against the nomination, to a senator who was reported to be having difficulty in making up his mind. On the way to his office, Rauh passed the suite occupied by Senator William B. Saxbe, Republican of Ohio, who had been telling everyone that he, too, was uncommitted. Deciding to drop in and see what he could do to persuade Saxbe to join the opposition, Rauh went in and found the Senator free and happy to discuss the subject. He showed Rauh a copy of a letter he had written to Mr. Nixon asking whether his continuing silence meant that he no longer fully supported the nomination and suggesting that if he did he might make that known and might also personally answer the charges that had been raised since the hearings. Impressed by Saxbe's concern, Rauh showed him *his* letter, and after reading it carefully Saxbe said, "Great!" and asked if he might show it the following day to the other members of the Wednesday Club, a group of a dozen or so moderate and liberal senators who meet for lunch on most Wednesdays for political talk. Rauh decided that it would be far more effective to have the letter presented by a senator to several senators than for him to present it to only one senator, and he quickly agreed.

Seven senators attended the Wednesday Club luncheon—Brooke, Case, and Goodell, who had already announced that they would oppose Carswell; Mathias and Schweiker, who indicated that they would, too; Cook, who said, for the first time in front of his colleagues, that he planned at that stage to vote against both recommittal and confirmation; and Saxbe, who wasn't uncommitted after all, having made up his mind a week earlier to support Carswell. The lunch got under way with a discussion of whether recommittal was the proper course to take. Cook didn't like the idea, because, he argued, it was nothing more than a sneaking attempt to avoid the issue. Goodell disagreed. "I don't see any difference between recommittal and an up-or-down vote," he said. "I might prefer the latter as a cleaner and more direct method, but since some senators feel easier, politically speaking, about recommittal as a way to kill the nomination, I don't care about procedure. The point is to kill the nomination." Saxbe tried to argue the others out of their stand against Carswell, and then he presented Rauh's letter—not, as Rauh had expected, to support the opposition but, rather, to support the nomination. "If this is the best the opposition can come up with, you can't vote against Carswell," Saxbe said, and threw the letter down before them. Several of those present agreed that Rauh's case was not as compelling as it might have been, because it attempted to cover too much ground. To give it the concentrated force it lacked, Goodell presented three points instead of twenty—that Carswell had a lamentable record when it came to civil rights, civil liberties, and honesty. Then Case said that a fourth point, which he felt was more important than all the others together, was that the nation was racked by tremendous social upheavals, particularly racial discord, and that moderate black leaders had to be convinced that the system could be made to work on their behalf. "If we accept Carswell, they'll never listen to us again," he said.

Saxbe's letter to the President had been discussed at the White House several days earlier—in fact, even before it was written. During a breakfast meeting between the President and Republican leaders in Congress, one participant asked whether it might not be wise for Mr. Nixon to make a strong public statement on Carswell's behalf to rally public support and thereby to bring the troops in the Senate into line behind the Administration. Senator Griffin, the Minority Whip, mentioned that Saxbe was thinking about writing the President a letter asking where he now stood on the nomination, and it was agreed that an answer from the President would be a good way to handle the problem. To expedite matters, Griffin told Saxbe about the plan, and a lawyer from the White House and two lawyers from the Justice Department got together to prepare an answer to Saxbe's letter, which hadn't arrived yet. They studied the Constitution, "The Federalist," and books on the Constitutional Convention, and then composed a letter that ignored all of them. After assuring Saxbe that the Administration stood behind Carswell all the way, President Nixon's letter went on:

"What is centrally at issue in this nomination is the constitutional responsibility of the President to appoint members of the Court—and whether this responsibility can be frustrated by those who wish to substitute their own philosophy or their own subjective judgment for that of the one person entrusted by the Constitution with the power of appointment The question arises whether I, as President of the United States, shall be accorded the same right of choice in naming Supreme Court Justices which has been freely accorded to my predecessors of both parties.

I respect the right of any Senator to differ with my selection. It would be extraordinary if the President and 100 Senators were to agree unanimously as to any nominee. The fact remains, under the Constitution it is the duty of the President to appoint and of the Senate to advise and consent. But if the Senate attempts to substitute its judgment as to who should be appointed, the traditional constitutional balance is in jeopardy and the duty of the President under the Constitution impaired.

For this reason, the current debate transcends the wisdom of this or any other appointment. If the charges against Judge Carswell were supportable, the issue would be wholly different. But if, as I believe, the charges are baseless, what is at stake is the preservation of the traditional constitutional relationships of the President and the Congress.

By prearrangement, Saxbe released the President's letter—what came to be known as the Saxbe letter—on April 1st, at a large press conference held in a committee room of the New Senate Office Building. The reaction in the Senate was uniform indignation. "The Senate doesn't like to do very much, but it doesn't like to be told that it doesn't have the right to do very much," Senator Packwood explained later. Most members resented the President's attempt to usurp their powers, and just about everyone there agreed with Bayh when he told his colleagues later, "This interpretation is wrong as a matter of Constitutional law, wrong as a matter of history, and wrong as a matter of public policy." To begin with, the President's insistence—stated several times in the letter—that he alone was empowered to "appoint" justices was a stunning misinterpretation of the Constitution, which stipulates, in Article II, Section 2, "The President . . . shall nominate and by and with the advice and consent of the Senate shall appoint . . . judges of the Supreme Court." In short, the appointive power was to be divided between the President and the Senate; he had the power to name a judge, and the Senate had the power to approve or reject his choice. In "The Federalist," Hamilton described this divided responsibility as a "powerful" and "excellent check" on the President, and added, "If by influencing the President be meant restraining him, this is precisely what must have been intended." Further, President Nixon's peevish claim that he was being denied the right given other Presidents flew in the face of history from the first Administration on down. In 1795, President Washington's choice of John Rutledge as Chief Justice was defeated by the Senate, and over the years twenty-three other nominations to the Court either were rejected or were delayed until they lapsed or were withdrawn because of Senate opposition—the last two being President Johnson's nominations of Abe Fortas and Homer Thornbery. In answer to the charge raised against Carswell that he had lied under oath to the Judiciary Committee about his part in the golf-club affair, the President presented the same defense that Senator Cooper had—namely, that Carswell had first erred about the golf-club incorporation but had subsequently corrected himself; nothing was said about his firm denials the following day without later retraction. As for the charge of racism, the best that Mr. Nixon could do was to cite a letter from a shipmate of Carswell's during the Second World War stating that he had always treated the black sailors aboard his ship decently; the President did not mention that the Navy had been firmly segregated at the time.

In an editorial entitled "The President's Trump," the Washington *Evening Star*, which supported Carswell, observed that "Mr. Nixon's initiative in permitting the publication of his letter to Senator Saxbe, will put powerful new pressure on wavering senators." The editorial writer was about the only person outside the White House who thought so. In the days following the release of the letter, senator after senator rose on the floor to denounce the President for demanding that the Senate abdicate its responsibilities and give up its rights. Senator Brooke publicly called the letter "shameful," and Senator Hugh Scott, the Minority Leader, who publicly supported the nomination, privately said, "One more stunt like that and Carswell will get two votes." Various opinions were expressed about the President's motives. One was that he was trying to make the case one of personal loyalty in order to becloud the basic issue. Another was that he was going over the head of the Senate to the public and employing the same kind of distortion that had helped win the Presidency. Still another was that the letter was a clumsy attempt to lay the basis for an attack on the Senate if Carswell was beaten. Whatever the motives, the letter was believed to have shaken some senators who were inclined to support the nominee—among them Margaret Chase Smith, Republican of Maine, who reacted with uncommon fury to any attempts to deny the Senate its rights. Even Saxbe was put out by the affair. "I thought the President's letter was a poor job," he said in a private conversation afterward. "If it had any effect at all, it was an adverse one. I had hoped he would deal with the questions I raised in my letter. But he dismissed those in

one sentence. Then he beat a dead horse, because I had already admitted in my letter that the nomination was his prerogative. I had been hoping for a tight legal brief, but instead I got all this irrelevant stuff."

Despite his feelings about the letter, Saxbe had been willing to be the one to release it because he needed some way to justify his vote back home. Local branches of the major labor unions and civil-rights organizations had stirred up strong sentiment against the nomination in the northern, and more liberal, part of the state, and his mail from Ohio, some four thousand letters in all by the end, was running eight to one against Carswell. When Saxbe held the press conference and gave reporters copies of the President's letter, he also anounced that he would vote for the nominee—and pointedly held his nose as he did. "My main reason for endorsing Carswell was that I wanted to protect Senator Scott," Saxbe later explained. "Many of us very much want a new image for the Republican Party. We fought for Scott, and if he loses, all chance for that new image will vanish, because the Hruskas and the Goldwaters will take over. To protect his own position as Minority Leader, Scott *had* to support Carswell. But he wasn't any more enthusiastic about it than I was. My feeling was that if I backed off from Scott on this one and left him standing alone, it would show that he couldn't line up even the moderates and liberals who are supposed to be his faithful followers."

Perhaps Saxbe was able to take this stand because, unlike most other moderate-to-liberal Republicans in the Senate, he did not, as he admitted, share a feeling of reverence toward the Supreme Court. Some of Saxbe's colleagues, whether or not they shared that feeling, saw that it unquestionably had to be reckoned with. During the debate over Haynsworth's nomination, Senator Griffin paid a visit to Camp David to beseech the President to withdraw that nomination as an act of statesmanship, and argued that it would revitalize the Republican Party nationally and would increase the President's stature immeasurably, both in the Senate and out. "But he just couldn't get the idea across," a man who was close to Griffin said recently. "Nixon simply doesn't understand the gut feeling that the Court is sacred and must not be used for political ends." In the view of a reporter who had long experience on Capitol Hill, both as a journalist and as a senatorial aide, much of the President's attitude could be traced to the influence of Attorney General Mitchell. "The President was a senator for only two years before becoming Vice-President, and has never fully understood the Senate," he said. "And Mitchell has demonstrated time and again that he has no awareness of, or sensitivity to, the senators' political needs, their problems, and, most of all, their pride. It's pretty easy to see what must have happened. When even moderates like Griffin urged the President to withdraw Haynsworth's nomination, Mitchell, who had to defend it, since he was responsible for it in the first place, must have told Nixon, 'This is not what they claim it is. Actually, it's a political trap, an attempt to get you. If you back down now, you'll never be master in your own house again.' And if the President believed this in the Haynsworth case, the Carswell fight could only have confirmed it in his mind."

Some of the younger Republicans in the Senate felt, as a couple of them admitted in private, that the President was placing his own narrow political advantage above the general good of the nation, and they bitterly resented his attempts to coerce them into going along with him and to impute base motives to them for refusing. With each day, these senators became increasingly convinced that they could not serve their President and the public interest at the same time. "Opposition to the Carswell nomination—however painful it might be for the Republican senators—is a necessary step," David Broder wrote in his Washington *Post* column during this period. "It is necessary for their own political future. It is necessary as a sign to the Administration that there are limits to its compromising of the civil-rights cause. It is necessary as a political corrective to the all-out 'Southern-strategy' advocates. And it is necessary, most of all, if the Republicans are to be a national party capable and worthy of governing this country."

As Saxbe left his press conference, another senator entered to take over the room—and the attention of the large gathering of reporters. To their amazement, the new arrival—William B. Spong, Jr., a conservative Democrat from the conservative state of Virginia—went to the lectern and announced that he would vote for recommital of the nomination. Though surprising at first, Spong's decision made political sense when one considered some recent developments. For one, Senator Harry Byrd, Jr., his senior colleague, had recently broken with the Democrats in Virginia to become an independent, and his departure from the party that his family had controlled inflexibly for two generations left Spong open to a primary challenge by its more conservative wing—a move that Byrd would not have allowed. For another, in 1969 Virginia elected its first Republican governor, a moderate, in more than eighty years, and it was expected that any candidate he chose to run against Spong in the next election would be either a moderate or a liberal. In short, Spong was threatened from both the right and the left. The likeliest solution to his problem, political observers felt, would be for him to attempt to occupy the center and quietly go after the black vote, since Negro registration in Virginia, as in the rest of the South, had risen so rapidly that black citizens were now believed to hold the balance of power. This analysis satisfied those who viewed politics as a game in which senators cynically manipulated power blocs by altering their own views to fit the prevailing sentiment. As it happened, though, these facts of political life in Virginia had no effect whatever on Spong. "If those factors had weighed with me, I would have voted against Haynsworth, too," he pointed out in the course of a conversation on this subject. "Actually, I was unhappy to vote against Carswell." What made Spong unhappiest was the realization that he would not simply be voting against a nomination but would be subjecting a man to the worst kind of public scorn and humiliation. Next in importance for Spong was his desire to see a conservative Southerner on the Court. These factors had pushed him toward an endorsement, but then Carswell's record on the bench pulled him back. In time, the push-and-pull created such an agonizing dilemma for Spong that he nearly became ill. "He was supercharged, really highly tense over this in a way that I had never seen him before," a friend remarked later. To complicate matters, outside pressures were almost as unendurable as inner pressures—demands from close friends and large campaign contributors that he endorse Carswell; thousands of letters, many of them vituperative and obscene; and, finally, six threats to assassinate him if he opposed Carswell. At that point, Spong took his family to their home outside Norfolk for a rest and a chance to think things over.

Spong took with him the hearing record; two studies made by a group of Columbia Law School students showing that Carswell had an extraordinarily high reversal rate while on the bench; a document describing seventeen civil- and human-rights cases in which he had been not only reversed but reversed unanimously; an unedited, free-swinging copy of the minority report prepared by aides to the four senators who had opposed the nomination in the Judiciary Committee; several of Carswell's opinions on federal tax cases that had been recommended by two fellow-Southerners who had recently held high positions in the government, Louis F. Oberdorfer, former Assistant Attorney General of the Tax Division in the Department of Justice, and Mortimer M. Kaplan, former head of the Internal Revenue Service; and, finally, a batch of Carswell's opinions on contract-law cases. Spong was deeply impressed by the Columbia study and by the seventeen unanimous reversals. "Then I read the hearings, and concluded that Carswell had been evasive, as charged," Spong recounted later. "After that, I spent a couple of days reading some of his opinions." Several of these were the tax-case opinions sent to him by Oberdorfer and Kaplan, but most of them dealt with contract cases, which had been Spong's specialty in his private law practice before he entered the Senate. On the basis of these, he concluded that he could have written better opinions as a first-year law student, and when he took them to a law firm in the building where he had his home office and asked some friends for their appraisal, they concurred. "But I felt that none of these things, in themselves, were sufficient reason to vote against him," Spong went on. "I felt that he ought to have a chance to straighten out his evasive testimony, to explain these cases and Tuttle's withdrawal, which had also affected me, and that it would be best to reopen the hearings and ask him back. When charges were made against Fortas and he refused to reappear and answer them, that turned me off and I voted against him. When charges were made against Haynsworth and he came back and explained to my satisfaction what had happened, I voted for him. My support for recommittal was not a maneuver to kill the nomination. If Carswell had cleared up the questions that bothered me, I would have been delighted to vote for him. But as it stood his testimony just wasn't satisfactory." Although Spong did not reveal whether he intended to vote up or down on confirmation if the recommittal motion failed, his aides, who firmly opposed Carswell, were convinced that he would vote no—as in fact he did. Of course, everyone in the opposition was delighted by Spong's arrival—no one more than Fulbright, who now had some protection against the expected charge that he was a traitor to the South. Spong, on the other hand, could take no comfort from his alliance with Fulbright, whose stand against the war in Vietnam made him a traitor to the entire country in the eyes of the hawkish residents of Virginia.

While Spong's announcement offset the Saxbe letter—an accident of timing, as it happened—Senator Cook immediately offset Spong by announcing, that day, his intention to oppose recommittal. That created consternation in the anti-Carswell camp, because it suggested that Cook might also support confirmation. Actually, Cook had already made up his mind to vote against Carswell in the end, as he had told those at the Wednesday Club lunch, but he didn't want to reveal it publicly and provoke howls of protest back home. However, he had told the White House where he stood, and asked to be left alone. For a time, he was, apparently because the staff there realized how hard he had worked for them in leading the fight for Haynsworth, and because they knew that Cook's constituents would keep up the pressure on him anyway. Although Kentucky is a border state, it is intensely proud of its Southern heritage—rather like a man whose uncertainty about his forebears makes him a snob—and is deeply conservative in general. Republican county chairmen, the men who get out the vote on Election Day and who tend to be even more conservative than the average voter, could be expected to be infuriated by Cook's vote. If they were sufficiently angry, of course, they might take the

step that all incumbents fear the most—a primary challenge the next time around, which divides one's potential supporters and invariably leads many of them to sit out the general election. But, like Spong, Cook was having trouble with his conscience. In the Haynsworth contest, he had set down standards for a Supreme Court nominee to demonstrate that his support for this one was by no means casual. One standard was that experience on the federal bench was not enough to qualify one for the Court unless it was accompanied by a record of distinction, and now Cook found that he was stuck with it, since Carswell clearly didn't measure up. His opinions were undistinguished, he had mistreated lawyers in his court, and his reversal rate was shocking, Cook concluded. Even in straightforward civil cases, as opposed to controversial civil-rights suits, in which the law was sometimes unclear, his reversal rate was almost twice as high as other judges'. "I tried to figure out how a federal judge could get himself overruled that often," Cook said later. "When you examine Carswell's cases, you have to conclude that really and truly the man must have some hang-up with the doctrine of *stare decisis*—that is, precedent. His failure, or refusal, to follow that rule, which is the basis of our judicial system, proved that he was the opposite of a strict constructionist." Another factor that weighed heavily with Cook was Judge Carswell's testimony at the hearings, which Cook, as a member of the Judiciary Committee, followed carefully. "I remember so vividly that on the first day Jim Eastland was reading Carswell's biographical sketch, and asked him if it was correct," Cook recalled. Taking a copy of the hearing record off his desk, he opened it and read the Judge's answer: " 'Yes, Senator, [but] there is one small error in date. My present memory is that my military service should read 8–9–42 instead of 8–27–42, because I entered on active duty with the Navy in South Bend, Indiana, Notre Dame University, on August 9, 1942.' " Closing the volume, Cook went on, "Now, he remembered that twenty-eight years before he had gone into the Navy on August 9th, not August 27th. But then on the question of the incorporation of the golf club he suddenly didn't remember anything. He had a twenty-eight-year memory, but he couldn't remember that he had seen the incorporation papers the night before. He must have thought, 'I signed some papers on some place that discriminated, and I have to get out of it.' Instead, he should have pointed out that just about every golf club in the country discriminated then and many still do, that it was done in a place where the question never arose, and that, indeed, he had been wrong even so to sign it. If he had done that, he probably would be on the Supreme Court today." Still another factor that had influenced him, Cook went on, was the warning—expressed earlier by Senator Goodell—that Carswell might be on the Court for thirty years or more, and the argument made by others that while undistinguished men had been put on the Court in past years, that was no reason that they should be now. "The errors of a legislator in Congress are only for two or six years' duration," Cook added. "Then, if the people don't like what he did, they can recall him. But the errors of a Supreme Court justice can hurt a whole nation and can't be remedied. I couldn't be a party to allowing that and remain in the Senate."

Over the Easter recess, eight members of the Senate left Washington to attend a conference of the Interparliamentary Union in Monaco. Scott was among them, despite the pleas of Bryce N. Harlow, the President's director of liaison with Congress, that he stay in town during the last crucial days before the vote on Carswell. Scott retorted that if the period wasn't crucial enough to keep the President and the Attorney General from going to Florida, it wasn't crucial enough to keep him from going to Monaco. Kleindienst also made the same plea, and got the same response—in somewhat harsher language. During the conference, however, Scott took advantage of the relaxed and amiable mood of his colleagues to work on a couple of uncommitted members of the official party. Bayh was also on hand, and he worked on them to cancel Scott's effect. In any event, Scott remained in Monaco until April 4th, two days before the recommittal vote, but Bayh was too worried about what was happening in his absence to stay that long, and returned on April 1st. On his flight back to Washington, he received a message during a refueling stop that his wife's father had killed her stepmother and himself. When the plane landed in Washington, Bayh's chief aide, Robert Keefe, was waiting for him with a car and immediately drove him to his home. Mrs. Bayh had decided to stay over in Monaco until the official party left on the fourth, and didn't get word of the murder-suicide until after her husband had departed. By now, she had left, too, and was due in Washington early the next morning. Shaken by the family tragedy and deeply concerned about its effect on his wife, Bayh paced restlessly through the house for a long time, until he decided that he could do nothing about it until his wife arrived. With that, he turned his attention to the Saxbe letter, which had been released that afternoon and which Keefe had given him a copy of on the way back from the airport. Although the letter struck Bayh as an absurdly concocted gimmick, he was worried about the effect it might have not on members of the Senate but on the public. Finally, he called Bill Wise, his press officer, to talk it over and to get his views on whether it would be inexcusably bad taste, in view of the circumstances, to make a speech on the subject the following day, Thursday, April 2nd. Wise thought that could be handled by including a line in the speech to the effect that the importance of the issue overrode even the deepest personal concerns, and finally Bayh agreed and said, "O.K., let's go."

Wise telephoned his colleague P. J. Mode, who had just arrived at Senator Kennedy's home to attend a farewell party for one of his aides, and Mode left for his office at once. Shortly after he joined Wise there, Keefe and Joseph Rees, Keefe's deputy, arrived, and the four men worked throughout the night drafting a speech. At 6 a.m., they went home for a couple of hours' sleep, after which they returned to the office, went over the speech with Bayh, had some secretaries type up the draft, and mimeographed copies of it for the press. Although by this time everyone knew about Horsky's meeting with Carswell, the memorandum describing the details hadn't arrived yet. Informed early that morning by Tydings' office that it was expected momentarily, Wise inserted a couple of references to it in the speech so that Tydings would have an opening to engage Bayh in a colloquy on the subject and then put the memorandum into the record. Apparently, the other side got word that Bayh and Tydings now had Horsky's version of the meeting, for when Bayh finally got the floor, around four o'clock that afternoon, two Republican senators, Robert Dole, of Kansas, and Edward J. Gurney, of Florida, who was Carswell's original sponsor, continually interrupted him to delay Tydings' maneuver until after the press deadline for morning papers, which is normally around four-thirty. To outflank them, Wise gave key reporters copies of the memorandum, which had also been given to all members of the Senate, and copies of the speech, so that they could use them in their stories for the next morning, and promised that both documents would be a part of the record by adjournment time if Bayh and Tydings had to keep the Senate in session all night. To fulfill Wise's promise, they kept the Senate in session until well after nine o'clock. Although the Horsky memo was clearly the more important document, the next day's papers gave far more attention to Bayh's rebuttal of the President's letter to Saxbe.

It is impossible to assess the effect of the Horsky memo on the outcome, but certainly it was not as great as it would have been if Horsky had not temporized so long—until after most of those who were going to vote for Carswell had made their position known and thereby locked themselves in. One known effect, though, was that it gave those of Carswell's backers who were already uneasy about their stand a few bad hours. For instance, Senator Griffin said afterward, "I was bothered by the Horsky memo. For a whole weekend, I gave that a lot of thought." Some of his aides tried to persuade him that the memorandum was more than enough to justify him in retracting his support, and one of them said later, "He was within a hair of turning around. But the White House had him locked in, and finally he bit the bullet and said he would stay where he was." To justify *that*, Griffin instructed a lawyer on his staff to draw up a memorandum on the memorandum to show that it did not prove Carswell a liar. Over that weekend, Griffin also talked to Senator Cooper, of Kentucky, and Senator Williams, of Delaware, to see if the Horsky memo had forced them to withdraw their endorsements, which would have made it easier for him to follow the same course. When they replied that they meant to stick with the White House, he saw that he would have to go along with them. "He couldn't leave the kitchen when the heat was on if no one left with him," one of his assistants explained.

Despite his reservations, Griffin returned to the fray with the kind of determination that only a politician can summon under such circumstances, and began working harder than ever to persuade uncommitted colleagues to join Carswell's backers. The first was Senator Prouty, of Vermont, who was eager to support the President but was up for reelection and was being hounded by critics of the nomination back home. Prouty's opponent was the former governor of Vermont, Philip Hoff, who had been approached by the anti-Carswell lobby in Washington and was now travelling around the state calling Prouty's earlier promise to vote for Carswell the act of a rubber stamp, not a senator. With independent-minded voters like Vermonters, the charge worked, and the mail opposing Carswell, and anyone who voted for him, began pouring into Prouty's office. Finally, he gave in, or so it seemed, and promised Brooke his vote. But now, when Griffin showed him the memorandum on the Horsky memo, Prouty promised to cast his vote for Carswell if it was needed. His intention, it appeared, was to vote for recommittal once it was sure to lose, which would allow him to tell his constituents that he wanted the matter reexamined to make sure that the nominee was qualified and was treated fairly. When recommittal failed, he could then vote for confirmation and justify it by saying that the sense of the Senate had been to accept the nominee's credentials. "That was one of our basic mistakes—counting on Prouty," an outside lobbyist said later. "We put to much work in and too much emphasis on him. We should have known all along that he would go whichever way the strongest wind blew." There was also some doubt about the firmness of a promise elicited from Senator Thomas J. Dodd, Democrat of Connecticut, to oppose confirmation. Not long before, the Justice Department had announced that it was dropping its case against Dodd for allegedly misusing campaign funds and misreporting his income, and many people concluded that this decision was half of a deal, the other half being Dodd's guarantee that he would support the Administration when

it needed him. In the Haynsworth case, for instance, Dodd abstained on the first roll call, and then, when it was clear that the nomination was defeated, he cast his vote against it. He had voted for Carswell in the Judiciary Committee and showed every sign of planning to vote for him on the floor until one of his opponents in the forthcoming primary race in Connecticut, the Reverend Joseph Duffey, national chairman of the A.D.A., and local labor unions began going after him, whereupon Dodd reaffirmed his promise to oppose Carswell on the final vote.

As the date for the vote drew near and the Administration discovered the extent of the trouble it was in, panic ensued. To counter the effect of the Horsky memo, Deputy Attorney General Kleindienst enlisted the help of judges on District Courts in the Fifth Circuit, and persuaded fifty of the fifty-eight who were on the bench and seven of the thirteen who had retired to endorse Carswell by way of another telegram. In the press and in the Senate, Kleindienst's maneuver was put down as outright intimidation. Whatever the impropriety of his efforts, there could be no doubt about the impropriety of the judges' lobby, for the Judicial Conference, which is made up of federal judges representing all eleven circuits, specifically forbids any political activity by any federal judge for any reason. One judge who was charged with having ignored that was the highest of them all—Chief Justice Warren E. Burger. Although the Chief Justice has angrily denied the charge that he lobbied among several senators to get their votes for Carswell, at least one of them still asserts that he did.

A number of Republican senators observed that they had never seen such incompetent liasion work by an Administration as there was in the Haynsworth case—until the Carswell nomination. In at least one instance, the lines of communication broke down completely in the latter fight. Senator Mathias had been out of the country on Senate business during the Carswell hearings, and since he was a member of the Judiciary Committee, he felt obliged to read the record of the hearings when he got back. Afterward, he was dissatisfied, mainly because he had not had a chance to assess Carswell in person. "All my instincts were directed toward justifying a vote for Carswell," he said later. "I felt that another fight over the Court after Haynsworth was harmful to the Court, to the President, to the Senate, to the Republican Party, and to the country, and I didn't want to be the one who caused that harm if the vote was close, as everyone expected. But as I went into the record and the newspaper reports, I found it more and more difficult to reconcile myself to the nomination. Finally, I asked to meet Carswell." Mathias made his request to Hruska, and, when nothing happened, to Gurney, and, when nothing happened, to John Dean, the Justice Departments' liaison man, who passed it on to Kleindienst. Still nothing happened. Perhaps Kleindienst decided that since Mathias had opposed Haynsworth, he would undoubtedly oppose Carswell and merely wanted to demonstrate to his constituents that he had done everything he could to bring himself to vote for the nominee. If this was the case, Kleindienst ignored the obvious indication that Mathias hadn't made up his mind. "If I had, I wouldn't have asked for a meeting, which was bound to be painfully embarrassing for both Carswell and me," he said. "Anyway, we were getting down to the wire, and I was becoming increasingly distressed, particularly about Carswell's abominable record on the bench. I was worried about the terrible position Scott was in, and wanted to help him if I could. I talked to Cooper, and he argued that Carswell was being held to unreasonable standards, but I couldn't see that. Finally, on April 1st, I renewed my request for a meeting, this time in writing, and sent it to the Justice Department. I never got an answer. That was unprecedented in something as critical as this, where one vote really mattered. I didn't hear from a single person in the executive branch—not from the President, not from the Attorney General or his Deputy, not from anyone lower down—even though I had asked for information and guidance." Finally, Mathias mentioned this to Gurney, who was stunned by the Administration's bumbling, and he called the White House and demanded that it make amends. Almost immediately, Mathias got a call from an aide there who offered to have Carswell flown up from Florida for a meeting with him the night before the vote. Mathias turned down the offer. "I told him that clandestine midnight meetings on judgeships were not in our tradition," he recalled afterward. "Obviously, a meeting under such strained conditions could not have been helpful."

Once the Administration realized that if it lost on the motion to recommit the nomination it would, unlike the opposition, have no second chance, it let fly with everything in its arsenal. By the day before the recommittal vote, the mood in the White House was buoyant, and the press secretary confidently announced that, with four senators being absent, the vote would be fifty to forty-six against the motion. Unknown to the White House, Bayh fully agreed with its expectation of victory and estimated its winning margin would be even larger. Also unknown to the White House, he had given up any hope of recommitting the nomination and, in a secret tactical switch, had turned his attention to the final vote, which the White House, in its frantic concern about recommittal, was ignoring. Late in the week before the first vote—set for Monday, April 6th—Bayh had concluded that his side would probably lose that because of all the pressures applied by the Administration. He discussed this with Mansfield, who suggested that he might dispense with the recommittal motion and move to take a vote on confirmation in its place. After thinking that over, Bayh finally disagreed, on the ground that many senators who wanted to see Carswell lose also wanted to vote for him in some way—in the case of Republicans, to soothe the President and, in the case of Democrats, to soothe those of their constituents who were for Carswell—and that if the recommittal motion was dropped that would close the door to any token support. No sooner had Bayh made this point that he discovered the solution to his problem—allowing these senators to meet their political needs by releasing them from their commitments to vote for recommittal as long as they kept their commitments to vote against confirmation. "It was one of those split-second decisions," Bayh said later. "I saw that the Administration had assumed that the recommittal and confirmation votes would be pretty much the same. In its panic, the White House had pursued a policy of overkill to win on recommittal, and I realized that we could use this to undercut it on the final vote." Accordingly, Bayh, Brooke, Kennedy, Tydings, and Hart quietly let the others on their side know that it was all right to vote as they pleased on Monday if they voted against confirmation on Wednesday.

The shift in strategy was an amazingly well-kept secret, and the White House staff members, blindly pursuing their course, stumbled into the trap. To assure victory on the recommittal motion, they went after four key votes—those of Fong, Dodd, Packwood, and Percy—and won them with what should have seemed suspicious ease. "That meant the White House had the Monday vote sewed up," Bayh's aide Rees recalled later. "By then, we were delighted to let them expend all their steam on that, because, although the White House didn't know it, those four men had promised to be with us on Wednesday. That gave us forty-seven votes to forty-five for Carswell on the Wednesday vote. Four senators would be absent, and four more were unknown quantities. If we kept Quentin Burdick, of North Dakota, who seemed to be leaning our way, it would be forty-eight. If Cook, Prouty, and Mrs. Smith all went with the Administration, that would make it a tie, which, of course, the Vice-President would break in favor of the nominee. But while the White House needed all three to win, we needed only one to give us the magic number—forty-nine." It was generally assumed, however, that these three Republicans would vote alike, in order to protect themselves and each other by creating a margin that they could take refuge in; otherwise, of course, the one who cast the deciding vote would be open to attack, whichever way he or she cast it, by political opponents at home.

The recommittal vote was set for one o'clock Monday afternoon, and shortly before the roll was called, disaster nearly befell the anti-Carswell cause. Bayh happened to run into Senator Burdick, and learned that through an oversight no one had told him about the new strategy. Burdick was one of those who felt they had to vote once for Carswell, and he was still planning to vote for recommittal and, if that failed, for confirmation. Stunned to learn this, Bayh hastily told him that the plans had been changed, and asked him to switch his votes around. Burdick listened to his plea, nodded as if to indicate that he would go along, but refused to commit himself openly. To a degree, his was the key vote that afternoon, and when he cast it against recommittal, Bayh and Brooke turned and grinned at each other, for now it was clear that he would be with them on the final vote. Another senator who was watched closely that afternoon was Prouty; as expected, he abstained the first time the roll was called, and then, when it was clear that the motion had lost, voted for it. By this time, the vote was anticlimatic, except that the final tally—fifty-two to forty-four against the motion—showed that the White House staff couldn't count any better when it won than when it lost. That also surprised no one, and about the only unexpected occurrence took place during the debate preceding the vote, as Senator Aiken rose and put in question his reputation for sagacity by delivering a one-sentence speech on behalf of the nomination: "We need some law and order and to stop apologizing to every criminal." Afterward, a Republican colleague shook his head in disbelief and said, "George must have got a new speechwriter—Strom Thurmond."

In the course of the debate, Scott casually remarked to Mansfield that the anti-Carswell forces now clearly had the votes to defeat the nomination on Wednesday. Nodding, Mansfield went over to Bayh and suggested that after the recommittal motion failed he move to take an up-or-down vote on the nomination not two days later but two hours later. Bayh liked the idea, and as soon as the votes were counted and the result was announced he rose and asked for a unanimous-consent agreement to take a final vote at three o'clock that afternoon. Hruska was so flabbergasted by the proposal—a clear sign that Scott hadn't mentioned it to *him*—that he jumped up and shouted, "The Nebraska from Senator objects!" The objection may have been backwards—it was later reversed in the *Congressional Record* by one of Hruska's aides, since senators are allowed to edit their remarks on the floor—but it was enough to kill the motion. After the session broke up, Hruska confidently assured reporters that the Administration would win the contest on Wednesday by at least three, and perhaps four, votes. At lunch in the Senate dining room a little later, Brooke stopped at Hruska's table and twitted him about the remark, saying, "Roman, you can count, and so can I. If you had the votes, you would have agreed to Birch's motion on the spot."

That afternoon, everyone's attention turned to Cook, Prouty, and Mrs. Smith. Although Cook had been in the Senate only a couple of years and wasn't well known there, he was regarded as a man of honor, and Brooke considered his promise as being firm. However, Cook was also known for his exceedingly complicated nature, and there was always the possibility that the White House would find some way of appealing to a part of it that others were unaware of. Prouty, it was assumed, would take the least thorny path of political expediency. And, as usual, no one had any idea what Mrs. Smith might do. At the age of seventy-two, with twenty-two years in the Senate, Mrs. Smith is known, variously, as "the grand old lady from Maine," "the Senate's most independent member," and "the best argument against women's liberation in town." She has carefully nurtured a reputation of fiercely resenting any pressure exerted on her, whatever the motive and whatever the issue. Her unapprochable stand has long been highly popular with her Down East constituents and rather unpopular with many of her colleagues who, unlike her, have polyglot constituencies and have to bargain and compromise endlessly to hold on to their seats. Mrs. Smith plays her role with the skill of a great actress. When an issue of moment is before the Senate, she invariably holds off announcing her decision, and then when the time comes for the vote she demurely enters the Senate chamber, which falls utterly silent as her name is called, and in a small, soft voice she makes her will known.

Just about everyone was afraid to give any appearance of violating the sanctity of Mrs. Smith's independence openly, but now a couple of moves were made to violate it covertly. Toward the end of the contest, Sellers, who had worked so hard to bring Fong around, happened to mention to Bayh's staff that if Carswell was confirmed he would be the justice who oversaw the First Circuit, which took in Maine, and would have jurisdiction over stays of execution, contested federal actions in the region, and other legal affairs that would be of concern to a politician with both local and national responsibilities. Sellers was asked for a memorandum on this, and when it arrived Wise, Bayh's press officer, telephoned the Boston office of the A.P., where the news was rejected by the acting night editor, who told him that it was "a Washington story," and then the Boston *Globe*, where the assistant managing editor was very interested (and rather put out that his staff hadn t thought of it). Wise dictated the information contained in Sellers' memorandum, and a story on it appeared on the front page of the next day's edition. That was said to have impressed Mrs. Smith, who had been unaware that Carswell would have such an effect on her domain if he reached the Court.

A surprising number of other senators turned out to be unaware of even the latest and hottest news, including the Horsky memo and Tuttle's withdrawal, which were the most important stories of all. When aides to the leaders of the opposition discovered this, they quickly alterted the press, which set out to inform senators who had neglected to inform themselves. For instance, the Washington *Post* ran a lengthy article on the memo's implications, which was believed to have impressed a number of senators who were wavering. Then Hruska, who had a long history of being unable to remain silent when anything he said could only make a bad case worse, wrote the paper an angry and inaccurate letter denying the charges, which prompted the *Post* to run a persuasive point-by-point rebuttal of his claims, and that impressed the undecided senators even more. Mrs. Smith was also unaware of the Horsky memorandum's meaning, it appeared, for after the recommittal vote she told Brooke that she was troubled by the charge that Carswell had been less than frank with the Judiciary Committee and wanted to know more about it. Brooke promised to send her some material on it, and called Bayh's office for help. The job fell to Mode, who drew up a four-page document describing the situation in the simplest terms, underlined the relevant passages in the hearing record and placed paper clips on the pages where these appeared, and then appended copies of the affidavits submitted by Tallahassee residents stating that everyone in town who knew anything knew that the gold course was incorporated privately to get around the recent Supreme Court desegregation ruling. Brooke sent the material to Mrs. Smith early the following morning. By then, he was deeply apprehensive, because he had just learned that the President had summoned her to the White House the night before and presented *his* case for Carswell. It was reported that she refused to tell Mr. Nixon how she would vote, and the next morning, a few hours before the roll was called, she told Brooke that she wouldn't decide until her name came up.

"When we agreed to a two-day delay between the votes on recommital and confirmation, we hadn't thought the latter was important at all," Keefe, Bayh's chief aide, said later. "Like the Administration, we figured the big vote would be on whether the nomination should be sent back to committee. But when our strategy changed, those two days became nerve-rackingly vital, because the White House was turning on everything it had." One thing it didn't have was any chance to persuade the four senators who had promised to vote against recommittal to vote its way on confirmation, too. Before the Administration saw what was happening, the four publicly stated that they would oppose both recommittal and confirmation. Finally seeing the trap, the White House appealed to them to vote for Carswell on Wednesday, but they pointed out that all they had been asked for was their support on the first vote, and that since they had told their constituents where they stood on confirmation, they couldn't back down now and let it appear that they didn't know their own minds.

The Administration apparently also imagined that Fulbright had merely made a gesture toward his liberal friends in voting for the recommittal motion, and that his vote would be in its column when the motion to confirm the nomination came up. Once again, the White House intelligence system had broken down, because several developments in Fulbright's political life clearly pointed in the opposite direction. For one, in his 1968 Democratic primary campaign against Jim Johnson, a white-supremacist, Fulbright for the first time openly appealed for black votes, because he believed that he couldn't win without them and that the "seggies," who hated him for his stand on the war in Vietnam, would vote against him no matter what he did. Then, at the beginning of 1969, Fulbright was the only Southern senator to support the nomination of Dr. James Allen, a Northern integrationist, as Commissioner of Education, and was one of only three Southerners to support the Voting Rights Act back in March. While various arguments against Carswell had impressed Fulbright, probably more important to his thinking was the case made by Dr. Robert Leflar, who had formerly held the deanship of the University of Arkansas Law School, a post that Fulbright had held before becoming president of the university and then senator.

Most of the law school's faculty came out against Carswell, and then Leflar, who knew and had supported Haynsworth, flatly told Fulbright that Carswell simply was not fit to sit on the Supreme Court. That, plus the outpouring of protests against the nomination from other law-school deans, jurists, and prominent legal scholars, convinced Fulbright that he had no choice but to join them. The White House intelligence operators finally got wind of this—several days after everyone else knew it—and set out to recapture the vote they had never had. Their principal tactic was to ask friends and contributors to Fulbright's past campaigns who were indebted to the Nixon Administration—for its slowdown on school desegregation, say, or for government contracts—to demand that he change his mind. But when these people called Fulbright, they were reluctant to demand anything, and made it clear that they were calling only because the White House wanted them to. Of course, that drained off any strength their appeals might otherwise have had. Still another influence on Fulbright was his wife, who had been astonished and infuriated during the squabble over Haynsworth when Attorney General Mitchell's wife telephoned her and threatened to organize members of the Cabinet to campaign against Fulbright if he betrayed that nominee. As it turned out, Fulbright voted for Haynsworth, but the threat left his wife so embittered that she let him know she wouldn't mind at all if he came down against Carswell, whatever the reprisals.

Another Southerner, Senator Albert Gore, Democrat of Tennessee, had long stood as one of the few exceptions to the racist mood among Southerners in the Senate, and had voted for almost all of the civil-rights measures that counted. But this year his problem was compounded by the fact that he was up for reelection and was in graver danger of defeat than ever before in his thirty-two years in Congress, because the President had made his seat the prime target in his Southern strategy and his attempt to take over the Senate. Gore was as resistant to outside influence as Mrs. Smith—but never waved the banner of his independence as she did—and lobbyists on both sides in the Carswell fight were careful not to let their work in Tennessee be visible. Halfway through the contest, they got the impression that Gore had not made an announcement on the Carswell nomination because he had not heard from the labor unions back home.

At one of the strategy meetings that were held every few days in Bayh's office, the union representatives were told that they had fallen down on the job, and they immediately mounted an anti-Carswell mail campaign among workers in Tennessee. In all likelihood, the mail had little effect, for Gore must have known that the labor vote would be in his corner as usual. Probably he waited for the mail to come in not so much to be sure before he made a commitment as to make sure that he would be able to call on the unions for help the following fall. In any event, it was believed that both Fulbright and Gore relied chiefly on Hruska to help them out of any difficulties they could expect from angry voters at home. His astonishing defense of mediocrity provided a likely solution, for now they could tell their constituents that they, too, wanted a Southerner and a strict constructionist on the Court, but not one who wasn't smart enough to deal with the damn Yankees.

Out in Texas, Senator Ralph Yarborough, a liberal Democrat of the old-fashioned populist variety, was also faced with the strongest challenge of his career—a formidable primary contender and, if he got through the primary, a formidable Republican opponent in the fall. The contest over Carswell was largely an underground matter in Texas, for all that mattered to many people there was that he was a Southerner, which to them meant a segregationist. That was seldom mentioned—not nearly as often, for instance, as the prayer-in-the-schools issue, which was entirely aboveground and was being used to great effect against Yarborough, who stood by the Constitutional dictum separating church and state despite the bitter resentment that

created at home. None of those on the anti-Carswell side had any doubt about where Yarborough would stand if he voted as he wanted to. His greatest fear was that if he opposed the nomination he might end up as one of the usual ten or twelve liberals who could be counted on to vote their consciences; if that had been the case, he would have found great difficulty in taking the risk of joining them.

Above all, he needed concealment—enough other votes against Carswell to make his own seem commonplace. As soon as that happened, he was prepared to vote with them. Once he made this decision, Yarborough turned to local labor leaders, who had pressed him to make that choice—after the anti-Carswell labor lobby in Washington had pressed *them*—and asked that they now protect him by convincing the ordinary workingman that Carswell's presence on the Court would be against his interests. But the union heads, whose support has increasingly proved in recent years to be less help than hindrance in political campaigns, were more worried about harming themselves among their followers than about Yarborough's harming himself among his, and they failed to do the job. The final vote on the nomination was due a couple of weeks before the primary election in Texas, and as it approached it became clear that Yarborough would probably lose. No one, it appeared, could help him if he voted against Carswell. Even Hruska was of little use, for, as one of Yarborough's closest associates said later, "mediocrity isn't a marketable issue in Texas."

The day before the final vote, the Administration once more demonstrated its capacity for inepitude by dispatching Eugene Cowen, a White House liaison man with Congress, in search of an anti-Carswell senator who would agree to pair his vote with Senator Karl E. Mundt, a conservative Republican from South Dakota, who had been hospitalized for several months following a severe stroke and who presumably would be in favor of the nomination. (The other absentees were Clinton P. Anderson, Democrat of New Mexico, who had just undergone an operation for glaucoma, and Claiborne Pell, Democrat of Rhode Island, and Wallace F. Bennett, Republican of Utah, both of whom were in the Far East on Senate business. The absence of the four was understood to have no effect on the vote, since two were for Carswell and two were against him.) Pairing is a parliamentary procedure by which votes are recorded but don't count in the final tally—that is, it gives those who are not able to be present when the roll is called a chance to state how they would vote if they were.

Anyone who is present and agrees to vote in a pair ordinarily does so because he knows that his vote won't matter anyway or because he wants to sidestep, at least formally, an issue that is particularly delicate for him. Of course, in this instance the vote was particularly delicate for half the members of the Senate, and anyone who threw his vote away on a pair would be open to the bitterest criticism from constituents and political enemies. That circumstance aside, Cowen's search was still futile, for Mundt was thought to be almost totally incapacitated, and if a paired vote had been announced in his name several senators would have demanded an official investigation to make sure that it hadn't been cast by one of Mundt's or the White House's aides.

While Cowen was frantically looking for someone to pair with Mundt, others on the White House staff were frantically trying to persuade Senator Howard W. Cannon, Democrat of Nevada, to come over to the Administration's side. Nevada is a deeply conservative state, and its residents tend to be most conservative of all on the law-and-order issue, focussing a great deal of resentment against the Supreme Court's rulings on the rights of defendants. (Probably nowhere in the country is the breakdown of order more difficult to attribute to the Court than in Nevada, where the high general crime rate is largely due to legalized gambling, which has brought hordes of organized and unorganized criminals into the state, and where the high murder rate is largely due to the absence of any statewide gun laws.) Cannon had won his last race by only eighty-four votes, and since he was up for reelection in the fall, there was every reason for him to share whatever of his constituent's strongest views he could. He had chosen, above all, to share their views on the Supreme Court. "Frankly, I would like to see the Court more conservative, so Carswell seemed fine at first," he explained later. "I felt that the President was entitled to a man with any philosophy he wants. But in time it became clear that his choice wasn't an outstanding jurist. I was influenced by the failure of Carswell's colleagues to support him. Then came Hruska's statement defending mediocrity, which made it much easier for all of us to oppose the nominee. Then came the reversal rate. Then came the Horsky memo. Still, I had a lot of hard decisions to make and was subjected to a lot of pressure from both sides. Anyway, I was on the fence until the day of the vote." To bring him down on the Carswell side, an Administration spokesman called and promised that if he voted for the nominee he would get "a free ride" in the fall—that is, a weak Republican opponent.

In the last days before the vote, the White House also worked hard on Senator Burdick by promising that his opponent in the fall in North Dakota would be left on his own if Burdick voted right, but that President Nixon and Vice-President Agnew would campaign for the challenger if Burdick voted wrong. Confident that his opponent would be too weak to benefit from such help, Burdick held fast—as he undoubtedly would have in any case. Then the Administration turned to Senator Schweiker, of Pennsylvania, whose defection from both the President and Scott it found impossible to believe. In one of the crudest miscalculations of the entire battle, the Administration released to a reporter from *Newsweek* a list of the people it had called in Pennsylvania to bring pressure to bear on Schweiker, among them large campaign contributors, county chairmen, mayors, state legislators, federal judges, and personal friends. This clumsy attempt to browbeat Schweiker infuriatied him. He was also bewildered by the move, and said later, "If they knew anything at all about me, they wouldn't have been so stupid, because it was bound to boomerang." When an anti-Carswell lobbyist heard about the maneuver, he laughed and said, "They figured that since this sort of gambit works with Scott it should work with Schweiker, too. Of course, they forgot one elementary point—Scott is up for reelection and Schweiker isn't."

While the Administration's repeated blunders created a good bit of amusement, some people were alarmed by its persistent inability to understand what was going on—a failure that could be calamitous in an international crisis, for instance. Senator Cook, who visited the White House on both Monday and Tuesday before the vote and was frequently telephoned by aides there when he wasn't on the premises, was reported to have come away convinced that none of them could believe anyone in Congress could ever behave in anything but a purely political way.

In Cook's view, it was far too late to expect a last-minute switch by a senator with the least notion of his public responsibility. "I don't think that someone who deals with an issue as serious as the elevation of a man to the Supreme Court can accept the idea that he is open to a switch at a crucial time," he said. "It just isn't that fluid once you've studied and thought about it." Above all, the Administration's apparent conviction that in politics there could be no principle led it to persistently overestimate the effects of pressure on members of the Senate and to ignore their consciences. "There's probably not a man here who is unaware that in our system one Supreme Court justice is equal to eleven senators," an aide to a Republican senator who was *not* close to the White House said later. "Those who were most concerned about Carswell's fitness to serve on the Court were also aware that he would probably be there a lot longer than most of them will be here, and might do irreparable damage to our country. Even more important, as these men viewed it, was the likelihood that Carswell's confirmation might well be the final blow for the blacks, and that if the Senate turned its back on them their moderate leaders would lose any chance of keeping them within the system."

Bayh had flown out to Houston to keep a speaking engagement before the Texas League of Women Voters the afternoon before the final vote, and when he returned the next morning and went to his office, around nine o'clock, Keefe and Rees filled him in on the latest rumors that were swirling about the Capitol. He calmly shrugged off the stories that Carswell would win, and said that the vote would be fifty-one to forty-five against the nomination. Rees, who believed that forty-nine votes were the most they could hope for, remarked that the Senator was obviously very tired, and suggested that he get some sleep. But Bayh had another pressing family matter to attend to; his father had been hospitalized with an angina attack the day before in Washington, while Bayh was in Texas, so he set off for the hospital, saying that he would meet them on the floor of the Senate at ten-thirty, shortly after the beginning of the three-hour debate that was to precede the vote.

Another aide, Mode, rode with him to the hospital and then to the Capitol, and went over with him all the papers he might need, including a secret memorandum that Bayh had asked Mode to prepare in the event of a tie vote. The first part was entitled "Scenario for Tie Vote on Carswell." It began, *"Upon Announcement of Tie Vote*—rise trying loudly to raise questions of order. This fails since can't be raised until division complete, (Rule XX, Sec. 1) . . . *When the Vice-President Votes*—rise shouting 'I raise the point of order that the Vice-President cannot vote to advise and consent to a nomination to the Supreme Court.' " The memorandum went on to suggest what to do "if he ignores point of order," "if we're lucky," "if he's on the ball," "after the parliamentary hassle," "if they move to reconsider," and finally "if they move to notify the President immediately." Attached to this document was a three-page speech presenting the case against the right of the Vice-President to cast the deciding vote in such a situation. In short, the argument was that while his implicit Constitutional authority to break a tie vote in a legislative matter or a nomination to the executive branch was well established, there had never been a test of his authority to break a tie in nominations to the federal courts. The argument was more ingenious than legally sound, but no one expected it to prevail anyway. It was merely part of a parliamentary maneuver by which Bayh might force the Vice-President to delay his tie-breaking vote. If that worked, then Bayh was to filibuster until Andrew Biemiller, the A.F.L.–C.I.O lobbyist, could fly out to New Mexico in a chartered jet, snatch Senator Anderson out of his sickbed, and fly him back to Washington to cast the deciding vote against Carswell.

Early on the morning of April 6th, Sena-

tor Cook telephoned Mrs. Smith and told her that he was going to vote against Carswell, and that since she and Prouty held the other swing votes, he thought they should know what he would do when the roll was called. She thanked him, and remarked that perhaps her vote wasn't needed then. Cook also talked to Prouty, who said that he, too, intended to vote against the nomination. Then Cook telephoned the White House and told them what he intended to do. To soften the blow, he mentioned that apparently they could now get Mrs. Smith's vote, and added that with Prouty's vote, which everyone knew was available if needed, the White House would have to find only one other vote to create a tie. With that, Bryce Harlow and his staff set to work—or, as others saw it, they panicked.

On Harlow's orders, Cowen got on the line to Schweiker and told him that Mrs. Smith had promised to support the nomination, that Prouty would, too, and that now his own vote was the one that counted, the one that could save the President from a humiliating defeat. Schweiker hadn't announced his intention to vote against confirmation, because he believed that would bring immediate demands from Pennsylvania for Scott to take the same course. By not revealing his intention, Schweiker also made the decision appear more difficult than it was—another maneuver to protect Scott as much as he could. Apparently, the White House mistook these adroit precautions for indecision, and decided to apply all the pressure it could. In any case, the call left Schweiker reeling. "The President clearly was making personal loyalty the final test," he said later. "I knew that whatever the vote was in the end, it would really be a one-vote decision, because the balance of the margin would simply be made up of the votes cast after the swing man cast his. That made my responsibility deeper than ever when I realized that my one vote could turn it around." As it happened, Senators Percy and Mathias got identical calls from the White House—a tactic known in the political trade as "pancaking," or, as Mathias called it, "a case of multiple uniqueness." Percy was in a quandary about which side he should vote with. He had campaigned for the Senate in 1966 on a liberal platform, but much of his support came from voters in the conservative southern portion of Illinois, who were convinced that he had to appear liberal in order to beat the noted liberal incumbent, Paul Douglas; they were also convinced that Percy would be a different man once he got into office, and were embittered to discover that he voted almost as liberally as he talked. Illinois was also strong Nixon country, and the Republican governor, Richard B. Ogilvie, a Nixon stalwart, had threatened Percy with a primary opponent in 1972 if he let the President down this time. On the other side, Brooke kept after Percy following the recommital vote, and pointed out that whatever the leaders of the Party in Illinois said now, they would discover later on that they needed him more than he needed them. In the end, Percy agreed with Brooke's reasoning. In the case of Mathias, he had decided to follow his conscience and vote against Carswell. "My decision created hideous political problems for me at home," he said afterward.

"Orthodox Republicans, Democrats who voted for me last time on the ground that a Republican would be more pro-South than a Democrat, and many of my personal friends were aghast at my even thinking about voting against the nomination. They were bound to be furious with me when I did. Of course, that could mean a primary opponent next time around and far less in the way of money and help." But Schweiker was undoubtedly the most distressed of the three who heard from the White House. "Half an hour before the time for the vote, I still had the problem," he recalled later. "Finally, I forced myself to put aside the responsibility of what one vote could do and tried the judge the issue solely on its merits. I had to convince myself in the few remaining minutes that the one-vote idea was irrelevant to my decision. Once I did that, I saw that in all conscience I had to vote no."

Shortly after eleven o'clock, as the final debate on the nomination was in progress, a woman on Brooke's staff told him that she had just learned from the Minority Leader's office that Mrs. Smith had promised the White House her vote. Brooke began looking for Mrs. Smith at once, but it was over an hour before he found her—at lunch in the Senate dining room, just below the Senate chamber, where Senators Cooper and Tydings were engaged in a bitter floor debate about which side had misrepresented Carswell's record. Brooke reminded her that she had told him she would not decide how she would cast her vote until the time came, and asked if it was true, as the White House was claiming, that she had promised to vote for Carswell. She colored, and he hastily added that he had no intention of trying to influence her one way or the other but thought she should know what was happening if indeed she had not made up her mind yet. Furious at this development, Mrs. Smith went to a telephone, called Harlow, and demanded to know whether he had told other senators she would support the nomination. Harlow tried to sidestep the question, whereupon Mrs. Smith cursed him, slammed down the receiver, and hurried off to the Senate chamber. She went first to Schweiker and asked if he had got such a call, and he assured her that he had. Then she asked Mathias the same question and got the same answer. With that, she went to her desk and sat, tight-lipped, waiting for the roll call to begin.

At a little before one o'clock, two deep buzzer signals—for a quorum call, the preliminary step to a vote—rang throughout the Senate office buildings across the broad lawns of the Capitol to summon those who were not already on the floor or in the cloakrooms. Even elevator boys and the greenest secretaries knew what this particular signal meant, and everyone watched solemnly as senators, followed by batteries of aides, emerged from their offices and walked down the long marble-floored corridors toward the elevators and thence to the subways connecting the office buildings to the Capitol. The Senate chamber was more crowded than anyone could remember seeing it. The galleries were packed with the lobbyists who had fought for and against the nomination, and with Senate assistants and secretaries. The rear of the Senate floor was jammed with rows of aides who had floor passes, congressmen who had taken advantage of the exchange of floor privileges between the Senate and the House, and even a couple of former senators, who retain for life the right to visit the Senate. Outside, the corridors were filled with people who hadn't been able to get inside.

Promptly at one o'clock, a single buzzer rang, signalling the beginning of a roll-call vote. The first four votes were for Carswell, and then the clerk called, in his deep, resonant voice, "Mr. Bayh," and Bayh had the privilege of casting the first negative vote. Echoing his "No" with a long-drawn-out "No-o-o-o," the clerk resumed the roll, and it stood at nine to four in favor of the nomination when he called, "Mr. Cook." Cook faced the front of the chamber, where Vice-President Agnew was seated as presiding officer, and thundered, "No!" A gasp rose from the audience, for most of those on hand knew that this was the crucial vote, unless the White House had managed to break loose someone who had been thought to be locked in with the opposition. Then some of the votes that might have been changed—Dodd, Fong, and Fulbright—came in quick succession, and as each of them called out, "No," another gasp rose from the audience. When the clerk got to Prouty and he registered a "No," applause burst out briefly, but the Vice-President quickly silenced it with a rap of his gavel.

Then Schweiker voted his conscience, and everyone turned to watch Mrs. Smith, who was seated impassively, wearing her usual red rose. The clerk called her name, and she answered, in a quiet, utterly unemotional voice, "No." That brought a roar of approval from the galleries and more applause, for her vote made twelve Republicans opposed—the number necessary to defeat the nomination.

At the end of the first roll call, the tally stood at forty-six to forty-four against the nomination; six senators either had not voted the first time around or had not reached the chamber in time to answer when their names were called. But there was no question about the outcome now, since it would take four votes for Carswell out of the six to produce a tie, and three of the six were firmly opposed. In the end, five of the six went against the nomination, and one went for it. Precisely as Bayh had predicted, the final tally was fifty-one to forty-five. When Vice-President Agnew announced the result, the galleries burst into applause, whistles, and shouts, with a scattering of catcalls and boos. Senator Richard B. Russell, the Democratic patriarch from Georgia, who had originally suggested Carswell's name to Senator Gurney, angrily demanded that the galleries be cleared. The Vice-President obeyed, and the guards tried to carry out his order, but by then, of course, everyone was leaving anyway. Among the aides in the back of the Chamber, James Flug was laughing and weeping at the same time. "I just can't believe it!" he kept saying. "It's too good to believe." John Conyers, a black congressman from Michigan who had worked hard to defeat the nomination from the House side, was present on the floor, and when he emerged from the chamber he had an expression compounded of disbelief and delight. "Carswell's defeat is an incredible symbol of how public sentiment can work its will even in this insulated system called Congress," he said when he finally collected himself. "It was a terrific psychological victory to show that the people can still have their way."

Later that day, Senator Cook, the hero or villain of the hour, held a press conference to explain why he had voted against the nomination—principally, he said, because Judge Carswell did not have the support of all the judges on the Fifth Circuit and because his "extraordinarily high reversal percentage" refuted the claim that he was a strict constructionist. Cook also took this opportunity to explain why he had not revealed his position earlier, saying that in light of his leadership in the Haynsworth fight his opposition to Carswell might have influenced others to go along with him and he had not wanted to affect the outcome in any way except by his own vote. "Consequently, I have kept my own counsel and have now cast what I consider to be the most politically dangerous vote of my public career," he added. "I say this because I know that the people of my state are anxious for a Southern judge to be put on the Supreme Court. Well, so am I. I know that our people would like to see a conservative approved for the Court, and so would I. But, most of all, I know the people of Kentucky want an outstanding Southern conservative on the Supreme Court, and so do I. . . . I do not see that man in Harrold Carswell. Therefore, I cast my vote as I did because I could not in good conscience do otherwise." Afterward, an aide to a Democratic leader of the opposition to Carswell said, "Cook was a pillar of strength. His decision must have been excruciatingly difficult." It was. Knowing that most of his constituents would be enraged

by his act and would fail to see that he must have known he would incur their wrath but *had* to vote as he did, Cook took a further step to mollify them by recounting how he had finally made up his mind the day before the vote after attending a White House ceremony at which President Nixon awarded twenty-one Medals of Honor posthumously. "When I came back from the White House, I thought, those were men who did their best and lost their lives. And all of a sudden I thought that we were going to vote for someone who didn't fulfill the degree of excellence in the legal field that I thought those men deserved." Most people in Washington dismissed this statement as a piece of sentimental hokum. Harlow, for instance, asked him, "Marlow, are you serious?" Cook assured him that he was.

That night, Cook stayed in his office late to catch up on his work, and when he left he ran into a group of Senate aides who were winding up their celebration over Carswell's defeat. He stopped to talk with them for a few moments, and mentioned that one of the influences he had not revealed in his press conference was a letter from a former law partner in Kentucky, who had appealed to him to reject Carswell as the only way to stop the deep discontent among Negroes from bursting into a bloody upheaval. Cook paused thoughtfully, then grinned and added, "I hope they send the Attorney General's name up next, so we can turn him down, too."

Senator Yarborough was beaten in his primary by about a hundred thousand votes out of one and a half million cast, and he was convinced that his stand against Carswell had cost him his seat. News of Yarborough's defeat was received with dismay by most of his fellow-Democrats in the Senate, especially by those who had voted the same way and were also facing reelection contests. Few were more dismayed than Senator Cannon, who soon learned that instead of the free ride promised by the White House if he supported Carswell he was in for the costliest ride of his political life for opposing him. At the time of the vote, it had appeared that the Republicans would be unable to find a powerful candidate to run against him, because the two strongest Republican figures in Nevada were vying with each other for a crack at the governorship. Now, however, the White House interceded, and Vice-President Agnew, on instructions from the President, persuaded one of them—William Raggio, the district attorney of Washoe County, which includes Reno—to run against Cannon, and promised that both he and the President would campaign for him. Even more unsettling to Cannon was the Republican Party's promise to spend half a million dollars on Raggio's campaign, an enormous sum for a small state like Nevada. "The Administration has said that it can win a Senate seat at less cost in Nevada than anywhere else in the country," Cannon explained. Of course, he could not hope to raise that kind of money, nor could the Democratic Party in Nevada or the Democratic National Committee, both of which were deeply in debt already.

As it turned out, though, Cannon fought a hard campaign—in the opinion of some, abetted by the Vice-President's and the President's intercession, which was resented by the voters—and won by nearly three to two. At the start of his campaign, Senator Scott tried to soothe his liberal and black constituents by saying publicly, "Perhaps I erred in judgment on the Carswell case." As for the Judge's defeat in his primary race for the Senate, Scott remarked that it was "fortunate that Florida has not nominated a racist." Scott won with fifty-two per cent of the vote.

Senator Gore, who had always played the underdog in election campaigns and had won seven terms in the House and three in the Senate, discovered that he was an authentic underdog at last. Although the President unwittingly came to his aid during the primary by threatening to personally campaign against him, thereby showing the independent-minded voters of Tennessee that Gore was in trouble because he was independent, he won that election by the narrow margin of thirty thousand votes. That was only a third of what he, and others, felt he needed to beat his Republican opponent in the fall. Toward the close of that campaign, his votes against Haynsworth and Carswell became one of the four main issues his opponent concentrated on. In the end, Gore lost by less than fifty thousand votes out of more than a million cast, and it was believed in his camp that if he had voted in favor of either nominee, that would probably have been enough to switch twenty-five thousand votes and reelect him. Senator Tydings also went down to defeat in November, and he believed that he lost because of his support for the civil-rights cause, which, of course, included his vote against Carswell. Senator Fulbright was also in difficulty at home for his vote against Carswell, but since he wasn't up for reelection until 1974, and rumor had it that he meant to retire then, he didn't need any help from the Administration. He got it anyway. At two o'clock on the morning following the vote, Attorney General Mitchell's wife telephoned the *Arkansas Gazette*, said, "I'm little Martha Mitchell," rambled on for a few minutes about her childhood in Arkansas, and added, "I want you to crucify Fulbright, and that's it."

The *Gazette*, which had opposed Carswell from the start, printed an account of her call on the front page of the next edition, and Fulbright's stock soared in Arkansas. A senator from the Deep South who confessed to having some admiration for the idea of the Southern strategy cited the Administration's failure to implement it by way of the Haynsworth and Carswell nominations to prove that it would never succeed. "Mr. Nixon has no feeling for, and no understanding of, the South," he said shortly after Carswell was defeated. "One of the things he doesn't understand is that among Southerners' many antidiluvian attitudes is the attitude of fierce independence."

Carswell's announcement that he was resigning from the bench to run for the Senate in Florida led even some of his staunchest defenders to conclude that his enemies had been right in charging that he was more politician than judge and lacked the temperament to serve on any high court. That his sponsor was the governor of Florida, Claude Kirk, a white-supremacist, also convinced many of them that the racial charges against Carswell were true. In addition, some senators were puzzled by his desire to join a club that had already blackballed him. After his stunning defeat in the primary—by nearly two to one—Carswell apparently retired from public life. He was obviously an embittered man.

But no one seemed as embittered as the President who had nominated him. Summoning the White House press corps the day after the Senate vote on Carswell, Mr. Nixon, with Attorney General Mitchell at his side, delivered a tirade against the Senate. "I have reluctantly concluded—with the Senate presently constituted—I cannot successfully nominate to the Supreme Court any federal appellate judge from the South who believes as I do in the strict construction of the Constitution," he began. Going on to charge that the vote had been the result of "vicious assaults," "malicious character assassination," and an "act of regional discrimination," he wound up by saying that he would be compelled to find his next nominee in the North.

Many people felt that this was merely a political statement, but one prominent lawyer who was deeply involved in the Carswell fight said, "He meant it. Those of us who raised our heads out of the trenches in this fight will never be forgiven. As far as the President is concerned, anyone who was against him on this one is just plain against him."

In the Senate, the reaction to the President's remarks ranged from outrage to disbelief to amusement. Republicans, by and large, were the angriest—with good reason, as Bayh saw it. "These senators felt that the President had handed them two lemons, had gone to the mat for his choices when he didn't have to, and then had attacked the Senate for doing its job," he said. Schweiker was particularly distressed by the President's attack, and called it "a total misreading of the mood, the temper, and the meaning of what the debate was about." Brooke found it "incredible that the President would make such a mistaken and unfortunate statement." And Tydings rose on the Senate floor and ticked off a list of federal judges in the South whom he and just about everybody else would have been happy to confirm. When tempers had subsided a little, a senator who had worked and voted for Carswell—John Sherman Cooper, the Senate's most courtly member—attempted to put the furious charges and countercharges into perspective. "That's all part of the way we do business here," he said with a smile. "It's just politics. I don't see how the attacks have hurt anybody. Whatever I may personally feel about the outcome, I'm sure the debate showed the people, including the people in Congress, what the Supreme Court should be and what the Senate could be."

WHAT IS PARITY?

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. ZWACH. Mr. Speaker, parity today is at 68 percent, the lowest it has been since the depths of the great depression.

Parity is the farmers' yardstick. It is the price for farm products which will give the farmer the same purchasing power for the return on each unit of his products as in a reasonable base period. The base period is one where those relationships are considered normal.

Full, 100-percent parity would give the farmer only a fair return on his investment, far less than that received by the rest of industry, particularly the food processing and distribution industries.

But parity is only at 68 percent.

Organized labor is protected by wage contracts.

Businesses are protected by agreements.

Utilities are assured a fair return by regulatory bodies.

Only the farmer has no predetermined price protection, except as the government offers price support on some commodities. In addition, the farmers' production is at the mercy of the weather and other factors.

Mr. Speaker, ever since I have been in Congress, I have fought for 100-percent parity for the farmer. Even at that figure, rather than the 68-percent figure for parity today, the producer would be receiving only a fair price for his product.

During the depression years, from 1933 to 1940, parity was 81 percent.

For the period 1946 to 1952 it had risen to 107½ percent. From 1953 to 1960 it was 84½ percent.

During the period 1961 to 1968 it had dropped to 77 percent, in 1969 it was 74 percent and today 68 percent.

During the greatest prosperity in the history of man, the producer who supplies the food suffered his greatest economic pinch.

Can we expect our producers to continue on this downward path?

CURRENT ISSUES IN STRATEGIC ARMS CONTROL

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. VANIK. Mr. Speaker, I wish to insert in the RECORD a complete and corrected text of a recent article by Dr. Joshua Lederberg which appeared originally in a recent Sunday Washington Post. Unfortunately the text of that important article was not printed correctly and many errors were found. Since it is such an important article I asked Dr. Lederberg for permission to insert the article as originally written for the benefit of the Members of this body and of the public. Dr. Lederberg's credentials are impeccable and what he has to say in this far-reaching and astute article is of importance to all of us. The article follows:

CURRENT ISSUES IN STRATEGIC ARMS CONTROL

(By Joshua Lederberg)

(NOTE.—Dr. Lederberg is a Nobel Prize-winning professor of genetics at Stanford University who is also a student of the arms race and efforts to achieve arms control.)

The strategic arms limitation talks (SALT), which will resume next month in Helsinki, have been labeled the key to world survival through the next decade. Even if we frame the arms race as a byproduct of international politics rather than as a living, demoniacal being with independent existence, no one doubts the value of a critical search for practical limitations on the arms spiral.

Arms investment is shaped by dynamic interplay of domestic and international forces, actions and reactions, as much as by negotiated agreements. More than any other process, nevertheless, these explicit agreements require us to examine the assumptions that underlie our strategies of defense and of conciliation.

In my own view the most important function of the arms limitation conferences is their educational value for the participants, so that the many internal policy-making forces within each country may better understand the full depth of their national interests, and how these may be pursued in the light of the perceptions of the other nations. It would then be a mistake, as Fred Ikle stressed for other reasons in "How Nations Negotiate," to judge the value of diplomatic negotiations solely in terms of the agreements formally concluded.

Complicated multinational interests, or more often the confusion of internal debate, may demand the evidence of a formal treaty to affirm a mutually rewarding accommodation. But, at times, the negotiators should be congratulated for refusing a pretense of agreement when such an understanding was beyond the comprehension, the ingenuity, the interests, or the power of the parties.

The sentimental idea that agreements should be not only discussed, but accepted, in a spirit of willingness to compromise national interests will make it more difficult to get countries into active negotiation and exploration of the congruence of their true interests. It leads to such absurdities as refusing to discuss arms control with the USSR after combative actions in Czechoslovakia or the mid-East, as if we would otherwise be granting them a favor contrary to our own interests as part of an arms control package.

BAN MISSILE TESTS

General disarmament, whether unilateral or by treaty, is emphatically not in question. Nothing would throw the world in greater turmoil than to leave its resources to appropriation or hijacking by any pirate with a left-over hand grenade or machine gun. Nor are we politically, socially or economically ready for the peaceful coalescence of sovereignties into the unified world government that must precede the disappearance of national military forces. To paraphrase the still cogent arguments of the naval strategist A. T. Mahan, the peaceful borders between the U.S., Canada and Mexico are quiet just because there is no ambiguity about the distribution of military power. Had we solved the problems of cultural accommodation, as well as economic and political adjustment, among people of the continent, we could also consider the actual merging of sovereignty and of military power. This is an ideal we must pursue with more realism than piety; but the harsh news of the day points the other way, that we may still fail to halt the division of the nations into blacks and whites, and Chicanos, or French and English. Even a threat of common doom may be insufficient to enforce the dissolution of national sovereignties against the resistance of economic disparities like those between India and the West. Both sides know that every chance of industrial modernization would evaporate if the world's capital were equally diffused and consumed in a population explosion. The "white man's burden" in contemporary terms is to find some way that does work for the effective sharing of capital for the development of the poor countries; if not, we will be relieved of that burden willy-nilly.

ECONOMIC FACTORS

In the eyes of the poor countries, our commitment to the arms race has drained the very resources that might finance international development. Their political pressure (like an implicit threat that India might join the nuclear club) is certainly among the main forces that have dragged the United States and the U.S.S.R. to the conference tables in Vienna, Helsinki and Geneva.

Whether the pattern of arms limitation now under negotiation within the SALT framework will result in much savings from arms budgets is problematical. This benefit may be a long-range consequence of the political stability that is the central aim of strategic policy. In the short run, there is more likely to be only a shifting of expenditures to the programs left out of the agreements.

The obvious, and in many ways desirable, contender here is the naval option. Despite its expense as a launch platform, the submarine has long been advocated as the way to separate the retaliatory force from vulnerable cities, and to provide another resource for assured destruction of an attacker.

Missile-launching surface ships, despite their vulnerability, may also be undeservedly neglected as inexpensive decoys and early-warning lures to dilute an enemy's first strike capability. The mix of cheap, vulnerable platforms must, however, be carefully calibrated in order not to be confused with a force useful only for a first strike. There will be no lack of alternative proposals, some quite plausible, to buy more reliability and to plug potential gaps in systems dedicated to infinite security.

Another stated argument for arms control is that the very accumulation of the stockpile, with its vast potential for overkill, makes it more likely that nuclear war will break out. There is a core of rationality to this argument. The technology of nuclear weapons is likely to leak and proliferate in some proportion to the total effort devoted to them. The nonproliferation treaty would have been unnecessary if every nonnuclear country had first had to finance a Manhattan project to learn to make a bomb. Furthermore, the chance of an unauthorized psychotic or accidental firing with its potentially catastrophic consequences, is larger the more weapons abound, other things being equal.

However, the superpowers are technically and politically constrained to invest more effort in protective systems for their large stockpiles, and countries like France and China which are still developing their nuclear capabilities probably present more serious threats of significant accident.

As to "overkill," the metaphor makes sense for a first-strike capability—a small percentage of the stockpile of either superpower could wipe out civilization—but a credible deterent must still be perceived as inflicting intolerable injury after having absorbed a preemptive attack. Overkill potential is exactly what stabilizes the system to make unlikely the actual use in anger of a nuclear weapon.

From this point of view, it is pointless to discuss nuclear parity or sufficiency or superiority in terms of numbers of missiles, which is the fashionable game. The accuracy of intelligence about the location of missile launch sites, the precision of guidance, the shrewdness of target selection, the security of command and control, and above all how well these are perceived by an enemy and by ourselves—these now become far more cruical to deterrence than an advertisement of crude numbers of missiles or of warheads. The essential function of strategic arms is to ensure that they will never be used by either side, and that any threat of their use works to stabilize rather than to inflame the relations of competing nations.

WILL STALEMATE LAST?

The arms race having progressed to an effective stalemate, which has worked better than anyone could have hoped 25 years ago, its main hazards today come from its side effects on both international and national policies. The most serious of these is an unremitting anxiety and suspicion about possible technical breakthroughs that might break the stalemate.

At one level, this leads to the mutual reinforcement of distrust about each side's intentions and plans. At another it provokes the constant search for the technology to do it first here. The main argument openly leveled by most academic physicists against the ABM is that it simply will not do any of the several jobs for which it is purportedly designed. The real force of their anxiety is that a long-range program of ABM research might eventually develop methods that more credibly offer a prospect of anti-missile defense.

Needless to say, it would be comforting to devise a world in which defense had a real margin over attack, but how do we get there except through closely monitored mutual agreements? In the process, the existing balance will be broken, and we will face the most serious risks of either side's feeling compelled to undertake a pre-emptive attack. At the very least both sides would

strive to redouble their offensive weaponry in order to sustain the credibility of their retaliatory potential.

Effective defense against missiles evidently remains quite remote, but it might be technically achieved at the far end of an extensive program of trial and development, of which Safeguard is the first step. This is a technological "Race to Oblivion," the history of which has been authoritatively documented in Dr. Herbert York's recent book of that title.

Dr. York recounts how the arms race mentality was exploited with great skill and mendacity in the 1960s to fund redundant and useless weapons systems, and to ensure that each of the services in an imperfectly unified defense establishment would be placated. He believes, as I do, that the security of the country depends only in part on technical innovation, and that we must address our greater efforts to stabilizing the security of the world if we are to have any for ourselves.

But we cannot overlook the need for technological creativity, which will rapidly disappear if we do not repair the sources of the cynicism of our youth about the legitimacy of our national goals. By building so heavily on technological bases of security, while neglecting the causes of internal disaffection, we have impaired our military security far more than any missile deficit imply.

SPUTNIK OVERRATED

Mutual misperceptions of strategic posture undoubtedly fueled the gravest international confrontation to date, the Cuban missile crisis in 1962. Dr. York recalls how we grossly overrated the military significance of Sputnik in 1957. The Soviets had, in fact, overbuilt their rockets in a way that suited them for space flight but slowed up their deployment in strategically significant numbers. The missile gap myth of the 1960 election campaign was based on vastly inflated estimates of the Soviet operational capability. This is a difficulty inherent in any intelligence organization, which will never be criticized as much for drawing the most extensive implications out of fragmentary data as it would be for overlooking any possibility.

Arthur M. Schlesinger Jr., in his "A Thousand Days," makes the curious remark that the Soviets in 1960 were "innocent of the higher calculus of deterrence as recently developed in the U.S." Therefore, they could not comprehend the stabilizing purpose of President Kennedy's plans to enhance U.S. missilery. Knowing the actual strength of their own forces, they may in fact have viewed Kennedy's missile program in the same way that Secretary Laird construes the SS-9s, namely the development of a first strike potential that could smother the ability to retaliate.

"Too bad, that's their problem," some might say. But that confusion may explain Khrushchev's Cuban gambit, a desperate move that would have been senseless as a direct strategic threat against the United States—provided the Russians really had an ample long-range missile force based on their own soil.

When your opponent has nuclear weapons, his jitters are your problem, too.

The Cuban gambit had to be resisted for its potential side-effects on Latin-American politics, more than as an element in strategic deterrency. It does suggest one avenue that might be opened up for a negotiated program of low-cost mutual security.

AN OVERDRAWN PARABLE

In 1961, the late Leo Szilard wrote a fictional parable, "The Mined Cities," wherein the superpowers had exchanged the capability of assured destruction by allowing the major cities to be mined by the other side. The idea has been revived from time to time—but like Rep. Craig Hosmer's suggestion that we multiply world security by giving every country four A-bombs—it does an ingenious metaphor the worst injustice to take it too literally. The parable does point out that our cities are hostages to one another, whether the bombs are underground or need to be delivered by a 30-minute rocket flight. (This reasoning also makes one question whether Moscow and Washington are the right cities to be shielded with ABMs, when the potentates would make the most credible hostages.) Why not then agree that the problem of mutual security has some technical solution, achievable at the lowest mutual cost?

The establishment of a Soviet missile base in Cuba, or American bombers in Libya, entailed political complications almost as unacceptable as giving extraterritorial access into the U.S. capital to a Soviet bomb squad. And where would we fit the French and the Chinese?

The nondeployment of a potential ABM system is a constructive equivalent to cheapening the hostage system, with the fewest side effects. MIRVs (multiple warhead missiles) complicate the deterrence equations, giving the first-striker a better chance to destroy a deterrent, but the naval option and a multiplication of feints are as plausible answers as any foreseeable ABM. As far as arms control is concerned, once the potential for MIRV was understood, little room was left for any verifiable control over its further development. Indeed, the need to play out this act so that both sides could work out the implications of MIRV may have compelled the postponement of SALT until now.

If we separate the gimmickry from the parable behind "The Mined Cities," we can see that the naval options may give us the greatest room for mutual advantage. Ironical schemes can be composed that point up some of the absurdities of the world system. For example, it would be more to our advantage if Soviet submarines refuel at Portland, Maine, rather than at Cienfuegos, Cuba; and we might offer to exchange base privileges on U.S. shores for their equivalent on the Black and Baltic Seas.

But even if such superrational exchanges could be negotiated, they would raise untold mischief through disputes over the interpretation of the guaranteed free access on which they would have to be based. Better that we work out a de facto equilibrium, provided that this is based on the clear understanding that any solution must provide for a zone of strategic security on both sides, or nothing but desperate maneuvering can follow.

WORKING OUT THE BUGS

The greatest anxiety about surprise attack in the next decade—for both sides are in fact expanding the naval option—is that new technology may impair the invulnerability of the submarine. It is absolutely inconceivable that antisubmarine detection and warfare could reach the point of reliably removing the bulk of a retaliatory force in a single surprise attack, without having first been widely exercised and tested. Mutually advantageous agreements to limit such testing should be fairly amenable to verification. They could be a logical extension of the existing ban on testing nuclear weapons under water.

There is also a danger that units of the naval strategic force may become involved in tactical conflicts, with a consequent erosion of the line that marks nuclear weapons off from all others. This will require very careful attention to our own doctrine.

The problem of surprise attack can be formulated in more precise, quantitative terms than any other aspect of defense strategy. There are still many uncertainties, for example the operational reliability of immense computer programs, and the level of nuclear retaliation that would be so "unacceptable" to a potential attacker as to deter him. Nevertheless, the analyst can make a fairly simple model of the array of forces, and ignore the complexities of mass psychology and serpentine recalculation that blur the scientific predictability of any political confrontation.

The simplicity of the problem to the rational analyst, and its appeal to the paranoia of the antirational, have captured our attention and resources out of proportion to the role of surprise attack in world conflict. By overdesigning our solutions to that problem, we leave ourselves ever less prepared to cope with the actual difficulties of today's world.

The nuclear deterrent can play no direct role in dealing with the Soviet penetration of Africa, harassment by air pirates, or the re-enslavement of Czechoslovakia. These have no easy answers, but they clearly require the rebuilding of a sense of community with our allies and friends, who are inevitably isolated by a historic trend of unilateral force commitments and defense investments typified by Vietnam and by the ABM.

WHAT TO DO?

All sides are approaching the conclusion that mutual defense against surprise attack needlessly consumes an inordinate portion of world resources. We seek a new pattern of reciprocal arms disposal whose very momentum would be the best assurance that it was not merely a gambit for strategic advantage. This would be hard to construct, merely against the fears, angers and entrenched interests of important elements within both superpowers.

A simple moratorium on the emplacement of strategic weapons has been suggested, but it is likely to be entangled in contentious differences over whether it should embrace aircraft, tactical missiles, and so on.

From a technical standpoint, the most amenable place for controls is testing; a comprehensive freeze on all missile tests would be most easily verified, and would provide the utmost assurance against the perpetuation of a costly technology race.

It would complicate some peaceful applications of space technology. However, none of these require precise re-entry after a brief, high velocity flight. Furthermore, nothing would be lost in requiring a definite pattern of international participation in space missions to assure that these were a net benefit to the whole earth from which they have embarked.

DISCRIMINATION AGAINST FEED GRAIN PRODUCERS

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. SCHERLE. Mr. Speaker, today I have introduced legislation pertaining to the feed grain provision of the Agricultural Act of 1970. My proposal would eliminate the section which proportionately reduces the preliminary payments for corn below 32 cents per bushel if the feed grain set-aside is less than 20 percent. Secretary Hardin has jurisdiction over this matter.

The present provision in the bill blatantly discriminates against feed grain producers. There is no similar restriction on wheat or cotton in the present law. If conditions ever warranted a set-aside below 20 percent, the consequences would be abruptly disastrous. For example, if the set-aside were placed at 10 percent, the participant would receive only 16 cents a bushel for corn instead of 32 cents.

As a representative of the Corn Belt, I cannot tolerate this rank inequity threat-

ening the feed grain producers and their allied business interests. The future economic health of Iowa must be protected against this menace.

Next week, I intend personally to urge the chairman of the House Agriculture Committee and high officials at the White House to support my proposal.

RELOCATION LEGISLATION

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. RYAN. Mr. Speaker, on Monday, December 7, the House passed the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970—S. 1. I want to take particular note of this bill, because the problem of persons and businesses displaced from their homes and places of business by governmental and institutional construction projects is a serious and persisting one.

Previous steps have been taken by the Congress, but as a cogent, well-presented recent report details, the administration of the laws which have been passed has been extremely inadequate. In this report, "The Legal Lawbreakers: A Study of the Nonadministration of Federal Relocation Requirements, written by Edgar S. Cahn, Timothy Eichenberg, and Roberta V. Romberg under the aegis of the Citizens Advocate Center, a brief description of the existing legislation is given:

For the past six years, Congress has engaged in an almost yearly ritual of restating its command to provide adequate relocation. Each time leeway for discretion has been perverted into a license to continue evasion.

In 1964, Congress ordered the Secretary (of Housing and Urban Development) to issue rules and regulations implementing the requirements of the 1949 Act and setting forth in some detail the minimal necessary requirements of a satisfactory relocation assistance program. (42 USV 1455(c)).

In 1965, Congress went further in detailing the essential elements of a relocation assistance program and required that: "the Secretary shall require, within a reasonable time prior to actual displacement, satisfactory assurance by the local public agency that decent, safe, and sanitary dwellings . . . are available for the relocation of each such (displaced) individual or family." (42 USC 1455(c)(2)).

In 1966, Congress attempted to grapple with the phenomenon of slums being replaced by housing for the affluent while the available stock of housing units for the poor dwindled steadily. It therefore required that a "substantial number" of standard housing units in areas redeveloped for predominantly residential uses be for moderate and low-income people. (42 U.S.C. 1455 (f)).

In 1968, the number of units for low and moderate income families was raised to a "majority" of each communities (sic) total of which at least 20 percent of that majority, as of 1969, must be for low-income families and individuals.

In 1969, Congress, spurred by the continuous frustration of its mandates, required the Secretary of HUD to review local relocation plans and their effectiveness every two years. (42 USC 1455 (c)(3)). Moreover, in an attempt to make up lost ground, Congress directed that housing be provided "at least equal in number" to the number of units that existed prior to demolition if a vacancy rate of less than 5 percent exists in LPA's (local public agency's) jurisdiction. (Pages 21–22)

Despite the legislative endeavors of the past, the problems of relocation remain. The enormously important objective set by the Douglas Commission—that is, the National Commission on Urban Problems—in its 1968 report, "Building the American City" has not been met. There, the Commission said, at page 90:

A large and steadily increasing proportion of those displaced, including those of low income, should be able to go directly into a decent home and suitable living environment, regardless of who or what displaced them.

This was a relatively modest goal. Actually, all of those displaced must be immediately afforded decent housing and business sites.

Some progress had already been made this year prior to the consideration of S. 1, with the passage by the House on November 25, 1970, of H.R. 19504, authorizing appropriations for highway construction. This bill, in section 117, embodied my bill H.R. 18240, which permits the Secretary of Transportation to approve as part of the cost of construction of any Federal-aid highway project which he administers the construction and acquisition of replacement housing, and the relocation of existing housing.

S. 1, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, is a major step in meeting the problem of persons and businesses displaced by Federal projects, or by projects being conducted by State agencies receiving Federal financial assistance. But, it leaves a very significant gap, because it does not cover displacement arising from construction by private institutions—such as schools and hospitals—even though they, too, may be receiving Federal financial assistance.

This is a very regrettable flaw in S. 1, and it is one which I particularly addressed when I appeared before the Committee on Public Works on December 4, 1969, to discuss relocation legislation. In fact, one of the bills which I have introduced—H.R. 609—not only accomplishes the same end as S. 1 by expanding relocation assistance to all Federal projects and federally assisted State projects, but it also covers federally assisted private institutional expansion.

Similarly, two other bills which I have introduced cover the relocation problem following upon private institutional expansion. I have introduced legislation—H.R. 10266—to provide that recipients of grants or loans for construction under the Higher Education Facilities Act of 1963 be required to satisfy the Federal Government that relocation benefits similar to those available under the Housing Act of 1949 will be provided as a condition of receiving Federal assistance. And H.R. 10651 establishes the same requirement as to recipients of grants or loans for the construction of hospitals and other public health facilities.

In brief, I have always maintained that relocation assistance should not be limited just to persons displaced because of urban renewal or highway construction. Anytime the Federal Government is involved, whether directly or indirecty, in the displacement of persons and businesses, relocation assistance should be provided. My bill H.R. 609 addresses this. S. 1 does so only partially; its omission of private institutional expansion from its coverage is very unfortunate.

I would note, however, that S. 1, as passed by the House, does liberalize relocation payments—another prime concern of mine which I have expressed by the introduction of H.R. 600.

Two of my bills concerning relocation have not been included in S. 1, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. H.R. 597 would prohibit the construction of luxury housing in the redevelopment of urban renewal areas. This bill was not before the Public Works Committee, but rather, has been referred to the Committee on Banking and Currency. I testified before the Subcommittee on Housing of that committee regarding H.R. 597, on June 3, and I hope that action will be taken in the future to report it out. So long as moderate and low-income people are displaced and so long as adequate housing is not available for them, luxury housing should be barred from the sites of their previous homes, in order to assure that new housing for them will be constructed.

H.R. 599, as to which I also testified before the Subcommittee on Housing on June 3, 1970, similarly requires affirmative response. This bill amends title I of the Housing Act of 1949 to provide that individuals, families, and business concerns displaced by an urban renewal project shall have a priority of opportunity to relocate in the project area after its redevelopment.

Unfortunately, section 212 of S. 1 authorizes State agencies involved in relocation assistance programs to "enter into contracts with any individual, firm, association, or corporation for services in connection with such programs." My bill, H.R. 598, specifically bars this with regard to urban renewal relocation. It requires local public agencies to undertake relocation rather than less responsive, detached private organizations merely undertaking contracts for profit.

My criticisms aside, S. 1, the Uniform Relocations Assistance and Real Property Acquisition Policies Act of 1970, is an important piece of legislation. It addresses a problem which is not new, but which remains inadequately and insufficiently resolved.

I should like to add, however, that I hope that in the Senate-House conference on S. 1, certain provisions of the Senate bill, as opposed to the House bill, will be retained. For example, section 102 of the House bill changes the judicial review section of the Senate bill—section 401. The House change makes the final determinations of the administrators of Federal programs calling for the relocation of individuals unreviewable in a court of law. Judicial recourse is an essential component of the relocation process, and it should not be barred.

Also, the clause "to the extent that can reasonably be accomplished" has been added, in section 205(e)(3) of the House bill to the replacement housing guarantees prior to displacement con-

tained in section 212(c)(2) of the Senate bill. Thereby, an escape clause, subject to administrative abuse, is provided.

The Senate bill, in section 241, permits the President to intervene to correct and assure equitable relocation payments and rehousing assistance when either are found to be deficient. No comparable provision is present in the House passed version of the bill.

Furthermore, the Senate bill includes in the definition of "displaced person" those who move in the "reasonable expectation of acquisition." The House bill, in section 101, excludes those who voluntarily move, and requires that such a move be the result of the acquisition of real property.

S. 1, the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, does not solve all the problems of relocation. But it is a significant step forward. It should be enacted into law.

At this time, I should like to insert a copy of the testimony which I presented before the House Committee on Public Works on December 4, 1969 regarding my relocation legislation:

STATEMENT OF HON. WILLIAM F. RYAN

Thank you very much. It is always a pleasure to appear before this distinguished committee and your distinguished chairman and members. It is a pleasure which I have enjoyed frequently in the past.

Today I should like to express my concern about the thousands of Americans who are displaced every year from their home and places of business as a result of construction facilitated by Federal programs. These programs include urban renewal and other housing programs, highway construction, Federal facilities such as post offices, university expansion, hospital construction, and a host of other programs.

The effect upon the affected individual is the same whether he is displaced as a result of the action of a Federal agency, a State agency using Federal assistance, a local public agency, or a private institution using a Federal grant or loan program.

The need for a uniform policy for Federal agencies and State agencies using Federal assistance is recognized in S. 1 which the Senate passed. But the problem of displacement by private institutions through federally assisted programs requires a legislative solution.

In previous years and this year, I have introduced legislation to provide that recipients of loans or grants for construction under the Higher Education Facilities Act of 1963—H.R. 10266—or for hospital and other public health facilities construction under the Public Health Service Act—H.R. 10651—be required to satisfy the Federal Government that relocation benefits similar to those available under the Housing Act of 1949 be provided as a condition of receiving Federal assistance.

When the Higher Education Facilities Act of 1963 was on the floor on August 14, 1963, I offered an amendment to that bill to require relocation benefits. In the past I have also offered similar amendments to the Hill-Burton Hospital Construction Act. The last time I did so was on June 4, 1969. In November 3 of this year I testified before the Special Subcommittee on Education which held hearings on my bill H.R. 10266 and the bill H.R. 14008 sponsored by Representative Edith Green.

The problem of dislocation resulting from institutional expansion in densely populated urban areas is becoming increasingly acute and has been the focal point of conflict between the community and the university in the Columbia University area and other areas and a source of campus unrest.

Federal assistance for the construction of higher education facilities is necessary so that our colleges and universities are able to prepare the young men and women of America for the future. However, in our cities, where there is little vacant land available, college and university expansion often conflicts with other important social interests.

My bills are aimed at alleviating an effect of institutional expansion—dislocation of families and businesses in the surrounding community.

When an education institution expands, it not only causes the personal hardship and expense of displacement, but also, in many cases, there is additional hardship because little or no relocation assistance is provided. The desirability of a university's expansion plan from an educational standpoint is often offset by the undesirability of the inconvenience and displacement it forces on local residents.

When institutional expansion is aided by Federal funds, the Federal Government should bear the responsibility of making relocation assistance a prerequisite to the granting or loaning of funds.

The Federal Government has accepted this responsibility when urban renewal funds are involved. Section 114 of the Housing act of 1949 requires that local public agencies pay dislocation benefits to families, businessmen and nonprofit organizatons displaced by urban renewal. These benefits were expanded in the Housing and Urban Development Act of 1965 to include displacement resulting from low-rent public housing, mass transportation, public facility loans, open-space land and urban beautification, and neighborhood facilities.

Why, then should there not be a provision to include assistance for displacement by federally assisted institutional expansion?

The owner of the building is compensated. And in New York City, if the building is under rent control, a minimal payment is made to the tenant. But in most cases, the tenants have no legal right to relocation benefits or to assistance with their moving expenses. And usually, they are unable to find housing of comparable quality or cost.

The same situation faces the businessman. The small businessman often is displaced on short notice. A proprietor who may have spent his whole life building up his business is faced with a move which may force him to pay large moving expenses, to pay a higher rent, and to lose his clientele. He may even be forced out of business.

I have pointed out the inconsistency of providing relocation benefits under urban renewal and the Federal-aid-to-highway program but not under other federally assisted construction, such as higher education facilities.

There is another anomaly in that assistance is provided for expansion when the land is acquired through urban renewal and then turned over to the institutions. The University of Chicago is an example of such expansion. This, however, is a rare occurrence.

This means that if a university were to expand for two blocks: and this did happen in the University of Chicago situation—one block being included in an urban renewal plan and the other not—the residents and small businessmen in the urban renewal block could receive assistance; those in the nonurban renewal block could not.

This is not merely a city problem. It exists wherever construction results in people being dislocated.

I am pleased that the distinguished chairman of the Special Subcommittee on Education (Mrs. Green) has introduced H.R. 14008 which is simliar to H.R. 10266. Her bill requires relocation payments and assistance as provided in the Federal Aid Highway Act of 1965, whereas my bill uses the urban renewal benefits.

While I have offered legislation directed to specific Federal assistance programs aiding institutional expansion, I recognize the need for an overall relocation policy. Therefore, I have introduced H.R. 609 to establish a uniform Federal relocation policy, which would be administered by a central Relocation Assistance Bureau, located in the Department of Housing and Urban Development.

The basic standard of payment would be that which is now provided for persons and businesses displaced by urban renewal action in section 114 of the Housing Act of 1949, amended as follows: the ceiling on compensated moving expenses would be removed and actual losses covered; tenants would be paid the difference between former rentals and the rental in new comparable housing for 1 year; in the case of businesses, certain losses of profit and goodwill would be covered. The location benefits for small businesses would include an amount equal to the loss of profit for the first year after relocation; also, if reasonable efforts to obtain a reasonable replacement site fail, benefits would include an amount equal to the fair and reasonable market value of the trade or business unless the businessman is offered a priority of opportunity to purchase or lease substitute facilities to be constructed or provided in connection with the development project.

Payments would be made directly to the relocatees by the Bureau of Relocation Assistance.

H.R. 609 provides that no Federal agency shall approve an application for loan or grant assistance, not undertake direct construction without first identifying persons to be relocated, informing them of their rights, and providing the Director of the Relocation Assistance Bureau with information sufficient to make the consumption of relocation benefits.

H.R. 609 charges the Director of Relocation Assistance with the responsibility of keeping a current file on all Federal assistance and construction programs and the need for relocation assistance. It also requires that he take actions to insure that individuals and businessmen displaced as a result of federally aided activities be fully informed of their rights and given assistance in relocating. He is further required to coordinate his activities with other Federal agencies.

All Federal grants, direct loan and direct construction programs are covered.

The Senate has passed S. 1, but it does not touch the problem of displacement caused by federally assisted expansion of private institutions.

Institutional expansion—whether of an educational facility or medical facility—too often disrupts families and businesses in the surrounding community.

The need for expansion is often offset by the undesirability of the inconvenience and displacement it forces on local residents. Not only is there the personal hardship and expense of displacement, but also, in many cases there is additional hardship because little or no relocation assistance is provided.

The time has come for Congress to insist that relocation assistance be provided to those displaced by all federally assisted projects.

REPUBLICAN ADMINISTRATION'S RECORD—NOT A DIME'S WORTH OF DIFFERENCE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. RARICK. Mr. Speaker, as the 91st Congress draws to a close, political observers are analyzing the President's leadership and the direction of his ad-

ministration. Tragically, the conclusion of many unalined observers is that there is not a dime's worth of difference between the present administration and the several preceding ones.

Maj. Gen. Thomas A. Lane, USA, retired, in his column, "Public Affairs," summarizes, "Richard Nixon makes the same mistakes which were made by Franklin D. Roosevelt, Harry Truman, Dwight Eisenhower, John Kennedy, and Lyndon Johnson. Now, however, we have lost the superiority of military power which made the mistakes of his predecessor tolerable."

Mr. Edward Hunter, publisher of TACTICS, in his February 20, 1969, forecast the type of advice President Nixon was getting and identified the source; namely, the same appeasement, unilateral disarmament and surrender elements that had infiltrated the Democratic administrations, destroying their chances for continued power, rather than accept even a compromise, have now infiltrated and shifted their operations to the Nixon administration.

Our people must be constantly reminded that the "peace" which the Communists use to disarm us is the same "peace" that its agents say can only be found at the end of a gun barrel.

The American people must understand that those at the helm of our Government react only to pressure groups and special-interest lobbies. Those in positions of authority possess neither the courage nor the leadership to correct our Nation's direction. If there is to be any change in our country it can only come from the people themselves.

For the perusal of our colleagues, I insert General Lane's column and the TACTIC's report in the RECORD:

A POLICY OF QUIET SURRENDER?

WASHINGTON.—There is growing evidence that the Nixon foreign policy is coming apart at the seams. It lacks any inspiration and direction which can hold the free world together. Consequently, more free nations are turning to the "peace" which the communist powers offer rather than to the peace about which the President speaks.

In Latin America, the Kennedy move to the left was damaging. It propagated the marxist philosophy which the communist share. It prepared the way not for development but for socialism. The performance of socialist countries demonstrates that socialism is a barrier to development. Nevertheless the Kennedy program showed concern and friendship for our neighbors and to that extent had some beneficial results.

President Nixon has seemingly abandoned Latin America to the wiles of communism He has had two hostile revolutions in as many years and the recent installation of a communist-dominated regime in Chile. He has confused a tactful respect for the internal autonomy of our neighbors with indifference to their hostility.

In Europe, Chancellor Willy Brandt of West Germany has been negotiating agreements with the Soviet Union and Poland. It is the view of many observers that the Chancellor is undermining the war powers of the western allies, to the delight of Moscow.

The Chancellor could not carry out these initiatives without the approval of the United States. We have forces in Germany which could be jeopardized by the Brandt policies. Why does the Nixon administration cooperate with a Soviet strategy designed to promote euphoria and disarmament in western Europe even as it asserts that our continuing military presence in Europe is required?

For twenty-five years, the United States has complacently allowed the Soviet Union to occupy East Germany in lieu of concluding the peace treaty which was to end the occupation. Will President Nixon now renounce our war powers and allow the USSR to keep East Germany? We move from weakness to surrender in the illusion that this is progress.

The Nixon administration accepted complacently the recent majority vote in the United Nations for the expulsion of free China and the seating of Red China. Is the principled United States opposition to such an outrage now to be abandoned? Administration propagandists are already preparing the American people to accept defeat next year. The fraudulent arguments for seating Red China which previous administrations had long rejected now enjoy a new vogue, with administration acquiescence, if not outright promulgation. The seeming reluctance of the Nixon administration to confront the communist powers has moved Canada, Italy and Ethiopia to recognize Red China. Other allies are poised to follow.

In Vietnam, the war continues apace. U.S. battle casualties in the first two years of the Nixon administration will reach about 110,000, with some 13,500 of these killed in action. U.S. battle casualties in 1970 are about one-half the 1969 casualties but the reduction in American casualties is balanced by a corresponding increase in South Vietnamese casualties. The scale of war has not diminished. Nothing has been achieved at Paris, Peace is as distant as ever.

These signs—and others, such as the forcible return of the Lithuanian refugee sailor from U.S. to Soviet custody—reflect the continuing failure of U.S. foreign policy to address the reality of Soviet power and purpose. Richard Nixon makes the same mistakes which were made by Franklin Roosevelt, Harry Truman, Dwight Eisenhower, John Kennedy and Lyndon Johnson. Now, however, we have lost the superiority of military power which made the mistakes of his predecessors tolerable. The policy of retreat is no longer tolerable.

It is the remarkable record of three decades that our soothsayers have, through a steady series of defeats, managed to preserve a spirit of public optimism about the promise of our diplomacy. The true significance of events has been screened from public view.

It is not enough in this real world we inhabit to extend goodwill and toleration to all. If we do not have more prudence in the management of the hopes we cherish, we can expect war without end, until we are destroyed.

APPEASEMENT AND BETRAYAL PROGRAMS GETTING TO HIM: THE SORT OF ADVICE NIXON IS GETTING

A program for so-called "change" in American policy toward Asia that is a betrayal and surrender program has been brought into the White House. Although anti-communists specializing on Asia or anywhere else are taboo at the White House at present as they were when the Democrats occupied it, a policy recommendation for a not so subtle sellout has reached its destination. The signatories show that anti-anticommunists still have the entree. Except for one professor each from Columbia and M.I.T., they are all from Harvard. The J. F. Kennedy School of Government put it across.

The signatories: Jerome Alan Cohen, professor of law, Harvard, chairman; John K. Fairbank, director, East Asian Research Center, Roy Hofheinz, assistant professor of government, Dwight Perkins, professor of economics, Edwin O. Reischauer, professor, Benjamin I. Schwartz, professor of history and government, James Thomson, assistant professor of history, Ezra Vogel, professor of social relations, all of Harvard; A. Doak Barnett, professor of government, Columbia, and Lucian Pye, professor of government, Massachusetts Institute of Technology.

The document is particularly important because it presents in doubetalk, slanting and falsifying by omission and selectivity in the choice of facts, the appeasement line being pressed upon us as a settlement for our Asia problems. It was no more intended to become public than was the notorious Fulbright memorandum at the start of the Kennedy Administration, whose implementation deprived the U.S.S. Pueblo, for example, of physical and moral preparation for an attempted seizure. The document follows without change or deletions. A few observations by this editor have been inserted in the text, inside brackets.

MEMORANDUM FOR PRESIDENT-ELECT NIXON ON U.S. RELATIONS WITH CHINA

NOVEMBER 6, 1968.

As scholars in the field of East Asian studies who have completed a year of private discussions of America's relations with East Asia under the auspices of the Institute of Politics of Harvard's J. F. Kennedy School of Government, we write to give you our thoughts on the pivotal issue of United States relations with China.

United States Objectives: The past two decades of American-East Asian relations has been dominated by the central reality of Sino-American hostility and deadlock. It seems evident that, whatever the nature or timing of a Viet Nam settlement, the China problem will continue to dominate our East Asian relations in the years of the new Administration and, indeed, through the decade of the 1970's.

Communist China's size, ideology, relative isolation, potential power and current internal upheaval increase the dangers of instability in a chronically unstable part of the world. The central objective of America's China policy has been and should continue to be to avoid war with China and to minimize its disruption of surrounding areas.

Since the end of the Korean War, previous Administrations have generally followed a twofold policy to achieve these objectives: On the one hand, military containment in order to deter possible Chinese aggression; on the other hand, a limited and tentative effort at communication with the China mainland through ambassadorial talks and, from time to time, proposals for unofficial contacts. Through much of this period, of course, the first of these approaches has been given such priority as to dwarf the significance of the second.

It seems to us that the time has come for a more equal balance between these two approaches, so that, while continuing to avoid war with China and to discourage Chinese military intervention abroad, we move more positively toward the relaxation of tensions between China and the United States, and the eventual achievement of reconciliation.

The specific steps we propose below in pursuit of these objectives require some important words of caution. Although the outcome of the domestic turmoil that has disrupted mainland China for the past three years remains unclear, we do not now anticipate any Chinese desire to improve relations with the United States. It is therefore highly likely that any and all of the initiatives that we propose will be rejected out of hand by Peking's leaders in the foreseeable future.

We propose these initiatives, nonetheless, because of our conviction that our national interests in Asia will best be served by an American policy that offers the Chinese the clear option of a less hostile relationship with the outside world. At a minimum, we will

complicate a Peking decision-making process that has all too easily been based on a theory of implacable American hostility; at the same time, we will be speaking—through our deeds as well as our words—to present or future Chinese leaders who harbor doubts about Mao Tse-tung's vision of the world. Unless we achieve this better balanced policy, we may at least miss significant opportunities to moderate Peking's behavior and, at the worst, may help lay the groundwork for a war with China that neither side can hope to "win."

[*Editor's observations:* The casual reference to "domestic turmoil that has disrupted mainland China for the past three years" is particularly cynical, in view of the recommendations that we, on our part, without expecting any reciprocity by Peking, engage in secret and circuitous deals with the Chinese reds. This memo recommends our support for the Red Chinese who want to destroy us, and betrayal of the free Chinese who have remained loyal to us. The "turmoil" presented us with an opportunity to encourage and support the Chinese people in their quest for freedom. Anything else betrays our friends on the Chinese mainland and helps save and strengthen those who aim at our destruction, for which they are hastening their nuclear bomb and missile facilities. Such a policy as urged, if implemented, would provide our enemies with the means for our conquest by the socialist-communist complex. This is a masochistic objective.]

PROPOSALS

A. Relations with mainland China

1. Exploratory Meeting. You should seriously explore the possibility of arranging confidential—perhaps even deniable—conversations between Chinese Communist leaders and someone in whom you have confidence. Your emissary would convey the new Administration's interest in hearing Chinese views on a wide spectrum of subjects including Viet Nam and disarmament and in probing, unofficially and in a more informal setting than at Warsaw, the prospects for a normal relationship. . . .

2. Viet Nam Negotiations. The arduous process of a Viet Nam settlement may well offer an opportunity for the improvement of relations with China and engagement of China in the international order. Despite China's present hostility to a negotiated solution, the new Administration should be alert to opportunities to involve Peking in some state of the Viet Nam negotiating process—perhaps through a reconstructed forum, perhaps through a packaged end-product that would bring China, both Viet Nams, and other divided nations into the United Nations. The chief consideration: Viet Nam negotiations should be looked upon as a possible step toward a wider Asian settlement, and, thereby, an instrument for the potential inclusion of China in the international community.

3. Lowering of Polemics. It is essential that all Administration spokesmen refrain from provocative statements in their comments about China, regardless of Peking's hostile rhetoric. In the past, pious hopes for "reconciliation" have often been undermined by press releases such as those that compared the Chinese Communists to the Nazis. Especially galling to the Chinese Communists is the apparent American stand that Taiwan is the only China. The new Administration should find an early opportunity to erase this lag between rhetoric and reality. Since 1955, under two parties and three Presidents, the U.S. Government has dealt, in Geneva and Warsaw and in Taipei, with two regimes that call themselves "China". It would be most useful for you or your Secretary of State to find an occasion to take note of the fact—without fanfare—that we have in effect accorded Peking de facto recognition for a decade and a half, but that de jure recognition is obviously a far more complicated matter that remains to be discussed.

4. Anti-Ballistic Missile (ABM). The new Administration will have to decide whether to continue with the recently authorized "thin" ABM system. In our view, insufficient consideration has been given by the present Administration to the consequences for Sino-American relations that this system may entail. Aside from the questions of the Soviet-American military balance, plans for an ABM are not only militarily unnecessary as a deterrent to Peking but may well be viewed by the Chinese Communists as evidence of American intent to attack Peking. We urge that the ABM decision be reconsidered.

5. Trade. The new Administration should seek an early opportunity to modify America's trade embargo against China, a residue of the Korean War which denies China nothing she needs, is supported by none of our major allies, acts as periodic irritant in our relations with third parties, denies America even the possibility of marginal economic leverage in a changing China, and prevents our businessmen from sharing in the China market. In this regard, the new Administration should build on the tentative rhetoric of its predecessors and place our trade with China on the same basis (non-strategic goods) as our trade with the USSR and Eastern Europe.

6. Travel and Other Contacts. The new Administration should likewise remove the last vestiges of control on the travel of Americans to China and, at the same time, should make known its willingness to admit as visitors to the U.S. any Chinese the Peking government is willing to send to our shores. These steps will not only reflect the confidence and strength of a free society; they will open the door to the possibility of de-isolation when some future Chinese leadership is ready to choose that option. In addition to official contacts, the new Administration should encourage private and unofficial meetings, between Chinese and American journalists, educators, scientists, artists, and others.

[*Editor's observations:* Practically every sentence in this section is fifth columnism, the presentation item by item of the red propaganda tactics by which they expect to destroy the United States. We are to engage in unilateral disarmament psychologically, militarily and any other manner, on the premise that some day, a future Red Chinese leadership would see the error of its ways and become friendly to us. How many generations are we to wait, and would we not be destroyed long before? Of course. No wonder the proposals start right out with an injunction to the new President to engage in tactics of deceit, not against the enemy but against the American Congress, press and public. In the doing, of course, we would have to engage in renewed news management and press controls, and a gradual abandonment of American freedoms. This is the form that is being taken by the gradualism and convergence strategy of the Marxist complex.

[Nixon is told in this memo, in the manner President Kennedy was told by Sen. Fulbright in his notorious memo, to "refrain from provocative statements" and "press releases such as those that compared the Chinese Communists to the Nazis." He is being urged to lie to the Congress and the voters, in the way these advisers distort, falsify and deceive in this memo, which was never intended for publication, exactly as the Fulbright memo was supposed to be kept secret.

[This pro-Red China clique obviously betrays itself as a Red China lobby in this memo and deed. Indeed, it has been the "China lobby" all along, seeking to conceal its Marxist nature by a tranfser tactic, making it seem that the anti-reds were the "China lobby." We recognize Free China, but this clique abstains from identifying the mainland as red-ruled, but refers to it as just China, not Communist China or Red China. This is a subtle, propaganda deceit. The secret recommendations, too, advise the Nixon Administration to proceed as if we recognized Red China, and to seize the opportunity to bring the maneuver into the open, "without fanfare," thus betraying those on our side once more. Although this Marxist clique took the pro-red line that the Russian missiles in Cuba were "defensive," here they urge us to do away with an anti-ballistic missile system in the United States as being "provocative," demonstrating "American intent to attack China." When has a wall ever been an offensive weapon? But where these fake "liberals" and pro-reds are concerned, truth and falsity, right and wrong, are relative factors, to be exploited in whatever way helps their side in its tactics. The statement, "Taiwan is not legally part of China," is a lie, which for professors of history to propagate is particularly reprehensible. We should consider Free China as our enemy, not Red China, they imply. But read on.]

B. Relations with Taiwan. The foregoing steps involve preliminary attempts to restructure the Washington-Peking relationship. Simultaneous with such steps should come, inevitably, a restructiuring of the Washington-Taipei relationship. Here again the aim should be to bridge the gap between rhetoric and reality. The United States recognizes the Chinese Nationalists as the Government of the Republic of China, purporting to rule the mainland as well as Taiwan and the Pescadores; but Washington has long since begun to treat them as a government restricted to Taiwan and the Pescadores, tacitly accepting the fact that the Nationalists will not reconquer the mainland. Ever since 1951 every Administration has made it clear that Taiwan is not legally part of China, leaving the question of its status open to future developments. The new Administration should now build upon this reality. It should reaffirm America's commitment to the defense of Taiwan and the Pescadores, so long as people in Taiwan wish to retain a separate identity from mainland China. But by taking four particular steps it should anticipate and defuse Chinese Nationalist potential for causing Washington embarrassment.

1. Your Administration should send as Ambassador to Taiwan a man who understands the Administration's broad China strategy and can communicate it. In order to demonstrate the importance that you attach to political rather than military considerations, he should not be a military man.

2. As long as relative peace prevails in the Formosa Strait, the Administration should use this opportunity to press anew for orderly Nationalist evacuation of the offshore islands, Matsu and Quemoy. (While occupied by the Nationalists, these islands provide a lever by which *either* "China" can draw American forces into an unwanted Asia conflict. It should also press for an end to provocative Nationalist acts against the mainland.

[*Editor's observations:* Pravda never distorted the truth any more than has been done in this paragraph on these decisive offshore islands by A. Doak Barnett, John F. Fairbank and several others on this panel who certainly know the facts, but deliberately conceal them. Others on this surrender panel may plead ignorance; they have little knowledge of China. Red China has been periodically bombarding these islands, which have been made practically impregnable, and safeguard Taiwan. Quemoy was the scene of a decisive military victory by the Free Chinese that saved Taiwan.]

3. The Administration should prepare the ground, in frank discussions with the Chinese Nationalists, for a gradual shift in America's relationship with Peking and

specifically, for the complex problems which will undoubtedly arise in the United Nations. (See below.)

4. Finally, the Administration should be alert to political froces that are at work beneath the surface in Taiwan and, when opportunity offers, should press Chiang Kai-shek and/or his successors to offer the 11,000,000 Taiwanese and the 2,000,000 mainlanders on the island an opportunity for fuller participation in political life.

C. Broader problems. 1. The United Nations. The problem of Chinese representation in the United Nations will probably not confront the new Administration until the autumn of 1969. By that time the search for a Viet Nam settlement as well as earlier China-related initiatives may have tested the prospects for normalization of relations. In the unlikely event that these previous steps have borne fruit in our relations with China, the U.N. situation would present a similar problem. If not, however, it is nonetheless our conviction that the Administration should not seek to block the PRC's representation in the United Nations. For several obvious reasons, UN representation in Peking will undoubtedly come before—and is probably a prerequisite to—improved relations between China and America. In our view, the de-isolation of China requires Chinese participation, whenever possible, in international forums and the long-term "socialization" that such contacts may produce. U.S. policy-makers should therefore accept Peking's membership in the General Assembly and the Security Council while seeking simultaneously to preserve a General Assembly seat for Taiwan, whether as the Republic of China, an independent nation, or an autonomous region of China. Such objectives may best be achieved through acquiescence rather than active leadership by Washington; but they will require careful advance planning.

2. *China's Neighbors.* A gradual shift in our China policy, while welcome to our major allies, will cause anxiety among some of China's neighbors who have tailored their actions to the containment aspect of our policy. It is imperative that we ease the transition for these states by keeping them informed of our progress and plans and by assuring them of our continuing interest in their welfare.

3. *Japan.* It is especially important that we take Japan into our confidence in every step of our strategy. Although Japan will favor the substance of our strategy, if we abruptly shift gears without prior notice, we will create acute embarrassment for the Japanese Government.

4. *Third Country Contacts.* We should welcome the efforts of countries such as Japan to develop increasing contacts with mainland China, in the hope of involving the Chinese Communist regime more substantially in the world community.

5. *Washington-Moscow-Peking.* Implicit in the foregoing suggestions is the hope that the new Administration will attempt to view Sino-American relations as a separate problem from Soviet-American relations, though inevitably a related problem. The Sino-Soviet split provides us with an opportunity to treat each party separately and to scrutinize our national interests in each relationship with care. We urge that the new Administration, in its proper concern with the bilateral superpower balance, avoid judgments about China and its development that derive from Moscow's views of Peking. A Soviet-American alliance against Peking may serve Russia's interests; but it may not automatically serve U.S. national interests.

We believe that the recommendations outlined above will establish an American posture of firmness in our declared purposes and yet of reasonableness, prudence and willingness to resolve political problems by going halfway to meet the other side. This is a posture that will command the support of the broad center of the American electorate and of most of the nations of the world.

[*Editors observations:* This memorandum constitutes a warning that the appeasement, unilateral disarmament and surrender elements that infiltrated the Democratic Administrations, and destroyed its chances for continued power rather than accept even a compromise, have not given up. They have shifted their operations to the Nixon Administration. We can use the above policy recommendations as evidence of the prored trap being set for it, that it must avoid.]

TRANSPORTATION DEPARTMENT ENVIRONMENTAL POLICIES MODEL FOR GOVERNMENT

HON. THOMAS M. PELLY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. PELLY. Mr. Speaker, it has been almost 1 year since President Nixon signed into law the National Environmental Policy Act of 1969. He said at that time that in 1970 we were commencing "the decade of the environment." As the ranking minority member of the Subcommittee on Fisheries and Wildlife Conservation of the House Committee on Merchant Marine and Fisheries, I have had a unique opportunity to observe the implementation of this act by the executive department of Government. In my view, the Department of Transportation, headed by Secretary John A. Volpe, has set the standard by which all departments in this administration should be judged. In appearing before our subcommittee, Secretary Volpe made a statement which, in its clarity and completeness, should serve as a model for all other departments of Government. In order that this statement be given the broadest possible distribution, his statement appears at this point in the RECORD:

STATEMENT OF JOHN A. VOLPE, SECRETARY OF TRANSPORTATION

Mr. Chairman and members of the Committee: I am pleased to have this opportunity to appear before you to discuss how the Department of Transportation is implementing the policies and procedures of the National Environmental Policy Act of 1969.

At the outset I wish to state my firm belief that there need be no inconsistency between the dual goals of progress in our Nation's transportation systems and the preservation and enhancement of the quality of the environment. Undoubtedly, the scope of the Department of Transportation's activities, which include Federal aid grant programs for highways, airports, and urban transit facilities located in nearly all parts of our country, will provide a critical test for my convictions. But, I feel that with proper planning, our transportation systems can be developed in a manner which meets both our need for transportation services and our need to improve the quality of our environment.

As you are fully aware, Mr. Chairman, in addition to the National Environmental Policy Act, the Department of Transportation has very specific environmental responsibilities arising from section 4(f) of the Department of Transportation Act of 1966, section 16 of the Airport and Airways Development Act of 1970, and section 14 of the Urban Mass Transportation Assistance Act of 1970. The Office of the Assistant Secretary for Environment and Urban Systems is responsible for coordinating the Department's actions in the environmental area including, of course, the responsibility for overseeing the implementation of the National Environmental Policy Act within the Department.

The Department began implementing the National Environmental Policy Act immediately after its enactment. In January, I called a meeting for the Office of the Secretary and our operating Administrators, at which time we discussed the application of the Act to the Department, and I emphasized the importance which I personally attached to the Act and to its effect on the Department's programs. In late February a memorandum was distributed to each of our operating administrations requesting that they provide my office with a statement of their tentative plans for compliance with the Act. In April, I requested their formal submission of proposed procedures for implementing section 102(2)(C). In close consultation with the CEQ staff, the Office of Environment and Urban Systems prepared a draft Departmental Order which was officially submitted to CEQ on June 1. The draft order was reviewed and rewritten during the summer, and I signed into effect a final DOT Order implementing section 102(2)(C) on October 7, 1970. As you recall, Mr. Chairman, you were sent a copy of that Order as soon as it became effective.

Under the terms of that Order, each Administration is directed to draft implementing instructions to be cleared with the Assistant Secretary for Environment and Urban Systems. The Federal Aviation Administration has already cleared and implemented such instructions for its airport development program, and the Federal Highway Administration completed last week its implementing instructions and has sent them to its regional offices for implementation. My staff is currently working with the Federal Railway Administration, the Urban Mass Transportation Administration and the Coast Guard on the preparation of their instructions.

I will now briefly describe certain key provisions of the Order relating to the implementation of section 102(2)(C). This section, which requires that an environmental impact be prepared for each legislative proposal and other major Federal action significantly affecting the quality of the human environment, gives teeth to the Act. Firstly, the preparation of these statements will assure that consideration of environmental factors will be an integral part of the planning and decision-making process on Federal projects. Secondly, the circulation of those statements among all interested Federal, State and local agencies and their availability to the public, will provide an early warning of potentially adverse environmental consequences arising from specific Federal actions so that alternate approaches to a particular action may be considered.

The DOT Order actually sets forth in one document a single procedure facilitating compliance with all of our environmental legislation (section 102(2)(C), section 4(f) of the DOT Act, and portions of section 16 of the Airport and Airway Development Act of 1970). This procedure consolidates into one statement all of the required environmental findings for any one particular project.

The Order specifically sets forth its applicability to the whole range of Departmental activities, including the grant and loan programs, contracts, construction, research and development, rule making and regulatory actions, certifications, plans, formal approvals of non-Federal work plans, legislative proposals, program or budget proposals (except for continuation of existing programs at approximately current levels, i.e., plus or minus 25 percent), and any renewals or reapprovals of any of the foregoing. The following departmental activities are exempted from the Order:

Administrative procurements and contracts for personal services;

Normal personnel actions;

Project amendments (for example, increases in costs) which do not alter the environmental impact of the action; and

Legislative proposals not originating in the Department relating to matters not the primary responsibility of the Department.

The Order instructs that all Departmental actions applicable thereunder must include a statement in conformance with section 102(2)(C) or a "negative declaration" that the proposed action will not have a significant impact on the environment. The Order indicates that if there is doubt whether or not a statement should be prepared, one should be prepared. Section 102(2)(C) provides that a detailed statement be prepared for, among other things, "*major Federal actions significantly affecting* the quality of the human *environment.*" With respect to the foregoing language the following definitional guidelines are found in the Order: The Order states that any Federal action which significantly affects the environment is deemed to be "major Federal action" within the meaning of the Act and a statement shall be prepared. In so doing, we elected not to place an arbitrary dollar limit on actions requiring 102(2)(C) statements. It was our judgment that a statement should be prepared for any Departmental activity which significantly affects the environment regardless of its dollar cost.

The term "Federal actions" is defined to include the entire range of Departmental activity, including direct Departmental action and the administration of our grant programs. Undoubtedly our grant programs will raise most of the environmental issues which will confront the Department. The Order requires that an environmental statement be prepared for each grant that may have a significant environmental impact.

The phrase "significantly affecting the environment" is defined to include any action which is highly controversial on environmental grounds and any matter falling within section 4(f) of the DOT Act of 1966, or key parts of section 16 of the Airport and Airway Development Act of 1970. Additionally, the Order sets forth a number of effects which, if produced by a Federal action, would be likely to result in a significant effect on the environment, including the following:

A noticeable change in the ambient noise level for a substantial number of people;

The displacement of significant numbers of people;

The division or disruption of an established community;

Adverse aesthetic or visual effects;

Adverse affects on areas of unique interest or scenic beauty;

Alteration of the behavior of species or interference with important breeding, resting or feeding grounds;

An increase of air or water pollution levels, or an adverse affect on the water table or water supply of an area; and

Disruption of the ecological balance of a land or water area.

It is intended that these general definitions will be supplemented in further detail as appropriate by the internal instructions drawn up by each Administration with regard to their specific programs and requirements.

The Order directs that draft statements shall be prepared at the earliest practicable point in time so that analysis of the environmental effects and the exploration of alternatives are significant items for consideration in the ultimate decision-making process. The implementing instructions prepared by the Administrations will also specify the precise time when a statement shall be prepared.

For the Department's grant programs such as the Federal-aid Highway Program, the FAA's Airport Development Program, or the Urban Mass Transportation Program, the applicant for Federal aid will be required to submit along with his application a draft 102(2)(C) statement, or a "negative declaration" stating that the project will have no significant effect on the environment. This material will be reviewed in the regional office of the Administration and may be returned to the applicant if more information is needed.

In addition, the Order requires that all draft statements whether prepared by the Department, an Administration, or by an applicant for Federal aid, be coordinated with appropriate Federal, State and local agencies at the regional level, with a copy of the draft being submitted to the Department's Assistant Secretary for Environment and Urban Systems and to CEQ. The Order provides a list of agencies with expertise in various areas with whom coordination should take place when appropriate. The draft statements and all of the comments received from such other agencies and sources shall accompany the project through the Departmental review process.

It is Departmental policy that all 102(2)(C) draft statements be made available to the public with respect to any Departmental action affecting them. In those cases where a public hearing will be held on a proposed Federal action, it is my intention generally to ensure that the environmental impact statement is made available to members of the public prior to the hearing so that interested persons can be fully informed of the issues. Hopefully, the availability of the draft environmental impact statements prior to public hearing will afford the opportunity for significant dialogue between the various governmental agencies and interested private parties. In this way, the concerns and viewpoints of the public regarding a particular Federal action may be expressed and become part of the relevant matters for consideration in the making of the final decision regarding such action.

After the draft statement has been fully coordinated, a final environmental impact statement will be prepared incorporating, where appropriate, changes or additional information received through the coordinating procedure. These final statements will include a presentation of the problems and objections raised by various Federal, State and local agencies and by private citizens and the disposition of the issues involved. The final environmental impact statement will be submitted to the Assistant Secretary for Environment and Urban Systems for his concurrence. If he finds the statement acceptable, it will be transmitted to CEQ and other interested parties in accordance with CEQ guidelines.

I now will briefly focus on the Department's review under section 103 of the Act. This section requires that the Department review its statutory authority, regulations, and current policies and procedures to determine whether deficiencies or inconsistencies exist which would prohibit our full compliance with the Act.

An initial review indicates that there is no conflict or inconsistency which prevents full Department of Transportation compliance with the provisions of the Act. Clearly, however, more can be done to further the broad purposes of the Act, and we have initiated many programs directed toward this end. The Act directs agencies to develop alternatives to recommended courses of action, to utilize a systematic interdisciplinary approach, and to give environmental amenities appropriate consideration in decision making.

I will mention just a few examples of the kinds of activities which the Department has undertaken to indicate our efforts in this regard:

Implementation of the Urban Mass Transportation Assistance Act of 1970, the Rail Passenger Service Act of 1970, and the Airport and Airway Development Act of 1970 to encourage the development of alternative modes of transportation;

A study of the current urban transportation planning process in an effort to integrate into the process factors such as a broader assessment of transportation alternatives, how an interdisciplinary team approach which ties comprehensive planning to project design can be used in planning, consideration of the environmental impacts of the transportation alternatives, the role of citizen participation, and making the process more responsive to metropolitan needs. I want to make special mention of the significance of the Act to the urban transportation planning process. Consideration of the environmental implications of transportation decisions must become an integral part of the planning process. We are attempting to define a way by which the Department's planning money can be used to stimulate a process at the metropolitan level which would best produce sound environmental analysis. This may imply a stronger role for metropolitan, areawide planning agencies.

Support of legislation to expand significantly the highway beautification program;

Support of legislation to provide more flexible authority with respect to relocation of persons displaced by highways;

Expansion of efforts to prevent, detect, and clean up oil spills;

Specific research projects, including, "Environmental Factors in Airport Site Location", "Environmental, Social and Aesthetic Factors in Urban Transportation Planning", and "Interdisciplinary Approach to Transportation Planning", "Reserved Freeway Lanes for Buses and Car Pools" and "DOT Policy and Procedures on the Environmental Policy Act" which study is including interviews with 57 private interest groups seeking their advice and comments as to the Department's response to the Act;

Rule making activities in areas such as sonic boom, aircraft smoke emission, noise retrofit, and noise standards for supersonic commercial aircraft; and

Examination by the Coast Guard of the environmental implications of bridge permit applications.

I wish to emphasize that this list is not exhaustive, but merely suggests our extensive effort to better fulfill the broad mandate found in the National Environmental Policy Act to encourage productive and enjoyable harmony between man and his environment.

Although the Department's Order implementing the National Environmental Policy Act has only been in effect since this October, the Department has been operating to some extent under the draft guidelines submitted to CEQ in June. With the preparation of the implementing instructions by the Administrations, which should be completed in the near future, this Department will have its entire procedural response to section 102(2)(C) basically completed.

Our experience with the Act has surfaced the following problems:

The delay in implementing the full thrust of the Act's policies and procedures due to the size of our grant programs, and the fact that the administration of these programs is delegated to our field offices.

The problem in making the applicants for Federal-aid appreciate the significance of the Act so that the environmental statements prepared pursuant to 102(2)(C) reflect a meaningful change in procedure and not just a new level of meaningless paperwork.

The added project review time that will result from the coordination procedures.

I feel that with time these problems are fully capable of being resolved favorably.

The Committee has also expressed an interest in any staff changes necessitated by the Department's implementation of the National Environmental Policy Act. I mentioned ear-

lier that the Assistant Secretary for Environment and Urban Systems has the main responsibility in the Department for overseeing the implementation of the Act. His staff will be increased significantly from 35 positions in January 1, 1970, when the Act was signed into law to 62 positions requested for fiscal year 1971. (The Department's Appropriation Bill has not been approved as yet).

At the present time, there have been no additions to the staffs of the Administrations as a direct result of the Act, but it is anticipated that they will require staff increases during the next fiscal year when the full impact of the Act will be realized at their level. However, within the Administrations there has been a redeployment of personnel to offices directly involved with environmental matters. Several Administrations have also made organizational changes to account for the increased emphasis on environmental considerations. For example, the Federal Highway Administration has recently reorganized and created a new position of Associate Administrator for Right of Way and Environment and has upgraded their Division of Environmental Policy to an Office of Environmental Policy. The Federal Aviation Administration has reorganized its Office of Noise Abatement to the Office of Environmental Quality, which includes responsibility for the entire environmental field. In addition, each Administration has designated a specific office as the focal point for coordinating and overseeing the responsibilities of the particular Administration in environmental matters.

In conclusion, Mr. Chairman, I would like to reemphasize my interest and concern with the goals and purposes expressed by the National Environmental Policy Act of 1969, and my confidence that our transportation needs can be met in a manner fully consistent with the Act.

At this time, I request to submit for the record, Mr. Chairman, as an appendix to my remarks, a detailed statement which sets forth some of the other actions taken by the Department of Transportation in furtherance of the broad purposes of the National Environmental Policy Act and in response to our other environmental responsibilities.

This concludes my prepared statement, Mr. Chairman. I shall be happy to answer any questions the Committee may have.

APPENDIX TO STATEMENT OF JOHN A. VOLPE

I. ENVIRONMENTAL RESPONSIBILITIES OF THE DEPARTMENT OF TRANSPORTATION BEYOND THE NEPA

The Department of Transportation has been actively concerned with the need for environmental quality for several years before the National Environmental Policy Act of 1969 became law.

Sections 2(b)(2) and 4(f) of the Departmental operations promote and preserve enabling legislation that created the Department of Transportation, direct that Departmental operations promote and pressure environmental quality. Section 2(b)(2) states:

"It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges and historic sites.

"Section 4(f) prohibits the Secretary from approving any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, state, or local significance as so determined by such officials unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use."

Additionally, section 106 of the Historic Preservation Act of 1966 requires that the head of any Federal agency with jurisdiction over a proposed Federal or federally assisted undertaking shall, prior to the approval of the expenditure of any Federal funds on the undertaking, take into account its effect on any district, site, building, structure, or object that is included in the National Historic Register.

Legislation relating to the Federal-aid Highway program has been broadened over the years so that environmental factors can be taken into account. Policies and procedures established by the Federal Highway Administration have required full consideration of construction procedures and elements to prevent, control, and abate water pollution, and to minimize soil erosion in the course of the construction of Federal-aid highways. Landscaping and roadside development along highways are eligible for Federal funding and are actively promoted by the Highway Administration. The Highway Beautification Act of 1965 which authorized and appropriated funds for the acquisition and enhancement of areas of scenic beauty adjacent to Federal-aid highways, gave the Department greater authority in this area. Although this program has been handicapped by lack of full funding, the Department is hopeful that this year the funding levels will be increased so the program can be fully implemented.

The office of the Assistant Secretary for Environment and Urban Systems, created with a specific mandate to coordinate the Department's actions in the environmental area, has been active for nearly two years within the Department.

Operating under these earlier mandates, the Assistant Secretary for Environment and Urban Systems has reviewed a number of specific transportation projects, and his recommendations to the Secretary of Transportation have been instrumental in withholding or withdrawing Federal funds from the following projects:

Expansion of a training field near the Everglades National Park into a major International Jetport, which would have seriously endangered the Park.

Extension of an Interstate Freeway link through Franconia Notch in New Hampshire, where such a project would have disrupted the historic "Old Man in the Mountain".

Construction of a highway in New Oreans which would have adversely impacted the historic French Quarter.

Additionally, significant changes were made to numerous other highway projects to minimize their adverse consequences in instances where there was no alternative to the taking of parkland or no provision for the replacement of parkland.

More than three years of experience in operating under these earlier provisions has given the Department of Transportation a meaningful head-start in taking environmental factors into account in its policies and programs. While the National Environmental Policy Act of 1969 does mandate broad new policies, the Department has been better prepared than many agencies to implement the new directives because of our past environmental responsibilities.

At present, environmental responsibilities are placed on the Department not only by the National Environmental Policy Act and section 4(f) of the DOT Act, but also by section 16 of the Airport and Airway Development Act of 1970 and section 14 of the Urban Mass Transportation Assistance Act of 1970. The 1970 Highway legislation will also contain broader social and environmental considerations.

II. THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

As soon as President Nixon signed the National Environmental Policy Act of 1969 into effect in January of 1970, Secretary Volpe made the importance of that Act clear to the employees of the Department of Transportation and he has re-emphasized his dedication to the goals cited in the Act on numerous occasions since that time.

The broad spirit of the Act as it relates to the activities within the Department of Transportation, is contained in requirements that Federal agencies shall:

Utilize a systematic, interdisciplinary approach in decision making.

Insure that environmental amenities and values are given appropriate weight in decision making along with economic and technical considerations.

Study, develop, and describe alternatives to courses of action where a proposal involves unresolved conflicts concerning alternative uses of available resources.

Administratively, it is relatively simple to assure that a procedural requirement, such as the filing of an environmental impact statement, is accomplished. The broader policy statements articulated in the Environmental Policy Act are much more difficult to quantify and integrate into actual Departmental procedure. However, the Department of Transportation is attempting to do just this in an attempt to meet both the letter and the overall spirit of the Act.

The National Environmental Policy Act of 1969 is a potent force in the Department of Transportation, not as a tool to stop all new transportation projects because of environmetal considerations, but as a source of broad guidance to encourage fundamental changes in procedure to insure that environmental considerations and a study of alternatives become an integral part of transportation planning at the earliest instance. In this way, transportation growth can be made fully compatible with environmental quality.

The following is a short description of some of the activities undertaken by the Department of Transportation either as a direct attempt to meet the broad directives of the National Environmental Policy Act, or as methods designed to further the goals of a balanced transportation system, which also compliment the policies of the Act.

1. Providing transportation alternatives

The Department is implementing the new legislative mandates received in 1970 to provide Federal funds for transportation alternatives. The Urban Mass Transportation Act of 1970, the Rail Passenger Service Act of 1970 and the Airport and Airway Development Act of 1970 improve and expand the Department's authority to assist all modes. For the first time Federal assistance is available to fund all modes of travel. In implementing each program, an emphasis is being made to provide a choice of transportation alternatives from which local areas can choose. The optimum process would be one by which an urban area would define its own growth goals and land use policies, and then choose the most appropriate transportation mode to implement its defined goals.

2. Improvement of the urban transportation planning process

The Department, through the Assistant Secretary for Environment and Urban Systems, is studying the urban transportation planning process initiated under section 134 of the 1962 Highway Act, looking toward an improvement of the process. The Department has a significant amount of money available for transportation planning through its Highway, Urban Transportation, and Airport Development programs. The Secretary is interested in using Departmental planning money to implement the broad policy directives of the Environmental Policy Act such as the

concepts of a systematic interdisciplinary approach in planning and decision making, a study of alternative courses of action (alternative transportation modes), and giving the environmental amenities appropriate consideration in decision making. Changes at the Departmental level in administering the planning grants, or new requirements concerning the agency at the local level which receives the planning money may be required to accomplish the above mentioned goals. Centralizing the Department's planning money into a single area-wide planning agency in a metropolitan area that does both land use and overall transportation planning for all modes is one approach that could promote the study of transportation alternatives and their environmental implications. The Department now has Federal grant money available to finance alternative modes of transportation, but changes in the urban planning process in metropolitan areas may be necessary to make sure that the money is best utilized to meet the needs of urban areas in a way that is compatible with the Environmental Policy Act.

3. Single transportation trust fund

The Department of Transportation has under study the concept of a single transportation trust fund to provide Federal grants, without a model identification, to states and local areas to spend on the transportation mode that best suits the needs of that area. Such a concept would help to encourage the development of alternative transportation systems by eliminating some of the modal biases in Federal-aid that presently exist.

4. Research

A. Departmental Policy and Procedures and the NEPA

The Department has contracted with Arthur D. Little, Inc. for a study of the impact of the National Environmental Policy Act on the Department of Transportation. The contract call for an analysis of current legislation and policies in light of the Act, and for the contractor to provide a discussion of policy alternatives, a draft manual on the involvement of public interest groups, and recommended actions to comply with the Act.

B. Environmental, Social and Aesthetic Factors in Urban Transportation Planning

The Department has contracted with Real Estate Research Corporation for a study of means to incorporate environmental, social and aesthetic factors into the urban transportation planning process. The contractor will conduct on-site studies of four cities and will prepare a manual summarizing pertinent experience and developing recommended procedures to improve the transportation planning process.

C. Environmental Factors in Airport Site Selection

The Department has contracted with CLM Systems Inc., for a study of the environmental factors which should be considered in airport site planning. The contractor is to prepare a handbook on assessing sites in terms of intermodal planning, pollution, noise, aesthetics, community disruption, and land use and development.

D. Environmental Effects of Miami Jetport

The Department of Transportation and Interior are assisting Miami-Dade County in monitoring the impact of the training strip on the Everglades National Park and in the consideration of alternative jetport sites.

E. Noise Factors

The Department is pursuing through several research projects methods by which transportation noise can be reduced.

F. Environmental Research on Supersonic Flight

The Department has assembled a $26.68 million 3-year research program plan to provide more precise answers to the environmental aspects of supersonic flight.

G. Interdisciplinary Approach to Transportation Planning

The Department has contracted for an analysis of the use of interdisciplinary design concept teams to do urban transportation planning.

5. Rulemaking activities

The Department of Transportation, through the Federal Aviation Administration is proceeding with rule-making activities in the following areas:

Prohibition of supersonic flight over the United States at speeds that would cause a sonic boom.

Establishment of aircraft noise type certification standards for subsonic and supersonic aircraft.

Regulation of aircraft engine emissions.

Civil airplane noise reduction retrofit requirements.

6. Legislation

The Department is actively supporting legislation in the following areas:

Legislation that would broaden the Federal-aid Highway Act to give the Secretary greater flexibility in the use of money from the Highway Trust Fund for social and environmental purposes.

Legislation to significantly expand the highway beautification program.

Legislation to provide more flexible authority with respect to relocation of persons displaced by highways.

7. The Coast Guard

The Department is supporting an expanded role for the Coast Guard in the area of prevention detection, and cleaning up of oil spills.

The Coast Guard reviews all applications for bridge permits which it receives for the possible environmental impacts that would arise from the issuance of the permit.

FIRST WESTERN SPACE CONGRESS

HON. GEORGE P. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. MILLER of California. Mr. Speaker, I am privileged to include in these remarks an address given by Dr. Edward C. Welsh at the First Western Space Congress which was held in Santa Maria, Calif. on October 28, 1970.

Dr. Welsh is one of the most knowledgeable people in the field of space and his remarks are worthy of careful perusal, as follows:

FIRST WESTERN SPACE CONGRESS

This opportunity to talk with such a learned group on space matters is appreciated, although I state with appropriate modesty that it is a situation of the informed informing the informed. Those opposed to, or ignorant about, the space program are the ones who should be assembled and talked with. While I find these meeting very gratifying and productive, it would seem much more efficient if we all stayed in our offices and listened to or participated in the discussion via direct two-way satellite broadcast to receivers which we could tune in or tune out. We can be doing this soon if we only decide to. On an annual basis, it would cost less in time and money—not that the latter is of much moment these days so characterized by huge surplus cash flows and excess profits. I might, in deference to those from government, also make reference to burgeoning travel funds.

Practical applications.—I am impressed with the attention in this Space Congress' schedule to the practical applications of space technology, space experience, and space-related management. This is the way of the near-future and certainly the soundest basis for an appeal for support. Those espousing more investment in space competence must, in the political battleground, be able to show how the lives of individual families and communities are bettered or could be in better shape because of space developments. An appeal to greater national security, or even a suggestion that the United States may well fall behind the USSR in technology, while sound arguments, do not have the desired effect on the general public, since the individual finds it difficult to relate such matters to his own family conditions.

Backward progress.—I would be less than honest if I did not express my thorough disappointment in the slowdown in United States space activity during the past several years, in both R & D and technical utilization. With the last national election, I expected an economic slump, but, up until the decisions were made, I was hopeful that the new Administration would try to maintain technological progress through adequate funding of the space program—both for the civilian and for the military partners in this effort. In that, I was wrong. The MOL cancellation, plus the reduced and inflation-weakened budget figures, are incontrovertible evidence to the contrary.

After much effort and some tough decisions in the 1960's, we went ahead of the Soviets in space technology and space accomplishment. This took political guts. We need a show of such fortitude again, as our present trend is to atrophy our acquired ability and to make obsolete our developed hardware. There is, of course, plenty of blame to go around, in case some politically partisan listeners think I am blaming the whole debacle on the current Administration.

Reverse recent trend.—However, I have not given up. I'm just discouraged. It is still possible that we can reverse the decisions which have weakened our nation, economically, internationally, and defensively. We can improve our treaty monitoring, our reconnaissance, our surveillance, our weather-communications-navigation capabilities, our natural resources census, our manned and unmanned exploration of outer space, our medical advances through space technology, and our application of space-oriented management techniques to the solution of social problems. Let me emphasize that this is not an either/or situation—social welfare as opposed to space and national security. We can and must have both, and the one nourishes the other.

I promise to be brief, but I do want to be a little more specific regarding the direction our space science and technology should be taking us. As an optimist, I would ordinally refer to the direction we "will go," but "should go" is the best I can do at this time.

Space communications.—In the area of communications, so much can be done that it strains the imagination of the most creative scienec fiction writer. For example, just think of the potentialities of education from the use of satellites. The treasures of libraries can be made available to the millions who have never even seen a library, let alone used its resources. The shortage of competent and up-to-date teachers at all levels of instruction can be swiftly overcome by a practical combination of the best teachers with the most modern space technology. Nineteenth century educational facilities and techniques cannot, and indeed should not, try to meet the needs of the present or the future. Through the use of modern technology, I believe the quality of education would be raised and the cost per student decreased.

The role of space communications is not limited just to improving education, al-

though that is sufficient justification for the entire investment in the field of space. Navigation and traffic control are arenas in which practical application of advanced technology would add greatly increased safety in the civilian part of our economy and vastly improved effectiveness to our military hardware. Again, these are developments awaiting only the will to put them to use.

Space observations.—As for the competence to make space observations of the earth and of men's activities on earth, no further delay is excusable. This is particularly critical as we rely increasingly on international treaties and agreements which can be monitored only from space. Equally as important is the immediate and continuing awareness, in this nuclear age, of the nature and location of equipment which threatens our security. Only through satellites, manned and unmanned, can this be acquired with a reasonable degree of assurance.

In the field of natural resources and weather observations—and I might add "control" as far as the latter is concerned—hunger can be alleviated on a worldwide scale; scarce supplies of metals, oil, and water can be augmented; and lives as well as property can be protected from the forces of nature. Why should we move so slowly to do these things which would give tremendous human and material returns for each dollar invested?

Space medicine.—As we suffer through the mounting costs and the inexcusable loss of lives in the field of health care, we must hasten the marriage of computer and medical knowledge. The shortage of doctors and nurses, the delays even in cases of greatest emergency, the prohibitive costs of preventive medicine and hospital care, can only be drastically decreased by the use of space-stimulated technology already available.

Space and men.—And, when we refer to medicine let us not overlook for a second the major benefits which can be derived from manned flight—knowledge of healthy individuals, under both controlled conditions and conditions of special stress and strain. Certainly we cannot afford to slow down our efforts to obtain re-usable flight vehicles, permanent space stations, and sharply reduced per passenger-mile flight costs. We need people in space for sophisticated observations toward and away from earth; for maintenance and repair of space equipment; and for manufacturing, space hospitalizations, and scientific experimentation. Of no less importance are the addition to man's scientific knowledge, his greater understanding of origins as well as clearer views of the future, and the vast uncharted but most promising application of space oriented technology and managerial experience to the solution of social ills. Can we afford not to strive for such objectives?

A choice.—Are we going to use space science and space technology to the extent of our capability, or are we going to say we can't afford it? As you know, we have throughout man's history seen an abundance of illustrations of his stupidity. I hope that we do not now try to exceed the errors of the past.

The rapid and constructive growth of our gross national product in the 1960's was due in considerable measure to the investment in space technology. The decline in GNP growth rate in the last few years is in large measure due to a starvation of such endeavors. I indicated that there is plenty of blame to go around for the recent decline in space progress, for the niggardly investment of funds in this country's future, and for our economic and scientific slow-down. We have all heard some politicians, some businessmen, some academicians and other professional men preach slow-down and give support to those who would bury our talents in the sands of time. They are wrong, and they need to be educated or outvoted.

We should have a change in policy or be resigned to becoming a second-rate nation.

SELECT COMMITTEE'S REPORT ON OLD DOMINION SUGAR CORP.: SBA BLUNDERS IN OLD DOMINION SUGAR CASE

HON. THOMAS P. O'NEILL, JR.
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. O'NEILL of Massachusetts. Mr. Speaker, on four separate occasions I have laid before my colleagues information regarding the sorry record of the Economic Development Administration, as it related to the use of public moneys in funding a financial fiasco doing business under the name of Maine Sugar Industries, Inc. Today, I will not take the time of the House to restate the facts in this deplorable case of poor judgment; compounded by excessive leniency in extending deadlines for payments on principal and interest—and for throwing good money after bad. For those of you who are interested, I refer you to my remarks of April 8, which appear on page 10734 of the CONGRESSIONAL RECORD.

Today, instead, I rise to compliment my good friends and colleagues, the able gentlemen from Tennessee (Mr. EVINS) and the able gentleman from Illinois (Mr. KLUCZYNSKI), for the public service they have rendered in investigating and reporting on still another potential disastrous use of public funds—this time by the Small Business Administration.

As a part of my April 8 comments, I made reference to a lease guarantee commitment by SBA in the amount of $27.4 million to the Old Dominion Sugar Corp. This is a corporation which proposed construction of a new cane sugar refinery in Portsmouth, Va.—with the aid and abetment of taxpayers' money. At that time I called attention to a review of this project that was in progress, by a subcommittee of the House Select Committee on Small Business—under the chairmanship of the distinguished gentleman from Illinois (Mr. KLUCZYNSKI).

Since I last addressed the House on this subject, the committee has completed its review of the Old Dominion case and has issued a report condemning the entire venture. It is particularly critical of SBA's role in it.

This report was published on October 20, 1970, as House Report No. 91–1612.

The committee points out in its conclusion:

> The maximum exposure of SBA is about $27.4 million. The feasibility study was performed by a company which will be paid only if the refinery becomes operational.

I doubt, Mr. Speaker, that this is the usual arrangement between companies and consulting firms. The subcommittee also finds, after examining a great deal of evidence, that—

> SBA does not have a reasonable basis to conclude that the Old Dominion Sugar Corp. would be financially profitable.

It is evident, therefore, SBA's proposed lease guarantee can be summarized as taxpayers' money being used to guarantee rent payments by a company which has never been in the sugar business, has no experienced management and has no real knowledge of the sugar market.

This is an extremely strong criticism of both the SBA and the Old Dominion Sugar Corp. This criticism is justified. As the report describes, specialists within SBA have advised against this lease guarantee, including the chief SBA underwriter.

This project does not really qualify—at $27.4 million and a potential 1,800 employees—as small business.

There is one statement in the report that is perhaps the greatest indictment of this program that I have heard.

> Although SBA testified that they have studied the Maine Sugar Industries, Inc., project in order to avoid their pitfalls, it is the subcommittee's opinion that the Maine Sugar project is a blueprint of the future of the Old Dominion Sugar Corporation.

That blueprint, Mr. Speaker, is a blueprint for failure.

The excellent report from which I have quoted is very brief. But it reflects the careful examination of this lease guarantee conducted by the members of the committee and its staff. It is well worth reading. So that my colleagues may be completely informed on this, I submit this short, but well-written report for the RECORD:

SBA LEASE GUARANTEE (OLD DOMINION SUGAR CORP.)

INTRODUCTION

At the opening of the 91st Congress, Representative Joe L. Evins (D., Tenn.), chairman of the Select Committee on Small Business, assigned jurisdiction over "Small Business Problems in Smaller Towns and Urban Areas" to Subcommittee No. 3 and designated the following as members:

Representative John C. Kluczynski, Democrat, of Illinois, chairman;

Representative Tom Steed, Democrat, of Oklahoma;

Representative James C. Corman, Democrat, of California;

Representative Frank Horton, Republican, of New York;

Representative Daniel E. Button, Republican, of New York.

Additionally, Chairman Evins and Representative Silvio O. Conte (R. Mass.), ranking minority member, are ex officio members of the subcommittee.

SCOPE AND PURPOSE OF HEARINGS

Hearings were conducted by Subcommittee No. 3 on the lease guarantee program of the Small Business Administration. Particular emphasis was given to the proposed lease guarantee to Old Dominion Sugar Corp.

The subcommittee had received many reports raising serious questions concerning the conditional commitment by the Small Business Administration guaranteeing a lease to Old Dominion Sugar Corp. in the amount of $27.4 million. Information provided the subcommittee indicated that the corporation did not have adequate financial resources; that the amount of total guaranteed rent was in excess of SBA's regulations which placed a $9 million ceiling on such guarantees; that the corporation was not a small business concern; and that the proposed business venture by the corporation was not economically feasible and, therefore, would ultimately result in an unjustifiable loss.

The lease guarantee program of the Small Business Administration has held the interest and concern of the committee since the program's inception. There is great potential for lease guarantees to aid and assist small business. Small businesses which lack the necessary credit rating are able to obtain prime business locations to assure growth and success.

In view of the reports received by the subcommittee, and the continuing interest

in this particular SBA program, it was decided that hearings would be held to inquire further into the lease guarantee program and in particular the Old Dominion Sugar Corp. transaction.

Hearings were held on February 19 and 25, 1970, in Washington, D.C., at which time the subcommittee heard the testimony of the Administrator of SBA, other officials of SBA and representatives of private industry and financial institutions. Further testimony was also presented during hearings by the full Select Committee on Small Business on July 20–22, 1970, regarding this same subject.

FINDINGS

The Small Business Administration issued a letter of conditional commitment to the Old Dominion Sugar Corp. to guarantee a lease of that company in the amount of $27.4 million over a 20-year period. The actual insurance policy for the guarantee is proposed to be issued at some future date provided the company meets certain requirements set by the SBA.

Testimony revealed that SBA set a limitation of $9 million for lease guarantees in June 1969. SBA contended that this regulation did not apply in regard to Old Dominion since Old Dominion's application had been pending for 1 year prior to promulgation of the regulation. An attorney-adviser to the SBA lease guarantee program stated as his opinion that this SBA regulation was applicable. He was overruled by the SBA Office of General Counsel.

When asked about the possibility of Old Dominion being bought out by a large sugar firm after the lease guarantee had been made, SBA replied that they had no control over such a contingency.

It was revealed that an official of Old Dominion had supplied Dun & Bradstreet with figures regarding the size of the proposed operation. Dun & Bradstreet reported that 300 employees would be hired in the initial stages and that 1,800 would be eventually employed. These figures were disputed by SBA. SBA regulations provide that to be a "small business" for this type of operation, there can be no more than 750 employees.

An outside consultant, F. C. Schaffer & Associates, retained by Old Dominion Corp., reported that the project was financially feasible. It was pointed out that the F. C. Schaffer & Associates received 50,000 shares in the company (10.5 percent of the total stock) as part of their fee, in addition to $83,074 to be paid if and when the project proceeds.

One of the procurement and management assistance coordinators of SBA advised against the venture because it would have to compete against long-established and well-financed cane sugar firms in addition to corn sweeteners. The consultant had not considered the corn sweetener competition in making their analysis.

An SBA financial adviser to the lease guarantee program had rated the corporate structure as very poor. The Philadelphia office had recommended against the commitment, but stated that in the event the Washington office, which has primary responsibility, decided to go ahead, two conditions be placed in the guarantee. Only one of the conditions was adopted.

The chief SBA underwriter stated that the venture did not appear feasible and that it was not the type of risk the Government should be guaranteeing.

The size of this proposed guarantee ($27.4 million) is greater than all of the guarantees issued by SBA up to that time (79 lease guarantees).

There was testimony by individuals in the sugar industry in direct conflict with that of SBA. It was stated by them that the company would have to make an 8.8-percent gross profit in order to survive. SBA consultants had forecast a 4.3-percent profit. It was also stated that a marketing study which ignored corn sweeteners would be invalid. Testimony also revealed that Old Dominion would use foreign machinery and equipment. Furthermore, it was claimed that the Old Dominion venture could cost the taxpayer $8,173,579 at the minimum and $23.4 million at the worst.

CONCLUSIONS AND RECOMMENDATIONS

SBA has issued a letter of conditional commitment for a lease guarantee to a corporate shell which has never done any business of any kind and which was run by a man who had no experience in the business. The letter of conditional commitment contains no safeguards to relieve the Government of its guarantee if a large business takes over Old Dominion and no criteria upon which to base a fair market value of the plant if the project fails.

The maximum exposure of SBA is about $27.4 million. The feasibility study was performed by a company which will be paid only if the refinery becomes operational.

The subcommittee finds, based on the testimony it received, that SBA does not have a reasonable basis to conclude that the Old Dominion Sugar Corp. would be financially profitable.

It is evident, therefore, SBA's proposed lease guarantee can be summarized as taxpayers' money being used to guarantee rent payments by a company which has never been in the sugar business, has no experienced management and has no real knowledge of the sugar market.

SBA projected earnings plus the loan payments amount to more profit per unit than anyone in the industry currently earns. This is entirely unrealistic.

Since the hearings, SBA has required Old Dominion to have a new feasibility study conducted by a firm approved by SBA. It will be very enlightening to learn the results of that study in comparison with the one investigated during the hearings.

It is, therefore, the conclusion of the subcommittee that the proposed undertaking by SBA to guarantee a 20-year lease for Old Dominion Sugar Corp. in the amount of $27.4 million is not in the Government's best interest and constitutes poor stewardship of public funds. Although SBA testified that they had studied the Maine Sugar Industries, Inc., project in order to avoid their pitfalls, it is the subcommittee's opinion that the Marine Sugar project is a blueprint of the future for the Old Dominion Sugar Corp. It appears extremely doubtful that the Government can collect over $12 million loaned to the Maine Sugar project.

The intent of Congress in establishing the lease guarantee program was to aid and assist the small businessman such as the local merchant who wishes to move to a shopping center but is unable to obtain the necessary credit rating. A guarantee for more than $27.4 million is not small business in terms of lease guarantees.

The committee recommends that SBA critically reevaluate their conditional commitment in regard to this particular lease guarantee. A full report should be submitted to the subcommittee when a final descision has been made with a complete explanation of all factors upon which the decision was based. Until such time as a final decision is made, it is recommended that SBA keep this subcommittee fully informed of all developments concerning this lease guarantee.

The subcommittee recommends that SBA review the maximum limitation of $9 million for a single lease guarantee and advise the subcommittee of the results of such review.

The subcommittee recommends that SBA include a clause in all lease guarantees eliminating the Government's liability in the event the small business is taken over in any way by other than a small business.

ADDITIONAL INDIVIDUAL VIEWS OF HON. FRANK HORTON, REPUBLICAN FROM NEW YORK

This report includes certain conclusions which are not fully substantiated by facts contained in the report. The report affords the Small Business Administration the opportunity to submit further information to the committee at the time a decision is reached on the subject lease guarantee, and I am certain the Small Business Administration will cover these questions when it submits its further comments.

WILLIAM O. DOUGLAS—PART-TIME JUSTICE

HON. CHARLES H. GRIFFIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. GRIFFIN. Mr. Speaker, Justice Douglas has recently conducted himself with a circumspection which is as unusual in its degree as it is revealing of his many heretofore unknown extrajudicial activities.

He has withdrawn himself from an abnormally high number of cases, 21 to be exact, in the last 9 weeks. In short, he has become a part-time Justice.

Of course, it is right and proper for one to excuse himself from sitting on a case wherein he is personally involved or personally acquainted with the party litigants of attorneys. However, Douglas' high rate of withdrawal from participation in Court work is surely founded in his attempt to allay the many suspicions his sub rosa activities have provoked.

Mr. Speaker, Douglas' prompt resignation would certainly expedite the work of an already overloaded Court and would remove a cloud of doubt which hovers over every action taken by the Supreme Court. Such an act on the part of Douglas would be a great benefit to the public good and would give evidence of his concern over the common interest—for which he so piously proclaims.

Following is a report from Washington's Evening Star of Wednesday, December 9, 1970, regarding his numerous withdrawals from cases before the Court:

DOUGLAS DISQUALIFIES HIMSELF IN 21 CASES

(By Lyle Denniston)

Supreme Court Justice William O. Douglas, apparently using special caution to keep from arousing his House critics further, has disqualified himself from court cases 21 times in the last nine weeks.

That is an unusually high rate of withdrawal from cases for any justice, and it is well above Douglas' own rate of disqualification in the past.

Sources close to the justice say that he feels obliged, at least for the time being, to go almost to an extreme to avoid contact with cases in which someone could say he had a personal interest.

Among charges against him by House critics are complaints that he has participated in Supreme Court action on an obscenity case and a savings and loan association dispute even though he had some prior contact with persons involved in each.

PANEL MEETING TUESDAY

Douglas hopes to be able soon, perhaps next week, to return to the customary practice of taking himself out of cases only when his interest or past involvement is clear-cut, it is understood.

The full House Judiciary Committee is to meet Tuesday to receive a report from a five-man special subcommittee which has concluded—in a split decision—that there are no grounds to impeach Douglas and remove him from the court.

If that meeting results, as some sources now expect, in a committee decision to drop the matter of impeachment, Douglas is likely to resume promptly his fuller participation in the high court work.

However, critics have vowed to renew in January their demand for a separate investigation outside the Judiciary Committee.

Meanwhile, Douglas this week took himself out of cases five times in two days of public activity by the court.

In one of those, his withdrawal could have made a clear difference. Dividing 4 to 4, the other justices approved lower court decisions that bolstered the Interstate Commerce Commission's power to approve across-the-board increases in railroad freight rates.

AUTOMATIC APPROVAL

When the court is equally divided, the result is automatic approval, without explanation, of the lower court action under review.

Douglas, like all other justices, never explains publicly why he takes himself out of a case.

However, there are indications that this term he is withdrawing from any case that involves a law firm in which some partner has been helping him in the legal defense against the impeachment challenges in the House.

In that effort, Simon H. Rifkind, a former federal judge who is a leading partner of a Washington and New York firm, has been Douglas' main legal adviser. It is routine for Douglas now to avoid any role in court cases involving Rifkind's firm.

MISSED ARGUMENTS

For example, the justice did not listen to oral arguments made in a libel case Monday and Tuesday by one of Rifkind's partners, former Atty. Gen. Ramsey Clark.

Rifkind has enlisted some of Douglas' former law clerks in handling the House challenge, and that, too, has led the justice to some disqualifications.

For example, one of the ex-clerks who has helped is Charles Miller of the Washington law firm of Covington and Burling. That firm was involved in the railroad freight rate case decided yesterday by the 4 to 4 vote.

Covington and Burling is also involved in a major lawsuit which Atty. Gen. John N. Mitchell has filed at the high court in an offshore lands dispute with all the East Coast states. Douglas has disqualified himself from that case.

ASSISTED JUSTICE

Another former law clerk who has assisted Douglas during the House challenge is Warren M. Christopher, a former deputy attorney general now in private practice in the Los Angeles law firm of O'Melveny and Myers.

The firm was involved with a labor case, concerning the Hearst newspapers in California, from which Douglas disqualified himself on Oct. 12.

Christopher is personally involved in a major test case which the high court has agreed to review this year. It raises the question of whether plans to put low-rent public housing in a community may be vetoed by citizens voting in a referendum. Douglas has twice disqualified himself on preliminary orders on that case.

The justice has taken himself out in a series of cases—several involving obscenity prosecutions—because of actual or assumed association with the distributors who are involved.

MISTAKE SEEN

In fact, sources indicate that Douglas may have made a mistake by taking himself out of one obscenity case on Nov. 23 when he thought the case involved, at least indirectly, a firm which had published one of his out-of-court articles. In fact, there was no connection, these sources said.

With Douglas out of that case, the court voted 4 to 4 to uphold a lower court decision which gave constitutional protection to so-called "stag" movies.

On the same day, the justice may also have disqualified himself unnecessarily from a Massachusetts obscenity case on the belief that one of the publishers was somehow related to Grove Press.

Grove Press is the U.S. distributor of the controversial Swedish movie, "I am Curious (Yellow)," and it is also the publisher of Evergreen Review, which carried excerpts from a Douglas book.

FILM IN TEST CASES

"I am Curious (Yellow)" is involved in test cases from Maryland and Massachusetts, now awaiting high court rulings and Douglas has not taken part in considering them.

The justice also is believed to be staying out of an important antitrust case involving a group of publishers because some of his past books were handled by firms involved.

There are only a few disqualifications by Douglas during recent weeks for which there is no known reason, except possibly some personal connection with lawyers involved. One such case involved a challenge by a Montgomery County, Md., political group seeking to be placed on the ballot for the Nov. 3 elections.

Among all of the 21 disqualifications by Douglas so far in the current term, there appears to be only one that would fit the usual court custom of withdrawing.

He has taken a direct "personal interest" in the controversy involved, and that is the usual ground for disqualification. The case, granted review this week, involves a conservationists' challenge to construction of a highway through a park in downtown Memphis.

Douglas has been a vocal spokesman for conservationist causes for years, and he has spoken out on the Memphis controversy.

A CITIZENS ADVISORY COMMITTEE FOR THE PENN CENTRAL

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. OTTINGER. Mr. Speaker, one of the major reasons for the decline of rail passenger service in the United States has been the industry's failure to recognize its responsibilities to the traveling public and the Interstate Commerce Commission's failure to protect the public interest in a modern, efficient rail passenger service system.

A historic petition seeking approval of a citizens advisory committee to represent and promote the interests of the public in the reorganization and management of the Penn Central has been filed in the U.S. District Court for the Eastern District of Pennsylvania. Among the petitioners are consumer advocate Ralph Nader and the National Association of Railroad Passengers.

This petition, if granted, might well set an important precedent for other industries in which the public interest has for too long been neglected. It certainly represents a landmark in the consumer protection movement and because I am sure it will be of interest to my colleagues, I present it herewith for inclusion in the RECORD:

[In the U.S. District Court for the Eastern District of Pennsylvania, Bankruptcy No. 70-347]

In the Matter of Penn Central Transportation Company.

PETITION FOR APPOINTMENT OF CITIZENS' ADVISORY COMMITTEE

To the Honorable John P. Fullam, Judge of the United States District Court for the Eastern District of Pennsylvania: Come now the petitioners Ralph Nader, Reuben B. Robertson, III, Jonathan A. Rowe, Anthony Haswell and National Association of Railroad Passengers, having previously petitioned this Court regarding the appointment of one or more trustees specifically to represent and promote the interests of the public and consumers in the reorganization and management of the Penn Central, who now further urge the court to establish and appoint a Citizens' Advisory Committee to advise and assist the trustees with regard to various aspects of the public interest. The reasons and authority for such appointment and the powers and duties of the proposed Committee are set forth in the accompanying memorandum in support of this petition.

Respectfully submitted.

THOMAS K. GILHOOL.
REUBEN B. ROBERTSON III.

JULY 22, 1970.

[In the U.S. District Court for the Eastern District of Pennsylvania, Bankruptcy No. 70-347]

In the Matter of Penn Central Transportation Company.

MEMORANDUM IN SUPPORT OF PETITION FOR APPOINTMENT OF CITIZENS' ADVISORY COMMITTEE

The Court's duties in protecting the public interest in a railroad reorganization proceeding under Section 77 of the Bankruptcy Act do not, of course, end with the appointment of Trustees to manage the estate. The petitioners, who include rail passengers, consumers and parties professionally and institutionally committed to the advocacy of various consumer, safety and environmental causes, have urged the Court to take whatever measures may be necessary and appropriate to advance community and consumer interests in overseeing the Penn Central's reorganization. We believe that these interests can be significantly aided by the appointment of a special committee of advisors to the trustees which can make studies and recommendations to them—and to this Court—regarding the many facets of the public interest. While novel, this action appears to be well within the clearly established powers of the Court. This memorandum spells out in further detail the proposal and the legal authority of the Court to adopt it.

PURPOSES OF THE COMMITTEE

There can be no serious argument that the first priority in the management and reorganization of a bankrupt railroad must be the public interest, including specifically the right of the people to be assured safe, dependable, adequate and economical transportation by rail. *St. Joe Paper Co.* v. *Atlantic Coast Line R. Co.*, 347 U.S. 298, 309 n. 12 (1954); *In re Denver and Rio Grande Western R. Co.*, 38 F. Supp. 106 (D. Colo. 1940); *In re Long Island R. Co.*, 83 F. Supp. 971 (D. N.Y. 1949). The public's multiple and complex needs require thoughtful, coordinated analysis and implementation which the trustees alone, absorbed in the day to day problems of management and operation, may not be able to fulfill adequately.

Penn Central serves a region under siege by a massive transportation and environmen-

tal crisis. The urban areas of the Northeastern United States are already congested and overcrowded, its highways and airways are clogged, its rivers becoming open sewers and its air a potential source of epidemic asphyxiation. The incessant parasitic demands of railroad management upon the public for higher and higher passenger fares and freight tariffs, the degrading of service and safety standards, the Penn Central's relentless drive to rid itself of customers and of all obligations to provide intercity passenger service, capped finally by the initiation of bankruptcy proceedings have intensified the crisis and made an ugly joke of the corporation's basic legal commitment to serve the public continuously and adequately. This background underscores the urgency of special provisions by this Court and the trustees on behalf of the public.

The interests of consumers, passengers, shippers, communities and the public at large must no longer be short-changed with respect to Penn Central operations. To this end it would be appropriate and useful to have a special committee to advise the trustees on various aspects of the public interest. Without in any way interfering with the daily operations and management functions of the trustees, the committee would be in a position to analyze public complaints, tariffs and schedules, population trends as related to available service, environmental considerations, maintenance and safety standards and other aspects of the public interest. The proposed committee could make reports and recommendations to the trustees as to developing problems and ways in which the quality of the railroad's public service might be improved. Further, the committee would evaluate the efforts of the trustees from a public interest perspective and could make reports to the Court on any changes that might be necessary for fulfillment of the railroad's basic mission of public service. One possible format for the composition of such a citizens' advisory committee has been set forth for the Court's review in Appendix A to this memorandum.

AUTHORITY OF THE COURT

While we are not aware of any previous railroad bankruptcy proceeding in which such a public interest advisory committee has been appointed, the Court's power to take such action is clear. Section 77(a) of the Bankruptcy Act, governing railroad reorganization, confers upon the District Court having jurisdiction the full panoply of powers over the debtor and the trustees that apply generally in bankruptcy proceedings. For example, Section 11(a)(6) of the Act, amended by the Chandler Act in 1938 so as to apply unequivocally to proceedings under Section 77, see Hanna & MacLachlan, *Cases on Creditors' Rights*, 1965 Supplement, 9, explicitly provides that the Court has the power to "bring in and substitute additional persons or parties in proceedings under this title when necessary for the complete determination of a matter in controversy." Similarly, Section 343 of the Act expressly states that a receiver or trustee shall manage the debtors' business and property "subject to the control of the court." The power thus conferred on the Court in general bankruptcy proceedings is made specifically applicable to the court in railroad bankruptcies by section 77(a), which gives the bankruptcy court "all the powers not inconsistent with this section which a court of the United States would have had if it had been appointed a receiver in equity of the property of the debtor for any purpose." Additionally, of course, the Court has inherent and express powers to enter appropriate orders and impose such restrictions and conditions as may be necessary in the management of the debtor's affairs, e.g., Bankruptcy Act, Secs. 11(a)(15), 11(b).

Nothing in the Act or in the decisional law interpreting the Act appears to restrict or prohibit the Court from appointing advisors or advisory committees. In the Long Island Railroad bankruptcy proceedings, the appointment of a firm of engineering consultants as advisors to the trustees, whose principal role was to make studies, determine the facts and submit reports and recommendations to the trustees, was discussed at length and expressly approved by District Judge Kennedy. *In re Long Island R. Co.*, 91 F. Supp. 439 (D. N.Y., 1950). No cases has been found limiting or denying the Court either the power to pass upon the appointment of or to appoint directly consultants or advisors to the trustees for the purpose of gathering and analyzing facts and making recommendations to the trustees or the Court. Certainly where the stakes are so high and the identification and implementation of the public interest are so critical, such restraints should not be read into a statute the primary purpose of which is to protect the public.

Respectfully submitted,

THOMAS K. GILHOOL,
REUBEN B. ROBERTSON III.

JULY 22, 1970.

APPENDIX A. POSSIBLE COMPOSITION AND CHARTER FOR CITIZENS' ADVISORY COMMITTEE TO TRUSTEES IN PENN CENTRAL REORGANIZATION

The Citizens' Advisory Committee would be composed of three to five members, appointed by the Court for terms of five years, and drawn from groups or organizations representing such interests as

(a) railroad passengers, including commuters;

(b) consumers of commodities transported by rail;

(c) environmental quality, including conservation and aesthetic interests, city and regional planning, population distribution, and clean air and water advocates;

(d) shippers by rail;

(e) railway labor.

The Committee's basic mandate shall be to protect and promote to the fullest extent possible within its powers during the Penn Central reorganization, the needs of the public for safe, clean, modern, efficient, economical and reliable rail transportation; sound regional planning including comprehensive intermodal transportation planning; conservation of natural resources including pure air, water and open spaces. To achieve these ends, the Committee shall have the following powers and duties:

(a) Examination of all books and records of the debtor and any company controlling, controlled by or under common control with the debtor;

(b) Attendance of any meetings of the trustees and officers of the debtor, and the right to be kept informed of all actions, plans and proposals regarding operation of the Penn Central and to receive copies of all company correspondence and memoranda;

(c) Making studies of and reporting to the trustees periodically and at all appropriate times upon the actual or potential impact of Penn Central operations and any proposed or suggested plans or changes on any aspect of the public interest; and making such recommendations as the Committee deems appropriate to protect and advance the interests of consumers and the public generally;

(d) Studying and reporting to the trustees and the Court on the effects of past Penn Central policies and practices upon the public, and on the causes of the financial collapse precipitating the petition in bankruptcy;

(e) To report annually or at any other appropriate time on the adequacy of actions taken by the trustees to implement the recommendations of the Committee, on the impact of the debtors operations on the public interest, and on any problem in the management of the estate that the Committee deems necessary or appropriate to bring to the Court's attention;

(f) To apply for and receive any federal, state, local or private grant of funds, research, facilities or assistance of any kind to advance the purposes for which the Committee is established.

[In the U.S. District Court for the Eastern District of Pennsylvania, Bankruptcy No. 70-347]

PETITION FOR REPRESENTATION OF CONSUMER INTERESTS

In the Matter of Penn Central Transportation Company.

To the Honorable John P. Fullam, Judge of the District Court of the United States for the Eastern District of Pennsylvania:

This petition is filed on behalf of various individual and institutional parties concerned with the effect of the Penn Central Transportation Company reorganization upon the interests of consumers and other national and community interests, to urge this Court to take certain measures to assure effective representation of those interests in the management of the Penn Central at all times during the reorganization and thereafter. Specifically, petitioners request the Court to appoint one or more trustees for the purpose of representing and promoting public consumer and community interests, as distinct from the private interests of management, creditors, and shareholders. Petitioners in support thereof respectfully represent:

PETITIONERS

1. The petitioner Ralph Nader, a resident of Winsted, Connecticut, is an author, lawyer, and advocate of the public interest in various consumer, safety and environmental issues.

2. The petitioner Reuben B. Robertson, III is a resident and member of the bar of the District of Columbia.

3. The petitioner Jonathan A. Rowe is a resident of North Sandwich, New Hampshire, and a third-year law student at the University of Pennsylvania Law School in Philadelphia.

4. The petitioner Anthony Haswell is a resident of Chicago, Illinois, a member of the bar of the State of Illinois, and Chairman of the National Association of Railroad Passengers.

5. Each of the above individual petitioners is a frequent passenger by railroad, including the Penn Central, and a consumer of commodities transported by railroad. The individual petitioners are and have been engaged in the analysis and advocacy of consumer, environmental, safety and community interests in various modes of transportation, including railroads.

6. The petitioner National Association of Railroad Passengers is a not-for-profit corporation organized under the laws of the State of Illinois to represent and promote the interests of railroad passengers. The Association at present has approximately 7,000 dues paying members. Membership in the Association is open to all users of rail passenger service and to other citizens who believe that modern trains are an essential element of a balanced transportation system. Its national headquarters are at 417 New Jersey Avenue, S.E., Washington, D.C. 20003.

PUBLIC INTEREST CONSIDERATIONS

7. Penn Central performs essential transportation services for the public. In 1969, it carried 88.2 billion ton-miles of freight,

10.2% of the national total of 768 billion. It carried a total of 91.4 million passengers, of which 54.0 million were commuters and 37.4 million were intercity travellers. These amounts were 32.1%, 26.0%, and 42.6% respectively of the national totals of 295.9 million, 208.1 million, and 87.8 million. Penn Central's 1969 total passenger-miles of 3.4 billion were 28% of the national total of 12.2 billion.

8. Continuation and improvement of Penn Central freight services is vital for the health of the national economy, in that the cost of transporting its freight load by other modes would be several times the $1.3 billion it was paid by shippers in 1969.

9. Continuation and improvement of Penn Central passenger services is vital for the national interest in personal mobility and a better environment. If all Penn Central's passengers were forced to use air and highway facilities, the result would be massive air and highway traffic congestion, bordering on paralysis in some areas. Expansion of these facilities to adequately accommodate the additional traffic would cost an enormous amount of money and scarce land area, and create intolerable levels of noise and air pollution.

10. The quality of Penn Central freight service has steadily deteriorated since the 1968 merger despite assertions by management that it is interested in this business as a profit making operation.

11. The quality and quantity of Penn Central commuter service has deteriorated to an abysmally low level. Management has repeatedly stated that it has no interest in this operation unless it is supported with public funds.

12. The quality and quantity of Penn Central intercity passenger service, other than between New York City and Washington, D.C., has deteriorated at least as much as commuter service. Dozens of Penn Central communities have already lost their passenger service. The present management has requested the Interstate Commerce Commission for authority to discontinue all passenger service west of Buffalo, New York, and Harrisburg, Pennsylvania. Were this request granted, such major cities as Indianapolis and Terre Haute, Indiana; Ann Arbor, Jackson, and Kalamazoo, Michigan; Cleveland and Springfield, Ohio; and Erie, Pennsylvania would have no rail passenger service. This could be a crippling blow to the economies of these important cities, as well as to innumerable smaller communities. A principal objective of Section 77 bankruptcy proceedings is to keep essential service running, not to facilitate its discontinuance. *St. Joe Paper Co.* v. *Atlantic Coast Line R. Co.*, 347 U.S. 298, 309n.12 (1954); *In re Denver & R.G.W. R. Co.*, 38 F. Supp. 106 (D. Colo. 1940).

13. There is evidence of serious deterioration in maintenance and safety standards in Penn Central operations. In a recent report on the probable cause of a June, 1968 Penn Central passenger train derailment at Glenn Dale, Maryland, the National Transportation Safety Board was strongly critical of Penn Central for failure to require proper maintenance of its welded rail main tracks, and for inadequate monitoring of factors which might adversely affect the track or train operations. The degradation of safety performance in Penn Central operations is demonstrated by the following statistics based on official reports of the Federal Railroad Administration:

TRAIN ACCIDENTS PER MILLION LOCOMOTIVE MILES

Railroads	1963	1966	1969
NYC	3.91	5.53	
PRR	6.87	12.50	
NH	1.97	5.39	
PC			12.58

14. Despite the rapid, sustained deterioration in availability, quality and reliability of freight and passenger service since the 1968 merger, Penn Central management has continued to seek authority from the Interstate Commerce Commission and State regulatory bodies to institute still higher tariffs which have resulted and will continue to result in substantial increases in consumer costs.

15. Legislation is now pending before the Congress to establish a quasi-public corporation to operate all intercity passenger service. The success of this corporation will be directly dependent upon the degree of cooperation extended by the railroads in such matters as reasonable track use fees, adequate track maintenance, rights of trains, etc. The attitude of present Penn Central management toward passenger service gives little hope for such necessary cooperation with the proposed rail passenger corporation. Moreover, establishment of the passenger corporation will not affect or assist Penn Central's commuter services.

TRUSTEE APPOINTMENT

16. Under Section 77(c)(1) of the Bankruptcy Act, 11 U.S.C. Sec. 205(c)(1), as amended, it is the duty of the Court to appoint one or more trustees of the debtor's property. The petitioners submit that the purposes of those provisions of the Bankruptcy Act which relate to reorganization of railroads can only be met by the appointment of one or more persons as trustees whose express duty it is to represent and promote the interests of consumers and the public in the operation and management of the debtor's estate. These interests necessarily include the availability of adequate and economical commuter and intercity passenger service; availability of adequate, economical freight transport; assurance of the highest possible degree of safety; alleviation of air and water pollution and other sources of environmental contamination; and development and promotion of a coordinated national transportation system involving all modes of surface and air transportation. In light of the unique nature and public responsibilities of a major railroad such as the Penn Central, the Court must establish at the outset the priority of such concerns over the claims of creditors, stockholders and other private interests. The real and effective representation of these concerns can be assured only by appointing as trustees persons expressly committed to advancing them.

17. The court clearly has the power to appoint representativves of the public interest as trustees. See, *e.g.*, *In re Long Island R. Co.*, 83 F. Supp. 971 (D.N.Y. 1949). Judge Kennedy, setting forth the rationale impelling his choice of two trustees specifically for the purpose of representing the interests of commuters and communities in the Long Island Railroad bankruptcy proceeding, stated as follows:

"Everything I know personally about the situation and everything that was said at the hearing, compels the conclusion that the appointment of a trustee or trustees representing the community is absolutely essential . . . the management, pending reorganization, should be such that the community as a whole will feel that its peculiar interests are in competent hands at every stage of the proceeding." 83 F. Supp., 976–978.

Thus, it is clear that the court can and indeed should name trustees who will represent the public as a party with a vital interest in the railroad's management.

18. To fulfill the underlying public purposes of Sec. 77 of the Bankruptcy Act, and of the very expectations and conditions under which Penn Central acquired its vast properties, assets and special privileges, it is essential that the public be represented in the choice of trustees. Section 77 of the Bankruptcy Act provides a special and unique process for the reorganization of insolvent railroads; it was written to make certain that railroad service would not disintegrate and that the public would not lose the vital services of a railroad which had gone, or been led, into bankruptcy. During Congressional debates on a 1935 amendment to Sec. 77, Congressman Sumners of Texas pointed out on the floor of the House:

"The purpose of this legislations is to avoid the scrapping of a road and selling it . . . The Bankruptcy Act of which the measure before us is supplemental, was designed to aid crippled railroads and bring about reorganization so that they might render improved service to the public and prevent stockholders and owners of securities from sustaining irreparable losses." *Congressional Record*, Aug. 15, 1935, p. H–13299.

To the greatest extent possible, the transportation service is to be continued and even improved, regardless of the interests of creditors and stockholders. *In re Denver and Rio Grande Western R. Co.*, 38 F. Supp. 106, 115 (D. Colo. 1940). The purpose of the law under which these trustees are to be appointed requires that the needs of the transportation-consuming public be represented in the management of the railroad during the critical period of its reorganization. This requirement is especially urgent in the case of Penn Central, the current management of which has pursued a course of steadily curtailing both freight and passenger service and has publicly expressed the view that still further cutbacks are the means by which it intends to regain the economic viability of the enterprise.

19. The business and properties of the Penn Central clearly are affected with a public interest. Under various state and Federal laws and regulatory provisions, they are tools to be used for the benefit of the public at large. The Penn Central acquired its original franchises and many of the properties on which it operates under special agreements with the states. These agreements expressed the expectation and imposed the duty that the railroad would in return use these franchises and properties to the benefit of the public. As just one example, the Pennsylvania Railroad—a predecessor of the Penn Central—bought its so-called "western works" from the State of Pennsylvania under the explicit command that it would be

". . . bound ever thereafter to keep up and in good repair and operating condition, the line of said railroad . . . and the said railroad shall remain forever a public highway . . . and kept open and in repair . . . for the use and enjoyment of all parties desiring to use the same." An Act For The Sale of the Main Line of the Public Works, No. 579, Laws of Pennsylvania of the Session of 1857, Sec. 5.

This point is crucial: that the claim of the public to transportation service from these properties precedes the right of the purely private claimants under liens, mortgages, and other encumbrances. Creditors, stockholders, and other parties with private interests will be tempted to turn the railroad properties towards the fullest possible satisfaction of their own claims. The very conditions under which the properties were acquired and private profits have been reaped from them make clear and urgent that during the reorganization there should be at least one trustee whose first and basic concern is that the railroad's ability to serve the public not be impaired.

20. Petitioners further contend that no trustee should be appointed who is or was an officer or director of Penn Central Misguided and inept management policies were a major cause of the company's downfall. Based on interviews with railroad industry officials, financial analysts, shippers, regulatory officials and others, the *Wall Street Journal* recently concluded in an article that the Penn Central's problems fundamentally stem from the poor and continuously deteri-

orating service the railroad has provided its customers:

"According to shippers, Penn Central's service failures include every type of complaint ever registered, and in greater numbers than ever encountered on any other line. The list includes inability to furnish cars to shippers in sufficient numbers, lengthy delays, chronic jam-ups at terminals and connecting points with other railroads, misdirected cars and cars lost for weeks or months at a time. Major shippers even report examples of loaded cars leaving their plants only to return some weeks later still fully loaded." *Wall Street Journal*, June 12, 1970, p. 1.

The same article continued as follows:

"Some regulatory officials and financial analysts make it clear they distrust statements made by Penn Central officials. For example, company officers had prepared financial plans indicating a first-quarter loss from railroad operations of about $50 million; in fact, the deficit was much larger. 'Financial people don't know if Penn Central is deliberately deceiving them, or whether the company just doesn't know what it's doing,' one observer says.

"Some Penn Central directors feel this lack of credibility, whether or not it's intentional, has extended even into the boardroom. According to knowledgeable sources, some of the oustide directors felt they had been 'hoodwinked' by management after they picked up highly important financial information from a company debenture prospectus—information that hadn't been given them as directors." *Id.*, p. 16

Only a person having no previous connection with Penn Central's management could be relied upon to make the difficult decisions as to necessary personnel changes, and to be free of all constraint or inhibition in investigating the causes of the railroad's financial demise, including possible conflict of interest or other improprieties on the part of Penn Central directors or officers.

21. The petitioners urge, in addition, that the Court use extreme caution in appointing as trustee any individual from a financial institution involved with the Penn Central. Reports since the filing of the petition in bankruptcy have revealed that conflicts of interest between the railroad and those financial institutions which are creditors, holders in trust of stock, or connected by interlocking directors, may well have contributed to the decline of railroad service and even to the financial debacle. A recent staff report of the House Banking and Currency Committee stated that "preliminary investigation reveals heavy involvement by banking institutions in nearly every one of Penn Central's operations. Every aspect of the issues involved in the collapse of the corporation appears to lead back to some banking institution." The Penn Central's 1968 ownership records reveal that 17 of the 31 largest shareholders were commercial banks, and that they held in sum 22.1% of the outstanding stock. The influence of these institutions, so entwined in the railroad's affairs, must be minimized in the interest of healthy and independent management of the railroad.

CONCLUSION

Consumers of all kinds, including freight shippers, commuters and intercity travelers, have a vital interest in the manner in which Penn Central operations are conducted under the supervision of this Court. The law is clear that public interest considerations must be given priority in the operation and financial reorganization of the railroad. The trustees will have pervasive power to control the affairs and policies of the railroad for a period of several years and perhaps decades. Under the circumstances, it is imperative that one or more trustees be named who will specifically represent the interests of the consumers and users of Penn Central services.

Respectfully submitted,

ANTHONY HASWELL,
REUBEN B. ROBERTSON, III,
Attorneys for Petitioners.

JULY 20, 1970.

[Letter sent to all Penn Central trustees]

AUGUST 27, 1970.

Mr. RICHARD C. BOND,
Philadelphia, Pa.

DEAR MR. BOND: We are writing to urge you, as a court appointed trustee in the reorganization of the Penn Central, to give serious and favorable consideration to the establishment of a "citizen's advisory council" such as has been proposed in a recent petition to Judge Fullam. A copy of the petition is attached.

The "failing company" doctrine is a well-known exception to the normal operation of the anti-trust laws. We propose here a "failing concept" doctrine which should be recognized in the reorganization of the Penn Central.

The failure of our past concepts of regulation is tragically illustrated in the bankruptcy of the Penn Central. Every phase of the fundamental and operational decline of the railroad from the terms of the merger itself to the downgrading of passenger and freight service can be traced back to failures in the regulatory process.

In fact, the appearance of regulation was worse than no regulation at all. The public felt protected. Railroad policies were graced with the stamp of legitimacy which otherwise could not have withstood critical public appraisal.

Numerous studies, from the Landis Report of the early sixties to the recent student investigations under the aegis of Ralph Nader, Congressional Committees and even the President himself, have attested to the inadequacies of many of our precepts of transportation regulation. The present situation calls for recognition of these failures. We need imaginative innovation and courage to depart from ancient procedures. At the same time it calls for touching base afresh with the basic premises and purposes of public "regulation" of transportation enterprises. The bankruptcy and reorganization of the Penn Central presents a timely and unique opportunity to break with established patterns and test new ways to provide for the public accountability of a regulated transportation enterprise. One such way can be a step toward the ideal end of self-regulation. This way is through a citizen's advisory council.

A citizen's advisory council could do away with much that is wrong with our present methods of regulation.

It would restore to the public a measure of voice in the policies of the large corporations which have such pervasive effect upon their daily lives. But this voice would extend only as far as the public's legitimate concern. The council would not interfere in any way with the daily, profit-making operation of the railroad. It would only advise on the broader matters of policy in which the public clearly has a vital and growing stake. It could also help bridge the gap between the business and academic communities. Professors could be members of citizen's advisory council to which they could bring an undivided loyalty as advocates of the public interest. Students could provide studies and background information for the use of the council in advising the corporation, lending a vital sense of immediacy and importance to undergraduate and graduate work which now seems mired in irrelevancy.

These positive benefits of a citizen's advisory committee are urgently needed in the Penn Central reorganization. The Penn Central plays a vital role in the economic, social and ecological well-being of the entire Northeast. Yet the citizens, both passengers and freight shippers have felt slighted, abused, and powerless to halt the deteriorations and downgrading of their communities' transportation lifeline. A citizen's advisory council could infuse into Penn Central a spirit of public concern; and perhaps even more important, it could restore to the citizens a sense of participation in this huge enterprise which so vitally affects their lives and businesses.

For these reasons we urge the trustees to give this matter the most serious and careful attention. Although our petition originally asked the court to act, it would be even more appropriate and useful for the trustees themselves to create an advisory council on their own initiative. We have not attempted to prescribe the specific form a citizen's advisory council might take in this and in other situations. The appendix to our petition merely suggests one possibility.

We put ourselves at the service of the trustees to help work out the specific form and manner in which a citizen's advisory council could serve most constructively in the reorganization of the Penn Central.

Sincerely,

JONATHAN ROWE,
REUBEN R. ROBERTSON, III.

PETITIONS OPPOSING S. 2108, THE FAMILY PLANNING ACT

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. SCHMITZ. Mr. Speaker, in view of the fact that both Houses of Congress this week gave final approval to the Family Planning Act, S. 2108, without a roll-call vote, and that the Senate has never put its Members on record at any point on this very important legislation, I would like to call to the particular attention of my colleagues evidence of very deep concern about this bill and strong objections to it throughout the Nation. In the past 2 weeks alone, petitions opposing S. 2108 have come to my office from 24 States, bearing nearly 1,500 signatures. Over 5,000 signatures on similar petitions were sent to the chairman of the Rules Committee early in November.

In addition to 243 signatures from my own State of California, there are 499 from Kentucky, 307 from Montana, 305 from Minnesota, 275 from Ohio, 201 from the State of Washington, 140 from North Dakota, 135 from New York, 130 from Massachusetts, 112 from Illinois, and smaller numbers from Connecticut, Florida, Indiana, Iowa, Louisiana, Maine, Michigan, Missouri, New Jersey, Pennsylvania, South Dakota, Texas, Virginia, and Wisconsin.

I will be happy to make these petitions available on request to my colleagues who represent the States from which they come. In the future we ought to listen more to the "grass roots" on legislation in this area and less to the self-interested "experts" in population control who were apparently the only people the Senate ever consulted about S. 2108, and who had an altogether disproportionate influence on our own deliberations on this measure.

A 15-YEAR-OLD'S LETTER TO COLUMNIST ANN LANDERS DESCRIBES SOME IMPORTANT MARKS OF A MAN'S SUCCESS

HON. LEONOR K. SULLIVAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mrs. SULLIVAN. Mr. Speaker, I am indebted to columnist Ann Landers for printing in her Thanksgiving Day column a letter from a 15-year-old girl, written on the night of her father's death, describing a great man in terms of the things which really make a man a success—a success as husband, father, brother, son, friend.

In our work in the Congress, in correspondence with many thousands of individuals in our districts who bring problems to our attention, or who write to us on legislation, we are frequently faced with the difficult task of expressing condolences on the death of a loved one. We can all, therefore, appreciate the simple eloquence of this girl's letter in which she describes what makes so many men heroes; that is, in the kindness and decency with which they shoulder their responsibilities to family and friends.

I was so impressed by this appreciation of the role of the American husband and father by a sensitive 15-year-old daughter that I am sure other Members of Congress would also find it heartwarming to read. We hear so much about the disunity in family life today, but there are still many families—millions of good, solid American families—which share not only a residence but the love which makes it a home.

The excerpt referred to from Ann Landers' column of Thursday, November 26, 1970, as it appeared in the Washington Post is as follows:

ANN LANDERS

DEAR ANN LANDERS: A great man died today. He wasn't a world leader or a famous doctor or a war hero or a sports figure or a business tycoon. But he was a great man. He was my father.

He didn't get his picture in the paper for heading up things. I guess you might say he was a person who never cared for credit or honors. He did corny things, like pay his bills on time, go to church on Sunday and hold an office in the PTA. He helped his kids with their homework and drove his wife to the shopping center to do the grocery buying on Thursday night. He got his kicks hauling his teen-agers and their friends to and from football games. He enjoyed simple things like a picnic in the park, country music, mowing the grass and running with the dog.

Tonight is the first night of my life without him. I don't know what to do with myself so I am writing to you. I am sorry now for the times I didn't show him the proper respect. But I am thankful for many things. I'm thankful because God let me have him for 15 years. And I'm thankful that I was able to let him know how much I loved him. He died with a smile on his face. He knew he was a success as a husband and a father, a brother, a son, and a friend. I wonder how many millionaires can say that? Thanks for listening, Ann. You've been a great help.

HIS DAUGHTER.

DEAR DAUGHTER: I am printing your beautiful letter on Thanksgiving. Thank you for providing my readers with food for thought on a most appropriate day.

YOUTH TO BE POLITICALLY EXPLOITED

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. RARICK. Mr. Speaker, we now understand that as a people Americans are to be indicted for a vast neglect of their children. At least so reports a group of nonchildren who have been mobilized into a new leftwing assault on our society which has taken over the White House Conference on Children.

It is frightening to learn that there are people in our country who would exploit little children as ideological ploys by turning them against their own parents and country and then, they—the exploiters—accuse the parents and our Nation of being the wrongdoers.

The successful perpetuation of every Fascist-Communist state has always depended upon the indoctrination of its subjects' youth to accept the exploitation of the system. What clear threat against parental stewardship is there than for adults to hide behind little children and accuse the parents of being guilty of every injustice the same accusers can promote for their advantage.

Of course, the promised youth revolution is to be financed by the guilty parents' tax dollars, just as was the civil rights revolution, the poor people's revolution, the sex revolution, the dope revolution, and the homosexural revolution.

Consider the proposal of a federally financed cultural voucher system for children between 3 and 16 years old. The paper currency is to be used by the child to purchase cultural goods and services necessary to the child's identity. What cultural goods would a 3-year-old child buy? Who would tell him that his purchase was necessary for his identity?

Thus far, no one has questioned the accuracy of the allegation that millions of children have been consigned to the scrap heap by uncaring Americans. Perhaps the source of these statistics is best identified by the approved change of family environment with the conference defense of communal living—where the members share sex and children and homosexual couples who adopt children. If the Conference is concerned only with illegitimates, unwanted and abandoned children why not say so. Why seek to involve all youth and indict all adults.

All in all, agitation, national mental cruelty and additional animosity can be the only result of this latest revolutionary movement.

I include several related newsclippings which follow:

[From the Washington Daily News, Dec. 9, 1970]

WHITE HOUSE CHILD SESSION TO "INDICT NATION"

(By Dale McFeatters)

The White House Conference on Children, which begins Sunday, will consider a stack of preliminary reports that "indict the nation for a vast neglect of its children," according to the conference chairman.

The reports were made public yesterday by Conference Chairman Stephen Hess, 37, a White House urban affairs specialist, after a meeting with President Nixon.

Final recommendations will be hammered out next week by 3,400 delegates to the conference on the basis of the preliminary reports. They were prepared over the past six months by 24 16-member panels led by educators, doctors, social scientists and child psychologists.

The reports, which Mr. Hess said "shatter the myth that this is a child-centered society," predictably call for a wide range of new federal laws, expenditures and institutions. Among the recommendations are:

Child Health: A national health insurance program for children and a "children's fund," established by Congress to finance medical and health-care facilities.

Day Care: A federally financed but locally controlled system of day care centers and a presidential task force to broaden public understanding and mobilize support for the centers.

Education: A presidential commission to study the possibility of children starting public school at age 3 or 4 and a national institute of creativity under the Department of Health, Education and Welfare to publicize research on improved educational techniques.

Employment: A federal commission for children and families to press for employment reforms that would reduce employe transfers that tear children away from their friends and schools; to limit out-of-town, night and weekend work for parents, and provide flexible work schedules that would permit parents more time with their children.

Television: Legislation enabling the Federal Communications Commission to set aside two cable TV channels solely for children's programming and establishing an institute for child development and the mass media to monitor and encourage children's programming.

Another proposal would have the FCC ban advertisers from urging children, "tell mommy and daddy to be sure to buy. . . ."

One suggestion repeatedly mentioned in the reports is the establishment of a federal, state and local system of child advocates. The advocate would be an ombudsman with powers to intervene in cases where the health, property, welfare or rights of a child were at stake.

A panel led by Miss Jennine Schmid, an expert in Montessori education, proposed a federally financed cultural voucher system, described "as a separate paper currently," for children between 3 and 16 years old. The vouchers, some worth as little as $5, would be used by the child to purchase cultural goods and services "necessary to the child's identity."

One of the few panels that did not advocate more funds was one headed by Dr. Dwight Allen, dean of the University of Massachusetts School of Education. Dr. Allen urged more imagination and experimentation in the public schools. "Education needs money," he said.

However, a panel chaired by Dr. John I. Goodland, dean of graduate education at UCLA, argued for a "massive infusion" of federal funds to improve the education system.

The reports that didn't argue for legal and institutional changes argued for changes in official attitudes.

Dr. Marvin Sussman, a professor at Case Western Reserve University in Cleveland, chaired a panel which observed that the nature of the American family is changing faster than the "narrow and static conception of family held by most policy makers."

More different types of families will be having children, he said, among them communes where the members share sex and children; homosexual couples who adopt children, legally or otherwise; and unmarried single parents.

The 1970 conference on children is the 10th since Theodore Roosevelt's time.

[From the Washington Daily News, Dec. 9, 1970]

MILLIONS CONSIGNED TO SCRAPHEAPS MONDALE CITES KIDS' PLIGHT

Sen. Walter F. Mondal, D-Minn., complaining that millions of children have been consigned to the scrapheap by uncaring Americans, today urged a new adult commitment to the nation's youth.

In a 70-page speech prepared for the Senate, he challenged everyone—from President Nixon on down—to revamp his attitudes toward children before it is too late.

He specifically urged formation of a Children's Advocacy Center to carry out recommendations of the White House Conference on Children that begins Sunday and said he would organize a bipartisan "Members of Congress for Justice to Children" to carry the crusade on Capitol Hill.

"Our national myth is that we love children," he said. "Yet, we are starving thousands. Other thousands die because decent medical care is unavailable to them. The lives of still other thousands are stifled by poor schools and some never have the chance to go to school at all. Millions live in substandard and unfit housing in neighborhoods which mangle the human spirit. Many suffer all of the mutilations simultaneously.

LIVING IN POVERTY

"In every society some people are consigned to the scrap heap to pile up and up. The most obvious victims, of course, are the 10 million children living in poverty and the untold millions maimed by racism . . . but the victims are most emphatically not just the poor and the minorities," he said.

Sen. Mondale, Chairman of a Special Committee on Equal Educational Opportunity, said that all children are "victimized" by forces ranging from misguided politicians to corporations that pollute the environment and televise violence.

He was critical of preliminary reports issued Tuesday by the staff of the Children's Conference. He complained they barely mentioned such problems as hunger and school desgregation.

"The total impression created by the reports," he said, "is more than slightly paternalistic . . . (they have) a faint ring of the brave new world where the state knows what is best for everybody."

He urged the 4,000 delegates to the conference "not to leave town" until they receive a commitment from the Nixon administration for a Washington office to push for implementation of their recommendations.

THE LITTLE RED HEN

HON. DAVID W. DENNIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1970

Mr. DENNIS Mr. Speaker, I present this modern version of "The Little Red Hen," which I recommended to the attention of the House:

THE LITTLE RED HEN

Once upon a time, there was a little red hen who scratched about and uncovered some grains of wheat. She called her barnyard neighbors and said, "If we work together and plant this wheat, we will have some fine bread to eat. Who will help me plant the wheat?" "Not I," said the cow. "Not I, said the duck. "Not I," said the goose. "Then I will," said the little red hen, and she did.

The wheat grew tall and ripened into golden grain. "Who will help me reap my wheat?" asked the little red hen. "Not I," said the duck. "Out of my classification," said the pig. "I'd lose my seniority," said the cow. "I'd lose my unemployment insurance," said the goose.

Then it came time to bake the bread. "That's overtime for me," said the cow. "I'm a dropout and never learned how," said the duck. "I'd lose my welfare benefits," said the pig. "If I'm the only one helping, that's discrimination," said the goose.

"Then I will," said the little red hen. And she did.

She baked five loaves of fine bread and held them all up for the neighbors to see. They all wanted some, demanded a share. But the red hen said, "No, I can rest for a while and eat the five loaves myself."

"Excess profits," cried the cow. "Capitalistic leech," screamed the duck. "Company fink," grunted the pig. "Equal rights," yelled the goose. And they hurriedly painted picket signs and marched around the little red hen singing, "We shall overcome," and they did.

For when the farmer came, he said, "You must not be greedy, little red hen. Look at the oppressed cow. Look at the disadvantaged duck. Look at the underprivileged pig. Look at the less fortunate goose. You are guilty of making second-class citizens of them."

"But . . . but," said the little red hen. "I earned the bread."

"Exactly," said the wise farmer. "That is the wonderful free enterprise system, anybody in the barnyard can earn as much as he wants. You should be happy to have this freedom. In other barnyards, you'd have to give all five loaves to the farmer. Here you give four loaves to your suffering neighbors." And they lived happily ever after, including the little red hen, who smiled and clucked: "I am grateful. I am grateful."

But her neighbors wondered why she never baked any more bread. End.

SENATE—*Monday, December 14, 1970*

The Senate met at 11 a.m. and was called to order by Hon. HAROLD E. HUGHES, a Senator from the State of Iowa.

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

Lord God Almighty, king of glory and love eternal, worthy art Thou at all times to receive adoration, praise, and blessing, but especially at this time we praise Thee for entering man's life as man, for whom our hearts now wait with great expectation. Keep us in the spirit of Christmastide. Cleanse us of all evil and open our lives that they may not be busy inns which crowd Thee out—but dwellings which welcome the Redeemer. May the joy and peace of this season light up our daily duties and lead us to the truth of the Christ-Child in whose name we pray. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. RUSSELL).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 14, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. HAROLD E. HUGHES, a Senator from the State of Iowa, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

Mr. HUGHES thereupon took the chair as Acting President pro tempore.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

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 the President had approved and signed the following acts:

On December 7, 1970:

S. 3630. An act to amend the joint resolution establishing the American Revolution Bicentennial Commission.

On December 9, 1970:

S. 2543. An act to prohibit the movement in interstate or foreign commerce of horses which are "sored," and for other purposes.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. HUGHES) 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 the bill (S. 704) to amend the act of October 15, 1966 (80 Stat. 953; 20 U.S.C. 65a), relating to the National Museum of the Smithsonian Institution, so as to authorize additional appropriations to the Smithsonian Institution for carrying out the purposes of said act, with an amendment, in which it requested the concurrence of the Senate; that the House insisted upon its amendment to the bill, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. THOMPSON of New Jersey, Mr. BRADEMAS, and Mr. SCHWENGEL were appointed managers of the part of the House at the conference.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 19333) to provide greater protection for customers